CODE OF ORDINANCES

CITY OF POTTERVILLE, MICHIGAN

Published in 2021 by Order of the City Council

municode

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OFFICIALS

of the

CITY OF POTTERVILLE, MICHIGAN

AT THE TIME OF THIS RECODIFICATION

_____

[Name of Mayor]
Mayor

_____

[Council Member]
[Council Member]
[Council Member]
City Council

_____

[Name of City Manager]
City Manager

_____

[Name of Attorney]
City Attorney

_____

[Name of City Clerk]
City Clerk

PREFACE

This Code constitutes a recodification of the general and permanent ordinances of the City of Potterville, Michigan.

Source materials used in the preparation of the Code were the 2006 Code, as updated through May 10, 2005, and ordinances subsequently adopted by the city council. The source of each section is included in the history note appearing in parentheses at the end thereof. The absence of such a note indicates that the section is new and was adopted for the first time with the adoption of the Code. By use of the comparative tables appearing in the back of this Code, the reader can locate any section of the 2006 Code, as supplemented, and any subsequent ordinance included herein.

The chapters of the Code have been conveniently arranged in alphabetical order, and the various sections within each chapter have been catchlined to facilitate usage. Notes which tie related sections of the Code together and which refer to relevant state law have been included. A table listing the state law citations and setting forth their location within the Code is included at the back of this Code.

Chapter and Section Numbering System

The chapter and section numbering system used in this Code is the same system used in many state and local government codes. Each section number consists of two parts separated by a dash. The figure before the dash refers to the chapter number, and the figure after the dash refers to the position of the section within the chapter. Thus, the second section of chapter 1 is numbered 1-2, and the first section of chapter 6 is 6-1. Under this system, each section is identified with its chapter, and at the same time new sections can be inserted in their proper place by using the decimal system for amendments. For example, if new material consisting of one section that would logically come between sections 6-1 and 6-2 is desired to be added, such new section would be numbered 6-1.5. New articles and new divisions may be included in the same way or, in the case of articles, may be placed at the end of the chapter embracing the subject, and, in the case of divisions, may be placed at the end of the article embracing the subject. The next successive number shall be assigned to the new article or division. New chapters may be included by using one of the reserved chapter numbers. Care should be taken that the alphabetical arrangement of chapters is maintained when including new chapters.

Page Numbering System

The page numbering system used in this Code is a prefix system. The letters to the left of the colon are an abbreviation which represents a certain portion of the volume. The number to the right of the colon represents the number of the page in that portion. In the case of a chapter of the Code, the number to the left of the colon indicates the number of the chapter. In the case of an appendix to the Code, the letter immediately

to the left of the colon indicates the letter of the appendix. The following are typical parts of codes of ordinances, which may or may not appear in this Code at this time, and their corresponding prefixes:

CHARTER	CHT:1
RELATED LAWS	RL:1
SPECIAL ACTS	SA:1
CHARTER COMPARATIVE TABLE	CHTCT:1
RELATED LAWS COMPARATIVE TABLE	RLCT:1
SPECIAL ACTS COMPARATIVE TABLE	SACT:1
CODE	CD1:1
CODE APPENDIX	CDA:1
CODE COMPARATIVE TABLES	CCT:1
STATE LAW REFERENCE TABLE	SLT:1
CHARTER INDEX	CHTi:1
CODE INDEX	CDi:1

Indexes

The indexes have been prepared with the greatest of care. Each particular item has been placed under several headings, some of which are couched in lay phraseology, others in legal terminology, and still others in language generally used by local government officials and employees. There are numerous cross references within the indexes themselves which stand as guideposts to direct the user to the particular item in which the user is interested.

Looseleaf Supplements

A special feature of this publication is the looseleaf system of binding and supplemental servicing of the publication. With this system, the publication will be kept up to date. Subsequent amendatory legislation will be properly edited, and the affected page or pages will be reprinted. These new pages will be distributed to holders of copies of the publication, with instructions for the manner of inserting the new pages and deleting the obsolete pages.

Keeping this publication up to date at all times will depend largely upon the holder of the publication. As revised pages are received, it will then become the responsibility of the holder to have the amendments inserted according to the attached instructions. It is strongly recommended by the publisher that all such amendments be inserted immediately upon receipt to avoid misplacing them and, in addition, that all deleted pages be saved and filed for historical reference purposes.

Acknowledgments

This publication was under the direct supervision of Sandra S. Fox, Senior Code Attorney, and Nate Bruce, Editor, of the Municipal Code Corporation, Tallahassee, Florida. Credit is gratefully given to the other members of the publisher's staff for their sincere interest and able assistance throughout the project.

The publisher is most grateful to Brandy Hatt, Zoning Administrator, for her cooperation and assistance during the progress of the work on this publication. It is hoped that her efforts and those of the publisher have resulted in a Code of Ordinances which will make the active law of the city readily accessible to all citizens and which will be a valuable tool in the day-to-day administration of the city's affairs.

Copyright

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PART I

CHARTER*

***Editor's note--**Printed herein is the Home Rule Charter of the City of Potterville, Michigan, which was approved by the electors and adopted on November 8, 1988. The sequence of sections is the same as in the Act comprising it. Amendments to the Charter are indicated by history notes following amended provisions. The absence of a subsequent history note indicates that the provision remains unchanged from the original Act. Obvious misspellings and grammatical errors have been corrected without notation. For stylistic purposes, a uniform system of numbering, headings, catchlines and citations to state statutes has been used. The title, enactment, severability, repealer, transitional, ratification, publication and effective date provisions have been omitted, and where a section has been amended or repealed by a later provision, only the current language has been printed. Additions made for clarity are indicated by brackets.

State law reference—Authority of city to frame, adopt and amend charter, Mich. Const. art. VII, § 22; home rule cities act, MCL 117.1 et seq.; mandatory charter provisions, MCL 117.3; permissible charter provisions, MCL 117.4b et seq.

PREAMBLE

"We, the people of the City of Potterville, County of Eaton, State of Michigan, mindful of the ideals and labors of our fathers in founding and developing this community, and pursuant to authority granted by the Constitution and Laws of the State of Michigan, in order to maintain a city government, and to provide for the public peace and health and for safety of persons and property, do hereby ordain and establish this charter for the City of Potterville, Michigan."

ARTICLE I. GENERAL NAME, BOUNDARIES AND POLITICAL SUBDIVISIONS OF THE CITY AND DEFINITIONS

Sec. 1.01. Name.

The official name of the city governed by this charter shall be the City of Potterville, hereinafter referred to as City.

State law reference—Incorporation, consolidation of territory and alteration of boundaries of home rule cities, MCL 117.61 et seq.; city as body corporation, MCL 117.1.

Sec. 1.02. Boundaries.

The City boundaries existing when this charter takes effect shall continue in force until changed in accordance with law. A technical description of the City boundaries may be obtained from the State Boundary Commission.

State law reference—Incorporation, consolidation of territory and alteration of boundaries of home rule cities, MCL 117.61 et seq.

Sec. 1.03. Political subdivisions.

The City shall constitute one ward, unless changed, in accordance with the laws of this state.

Sec. 1.04. Tense, number and gender.

Words used in the present tense shall not be limited to the time of the adoption of this charter but shall extend to and include the time of the happening of any event or requirement of the provisions applied. The singular shall include the plural. The plural shall include the singular. The masculine gender shall include the feminine gender and the neuter.

ARTICLE II. POWERS OF THE CITY

Sec. 2.01. Powers of the city.

The City shall have, and be vested with, any and all powers, privileges, and immunities, expressed and implied, which cities and their officers are, or hereafter may be, permitted to exercise or to provide for in their charter under the constitution and laws of the State of Michigan, and all powers, privileges and immunities which cities are permitted to or may provide in their charters by Public Act No. 279 of 1909 (MCL 117.1 et seq.), as amended, as

fully and completely as if those powers, privileges and immunities, including each and every permissible charter provision as enumerated in the aforementioned act, were specifically enumerated and set forth within this charter.

State law reference—Permissible that charter provide that the city may exercise all municipal powers in the management and control of municipal property and in the administration of municipal government, MCL 117.4j(3).

Sec. 2.02. Construction.

The powers of the City under this charter shall be construed liberally in favor of the City, and the specific mention of particular powers in the charter shall not be construed as limiting in any way the general power stated in this article.

Sec. 2.03. Intergovernmental relations.

The City may exercise any of its powers or perform any of its functions and participate in the financing thereof, jointly or in cooperation, by contract or otherwise, with any one or more states, or their agencies thereof, or in combination of cities, villages or townships or other political subdivisions of the states, or the United States or any agency thereof.

State law reference—Intergovernmental contracts between municipal corporations, MCL 124.1 et seq.

ARTICLE III. CITY COUNCIL*

***State law reference--**Mandatory that charter provide for a legislative body, MCL 117.3(a).

Sec. 3.01. Composition, eligibility, election and terms.

(a) *Composition*. There shall be a City Council of seven members elected by the qualified voters of the City at large.

(b) *Eligibility*. Only qualified voters of the City shall be eligible to hold the office of Councilman, and Mayor.

(c) *Election and terms*. The regular election of Councilmen shall be held on the first Tuesday after the first Monday of November of each odd numbered year, in the manner provided in Article VIII. At the first election under this charter four Councilmen shall be elected; the three candidates receiving the greatest number of votes shall serve for terms of four years, and the one candidate receiving the next greatest number of votes shall serve for a term of two years. Commencing at the next regular elections, four Councilmen shall be elected; each of the three candidates receiving the greatest number of votes shall serve for a four-year term, and the one receiving the fourth greatest number of votes shall serve for a two-year term. The terms of Councilmen shall begin the first day of January after their election.

State law reference—Charter to provide for time of holding election, MCL 117.3(c); Michigan election law, MCL 168.1 et seq.; mandatory that Charter provide for qualifications of officers, MCL 117.3(d); staggered terms of office for elected officials, MCL 117.3b.

Sec. 3.02. Compensation; expenses.

The Council may determine the annual salary of Councilmen by ordinance, but no ordinance increasing such salary shall become effective until the date of commencement of the terms of Councilmen elected at the next regular election, provided that such election follows the adoption of such ordinance by at least six months. Councilmen shall receive their actual and necessary expenses incurred in the performance of their duties of office.

State law reference—Salaries, terms of office, MCL 117.5(d).

Sec. 3.03. Mayor.

The Council shall elect from among its members officers of the City who shall have the titles of Mayor and Deputy Mayor, each of whom shall serve at the pleasure of the Council. The mayor shall preside at meetings of the council, shall be recognized as head of the City government for all ceremonial purposes and by the Governor for purposes of military law but shall have no administrative duties. The Deputy Mayor shall act as mayor during the absence or disability of the Mayor.

Sec. 3.04. General powers and duties.

All powers of the City shall be vested in the Council, except as otherwise provided by law or this charter, and

the Council shall provide for the exercise thereof and for the performance of all duties and obligations imposed on the City by law.

Sec. 3.05. Prohibitions.

(a) *Holding other office*. Except where authorized by law, no councilman shall hold any other City office or employment during the term for which he or she was elected to [the] council, and no former councilman shall be employed by the City until one year after the expiration of the term for which he or she was elected to the council.

(b) *Appointments and removals*. Neither the Council nor any of its members shall in any manner dictate the appointment or removal of any City administrative officers or employees who the Manager or any of his subordinates are empowered to appoint, but the Council may express its views and fully and freely discuss with the Manager anything pertaining to [the] appointment and removal of such officers and employees.

(c) *Interference with administration*. Except for the purpose of inquiries and investigations under section 3.09, the Council or its members shall deal with City officers and employees who are subject to the direction and supervision of the Manager solely through the Manager, and neither the Council nor its members shall give orders to any such officer or employee, either publicly or privately.

(Res. No. 01-10, ref. of 11-6-2001)

Sec. 3.06. Vacancies; forfeiture of office; filling of vacancies.

(a) *Vacancies*. The office of Councilman shall become vacant upon his death, resignation, removal from office in any manner authorized by law or forfeiture of his office.

(b) *Forfeiture of office*. The City Council shall declare the forfeiture of the office of any councilmember and may remove him or her at any time during the term. The position of a councilmember may be forfeited if he or she:

(1) Lacks at any time any qualifications required by this Charter.

(2) Violates any express prohibitions of this Charter.

(3) Is convicted of a crime involving moral turpitude, whether a felony or a misdemeanor.

(4) Commits misconduct in office which include, but is not necessarily limited to:

(a) Public intoxication.

(b) While in City Hall, or in any public place, makes or excites any disturbance or contention, as defined by law.

(c) Conviction of a charge of criminal contempt for a violation of a valid personal protection order entered by a Michigan Court.

(d) Fails to attend three (3) consecutive regular meetings of the Council without being excused by the Council.

(c) *Filling of vacancies*. A vacancy in the Council shall be filled for the remainder of the unexpired term, if any, at the next regular election following not less than 60 days upon the occurrence of the vacancy, but the Council by a majority vote of all its remaining members shall appoint a qualified person to fill the vacancy until the person elected to serve the remainder of the unexpired term takes office. If the Council fails to do so within 30 days following the occurrence of the vacancy, the election authorities shall call a special election to fill the vacancy, to be held not sooner than 90 days and not later than 120 days following the occurrence of the vacancy and to be otherwise governed by the provisions of Article VIII. Notwithstanding the requirement in section 3.11 that a quorum of the Council is reduced to less than four, the remaining members may by majority action appoint additional members to raise the membership to four.

(Res. No. 01-11, ref. of 11-6-2001)

State law reference—Vacancies, filling, MCL 201.37.

Sec. 3.07. Judge of qualifications.

The Council shall be the judge of the election and qualifications of its members and of the grounds for forfeiture of their office and for that purpose shall have power to subpoena witnesses, administer oaths and require

the production of evidence. A member charged with conduct constituting grounds for forfeiture of his office shall be entitled to a public hearing on demand, and notice of such hearing shall be published in one or more newspapers of general circulation in the City at least one week in advance of the hearing. Decisions made by the Council under this section shall be subject to review by the courts.

State law reference—Mandatory that charter provide for the qualifications and duties of its officers, MCL 117.3(d).

Sec. 3.08. City clerk.

The Council shall appoint an officer of the City who shall have the title of City Clerk. The City Clerk shall give notice of Council meetings to its members and the public, keep the journal of its proceedings in the English language, be the Clerk of the Council and perform such other duties as are assigned to him by this charter or by the Council. The Clerk shall be the chief accountant of the City and shall maintain a uniform system of accounts which shall conform to the requirements of state law.

Sec. 3.09. Investigations.

The Council may make investigations into the affairs of the City and the conduct of any City department, office or agency and for this purpose may subpoena witnesses, administer oaths, take testimony and require the production of evidence. Any person who fails or refuses to obey a lawful order issued in the exercise of these powers by the Council shall be guilty of a misdemeanor and punishable by a fine of not more than $100.00, or by imprisonment for not more than 90 (ninety) days, or both.

Sec. 3.10. Independent audit.

The Council shall provide for an independent bi-annual audit of all City accounts and may provide for such more frequent audits as it deems necessary. Such audits shall be made by a certified public accountant or firm of such accountants who have no personal interest, direct or indirect, in the fiscal affairs of the City government or any of its officers. The Council may, without requiring competitive bids, designate such accountant or firm annually or for a period not exceeding three years, provided that the designation for any particular fiscal year shall be made no later than 30 days after the beginning of such fiscal year. If the state makes such an audit, the Council may accept it as satisfying the requirements of this section.

Sec. 3.11. Procedure.

(a) *Meetings*. The Council shall meet regularly at least once in every month at such times and places as the Council may prescribe by rule. Special meetings may be held on the call of the mayor or four or more members and, whenever practicable, upon no less then eighteen hours' notice to each member. The business which the Council may perform shall be conducted at a public meeting held in compliance with Public Act No. 267 of 1976 (MCL 15.261 et seq.), as amended.

(b) *Rules, journal and records*. The Council shall determine its own rules and order of business and shall provide for keeping a journal of its proceedings. This journal shall be a public record and made available to the general public in compliance with Public Act No. 442 of 1976 (MCL 15.231 et seq.), as amended, and Public Act No. 267 of 1976 (MCL 15.261 et seq.), as amended. All records of the City shall be public, as provided by law.

(c) *Voting, quorum*. Voting, except on procedural motions, shall be by roll call and the ayes and nays shall be recorded in the journal. Four members of the Council shall constitute a quorum, but a smaller number may adjourn from time to time and may compel the attendance of absent members in the manner and subject to the penalties prescribed by the rules of the Council. No action of the Council, except as otherwise provided in the preceding sentence and in section 3.06, shall be valid or binding unless adopted by the affirmative vote of four or more members of the Council.

State law reference—Mandatory for charter to provide for adopting, continuing, amending and repealing city ordinances, MCL 117.3(k).

Sec. 3.12. Action requiring an ordinance.

In addition to other acts required by law or by specific provision of this charter to be done by ordinance, those acts of the City Council shall be by ordinance which:

(1) Adopt or amend an administrative code or establish, alter or abolish any City department, office or

agency;

(2) Provide for a fine or other penalty or establish a rule or regulation for violation of which a fine or other penalty is imposed;

(3) Grant, renew or extend a franchise;

(4) Adopt with or without amendment [any] ordinance proposed under the initiative power; and

(5) Amend or repeal any ordinance previously adopted, except as otherwise provided in Article IX with respect to repeal of ordinances reconsidered under the referendum power.

Acts other than those referred to in the preceding sentence may be done either by ordinance or resolution.

Sec. 3.13. Ordinances in general.

(a) *Form*. Every proposed ordinance shall be introduced in writing and in the form required for final adoption. The enacting clause shall be "The City of Potterville hereby ordains . . .." Any ordinance which repeals or amends an existing ordinance [shall set forth in full the] sections or subsections to be repealed or amended and shall indicate matter to be omitted by enclosing it in brackets or by strikeout type and shall indicate new matter by underscoring or by italics.

(b) *Procedure*. An ordinance may be introduced by any member at any regular or special meeting of the Council. Upon introduction of any ordinance, the City Clerk shall distribute a copy to each Councilmember and to the Manager, shall file a reasonable number of copies in the office of the City Clerk and such other public places as the Council may designate, and shall publish a notice setting out the time and place for a public hearing thereon and for its consideration by the Council. The public hearing shall follow the publication by at least seven days, may be held separately or in connection with a regular or special Council meeting and may be adjourned from time to time; all persons interested shall have an opportunity to be heard. After the hearing the Council may adopt the ordinance with or without amendment or reject it. As soon as practicable after adoption of any ordinance, the Clerk shall have it published together with notice of its adoption.

(c) *Effective date*. Except as otherwise provided in this charter, every adopted ordinance shall become effective at the expiration of 30 days after adoption or at any later date specified therein.

(d) *"Publish" defined*. As used in this Charter, the term "publish" means as follows:

1) When used in reference to [this] Section 3.13, the term "publish" means to print the ordinance or a brief summary in one or more newspapers of general circulation in the City, along with providing copies at City Hall, during its normal hours of operation.

2) When used elsewhere in the charter, the term "publish" means to print in a newspaper of general circulation, or, at the option of the City Council, to disseminate the written information on the public access channel of the local cable television system, and to provide copies of said written documents, at City Hall, during its normal hours of operation.

State law reference—Power of city to adopt ordinances relative to municipal concerns, Mich. Const. art. VII, § 22; charter to provide for adopting, amending and repealing ordinances and publication thereof, MCL 117.3(k).

Sec. 3.14. Emergency ordinances.

(a) To meet a public emergency affecting life, health, property or the public peace, the Council may adopt one or more emergency ordinances, but such ordinances may not levy taxes, grant, renew or extend a franchise, regulate the rate charged by any public utility for its services or authorize the borrowing of money. An emergency ordinance shall be introduced in the form and manner prescribed for ordinances generally, except that it shall be plainly designated as an emergency ordinance and shall contain, after the enacting clause, a declaration stating that an emergency exists and describing it in clear and specific terms. An emergency ordinance may be adopted with or without amendment or rejected at the meeting at which it is introduced, but the affirmative vote of at least five members shall be required for adoption. After its adoption the ordinance shall be published and printed as prescribed for other adopted ordinances. It shall become effective upon adoption or at such later time as it may specify.

(b) Every emergency ordinance shall automatically stand repealed as of the 61st day following the date on which it was adopted, but this shall not prevent reenactment of the ordinance in the manner specified in this section

if the emergency still exists. An emergency ordinance may also be repealed by adoption of the repealing ordinance in the same manner specified in this section for adoption of emergency ordinances.

Sec. 3.15. Codes of technical regulations.

The Council may adopt any standard code of technical regulations by reference thereto in an adopting ordinance. The procedure and requirements governing such an adopting ordinance shall be as prescribed for ordinances generally except that:

(1) The requirements of section 3.13, for distribution and filing of copies of the ordinance shall be construed to include copies of the code of technical regulations as well as of the adopting ordinance; and

(2) A copy of each adopted code of technical regulations as well as of the adopting ordinance shall be authenticated and recorded by the City Clerk pursuant to subsection 3.16(a).

Copies of any adopted code of technical regulations shall be made available by the City Clerk for distribution or for purchase at a reasonable price.

State law reference—Mandatory for charter to provide for adoption of technical codes, MCL 117.3(k).

Sec. 3.16. Authentication and recording; codification; printing.

(a) *Authentication and recording*. The City Clerk shall authenticate by his signature and record in full in a properly indexed book kept for the purpose all ordinances and resolutions adopted by the Council.

(b) *Codification*. Within three years after adoption of this charter and at least every ten years thereafter, the Council shall provide for the preparation of a general codification of all City ordinances and resolutions having the force and effect of law. The general codification shall be adopted by the Council by ordinance and shall be published promptly in bound or looseleaf form, together with this charter and any amendments thereto, pertinent provisions of the constitution and other laws of the state of Michigan, and such codes of technical regulations and other rules and regulations as the Council may specify. This compilation shall be known and cited officially as the Potterville City Code. Copies of the code shall be furnished to City officers, placed in libraries and public offices for free public reference and made available for purchase by the public at a reasonable price fixed by the Council.

(c) *Printing of ordinance and resolutions*. The Council shall cause each ordinance and resolution having the force and effect of law and each amendment to this charter to be printed promptly following its adoption, and the printed ordinances, resolutions and charter amendments shall be distributed or sold to the public at reasonable prices to be fixed by the council. Following publication of the first Potterville City Code and at all times thereafter, the ordinances, resolutions and charter amendments shall be printed in substantially the same style as the code currently in effect and shall be suitable in form for integration therein. The Council shall make such further arrangements as it deems desirable with respect to reproduction and distribution of any current changes in or additions to the provisions of the constitution and other laws of the state of Michigan, or the codes of technical regulations and other rules and regulations included in the code.

State law reference—Codification authority, MCL 117.5b.

ARTICLE IV. CITY MANAGER*

***State law reference—**Mandatory for charter to provide for qualifications, appointment and compensation of city officers, MCL 117.3(d).

Sec. 4.01. Appointment; qualifications; compensation.

The Council shall appoint a City Manager for an indefinite term and fix his compensation. The Manager shall be appointed solely on the basis of his executive and administrative qualifications.

Sec. 4.02. Removal.

The Council may remove the Manager from office in accordance with the following procedures:

(1) The Council shall adopt by affirmative vote of a majority of all its members a preliminary resolution which must state the reasons for removal and may suspend the Manager from duty for a period not to exceed 45 days. A copy of the resolution shall be delivered promptly to the Manager.

(2) Within five days after a copy of the resolution is delivered to the Manager, he may file with the Clerk to be forwarded to the Council a written request for public hearing. This hearing shall be held at a Council meeting not earlier than fifteen days nor later than thirty days after the request is filed. The Manager may file with the Council a written reply not later than five days before the hearing.

(3) The Council may adopt a final resolution of removal, which may be made effective immediately, by affirmative vote of a majority of all its members at any time after five days from the date when a copy of the preliminary resolution was delivered to the Manager, if he has not requested a public hearing, or at any time after the public hearing if he has requested one.

The Manager shall continue to receive his salary until the effective date of a final resolution of removal. The action of the Council in suspending or removing the Manager shall not be subject to review by any court or agency.

Sec. 4.03. Acting city manager.

By letter filed with the City Clerk the Manager shall designate, subject to approval of the Council, a qualified City administrative officer to exercise the powers and perform the duties of Manager during his temporary absence or disability. During such absence or disability, the Council may revoke such designation at any time and appoint another officer of the City to serve until the Manager shall return or his disability shall cease.

Sec. 4.04. Powers and duties of the city manager.

The City Manager shall be the chief administrative officer of the city. He shall be responsible to the Council for the administration of all City affairs placed in his charge by or under this charter. He shall have the following powers and duties:

(1) He shall appoint and, when he deems it necessary for the good of the service, suspend or remove all City employees and appointive administrative officers provided by law, this charter or personnel rules adopted pursuant to this charter. He may authorize any administrative officer who is subject to his direction and supervision to exercise these powers with respect to subordinates in that officer's department, office or agency.

(2) He shall direct and supervise the administration of all departments, offices and agencies of the city, except as otherwise provided by this charter or by law.

(3) He shall attend all Council meetings and shall have the right to take part in discussion but may not vote.

(4) He shall see that all laws, provisions of this charter and acts of the Council, subject to enforcement by him or by officers subject to his direction and supervision, are faithfully executed.

(5) He shall prepare and submit the annual budget and capital program to the Council.

(6) He shall submit to the Council and make available to the public a complete report on the finances and administrative activities of the City as of the end of each fiscal year.

(7) He shall make such other reports as the Council may require concerning the operations of the City departments, offices and agencies subject to his direction and supervision.

(8) He shall keep the Council fully advised as to the financial condition and future needs of the City and make such recommendations to the Council concerning the affairs of the City as he deems desirable.

(9) He shall perform such other duties as are specified in this charter or as may be required by Council.

ARTICLE V. ADMINISTRATIVE DEPARTMENTS

Sec. 5.01. General provisions.

(a) *Creation of departments*. There shall be within the administrative service of the City a Board of Review, Assessor, Treasurer, Police Chief and Fire Chief. The Council may establish such other City departments, offices or agencies in addition to that created by this charter and may prescribe the functions of all departments, offices and agencies, except that no function assigned by this charter to a particular department, office or agency may be discontinued or, unless this charter specifically so provides, assigned to any other.

(b) *Direction by Manager*. All departments, offices and agencies under the direction and supervision of the

Manager shall be administered by an officer appointed by and subject to the direction and supervision of the Manager. The City Manager shall appoint the Assessor, Board of Review, Treasurer and Police Chief. With the consent of Council, the Manager may serve as the head of one or more such departments, offices or agencies or may appoint one person as the head of two or more of them.

(c) *Appointive officers, duties*. All appointive officers of the City shall perform such duties as are provided for such officers by state law, this charter, the City Ordinances, and the administrative directives of the Manager. The City Treasurer shall have such powers and duties and prerogatives with regard to the collection and custody of state, county, school district, and City taxes and moneys as are conferred by law upon township treasurers in connection with state, county, township and school district taxes upon real and personal property. The City assessor shall have all power vested in, and shall be charged with all the duties imposed upon, assessing officers by general laws of the state. He shall prepare all regular and special assessment rolls in the manner prescribed by this charter, by ordinance and by the general laws of the state.

(d) [*Qualifications*.] The qualifications of appointive officers of the City shall be based solely on their education and experience.

(e) [*Compensation*.] The compensation of appointive officers of the City shall be set by the City Manager in accordance with budget appropriations.

Sec. 5.02. Personnel system.

The City Manager shall prepare personnel rules. The Manager shall refer such proposed rules to the City Council and the Council may by ordinance adopt them with or without amendment. These rules shall provide for:

(1) The classifications of all City positions, based on the duties, authority and responsibility of each position, with adequate provision for reclassification of any position whenever warranted by changed circumstances;

(2) A pay plan for all City positions;

(3) Methods for determining the merit and fitness of candidates for appointment or promotion;

(4) The policies and procedures regulating reduction in force and removal of employees;

(5) The hours of work, attendance regulations and provisions for sick and vacation leave;

(6) The policies and procedures governing persons holding provisional appointments;

(7) The policies and procedures governing relationships with employee organizations;

(8) Policies regarding in-service training programs;

(9) Grievance procedures, including procedures for the hearing of grievances by the City Council, which may render final decisions based on its findings; and

(10) Other practices and procedures necessary to the administration of the City personnel system.

Sec. 5.03. Legal officer.

There shall be a legal officer of the city, appointed by the Council as provided in section 5.01, who shall serve as chief legal adviser to the Council, the Manager and all City departments, offices and agencies, shall represent the City in all legal proceedings and shall perform any other duties prescribed by this charter or by ordinance.

ARTICLE VI. GENERAL FINANCE AND TAXATION*

***State law references—**Revised Municipal Finance Act, MCL 141.2101 et seq.; Uniform Budgeting and Accounting Act, MCL 141.421 et seq.

Sec. 6.01. Fiscal year.

The fiscal year of the City shall begin on the first day of July and end on the last day of June.

Sec. 6.02. Submission of the budget and budget message.

The Manager shall submit to the Council a budget for the ensuing fiscal year and an accompanying message

in the timeframe as established by resolution of the Council.

Sec. 6.03. Budget message.

The Manager's message shall explain the budget both in fiscal terms and in terms of the work programs. It shall outline the proposed financial policies of the City for the ensuing fiscal year, describe the important features of the budget, indicate any major changes from the current year in financial policies, expenditures, and revenues together with the reasons for such changes, summarize the city's debt position and include such other material as the Manager deems desirable.

Sec. 6.04. Budget.

The budget shall provide such financial data, and in such form as required by state statute.

Sec. 6.05. Council action on budget, levy of taxes.

(a) *Notice and hearing*. The Council shall publish such notice of a public hearing as required by state statute.

(b) *Amendment before adoption*. After the public hearing, the Council may adopt the budget with or without amendment. In amending the budget, it may add or increase programs or amounts and may delete or decrease any programs of [or] amounts, except expenditures required by law or for debt service or for estimated cash deficit, provided that no amendment to the budget shall increase the authorized expenditures to an amount greater than the total of estimated income and fund balance.

(c) *Adoption*. The Council shall adopt the budget on or before the 30th day of June of the fiscal year currently ending. If it fails to adopt the budget by this date, the amounts appropriated for current operation for the current fiscal year shall be deemed adopted for the ensuing fiscal year on a month-to-month basis, with all items in it prorated accordingly, until such time as the Council adopts a budget for the ensuing fiscal year. Adoption of the budget shall constitute appropriations of the amounts specified therein as expenditures from the funds indicated and shall constitute a levy of the property tax therein proposed.

(d) [*Levy of taxes*.] The levy of the amount of taxes for the aforementioned budget tax levy shall not exceed one and one-half (1 1/2) percent of the taxable value of all real and personal property subject to taxation in the city, as annually affected by the Headly [Headlee] amendment, be further reduced by eighty percent annually of new taxable additions to the city's taxable value for five years; thereafter fifty percent of new taxable additions.

(Res. No. 06-05, ref. of 5-2-2006)

State law reference—Public hearing required prior to adoption of budget, Mich. Const. art. VII, § 32; budget hearings of local governments, MCL 141.411—141.415.

Sec. 6.06. Public records.

Copies of the budget as adopted shall be public records and shall be made available to the public at suitable places in the city.

State law reference—Freedom of Information Act, MCL 15.261 et seq.

Sec. 6.07. Amendments after adoption.

Supplemental appropriations. If during the fiscal year the Manager certifies that there are available for appropriation revenues in excess of those estimated in the budget, the Council by resolution may make supplemental appropriations for the year up to the amount of such excess. The Council may make such supplemental appropriations, as the Council deems necessary, by procedures established by state statute.

Sec. 6.08. Lapse of appropriations.

Every appropriation shall lapse at the close of the fiscal year to the extent that it has not been expended or encumbered.

Sec. 6.09. Administration of budget.

(a) *Work programs and allotments*. At such time as the Manager shall specify, each department, office or agency shall submit work programs for the ensuing fiscal year showing the requested allotments of its appropriation by periods within the year. The Manager shall review and authorize such allotments with or without revision as

early as possible in the fiscal year. He may revise such allotments during the year if he deems it desirable and shall revise them to accord with any supplemental, emergency, reduced or transferred appropriations made pursuant to section 6.07.

(b) *Payments and obligations prohibited*. No payment shall be made or obligation incurred against any allotment or appropriation except in accordance with appropriations duly made and unless the Manager or his designee first certifies that there is a sufficient unencumbered balance in such allotment or appropriation and that sufficient funds therefrom are or will be available to cover the claim or meet the obligation when it becomes due and payable. Any authorization of payment or incurring of obligation in violation of the provisions of this charter shall be void and any payment or incurred such obligation, and he shall also be liable to the City for any amount so paid [sic]. However, except where prohibited by law, nothing in this charter shall be construed to prevent the making of [or] authorizing of payments or making of contracts for capital improvements to be financed wholly or partly by the issuance of bonds or to prevent the making of any contract or lease providing for payments beyond the end of the fiscal year, provided that such action is made or approved by ordinance or resolution.

Sec. 6.10. Power to tax.

The City shall have the power to assess, levy and collect taxes, rents, tolls and excises.

State law reference—General powers of city to levy taxes for public purposes, Mich. Const. art. VII, § 21.

Sec. 6.11. Subjects of taxation.

The subjects of ad valorem taxation for municipal purposes shall be the same as for state, county and school purposes under the general law. Except as otherwise provided by this charter, City taxes shall be levied, collected and returned in the manner provided by statute.

State law reference—Mandatory for charter to provide that subjects of taxation are the same as state, county, and school purposes under the general law, MCL 117.3(f).

Sec. 6.12. Exemptions.

No exemptions from taxation shall be allowed, except as expressly required or permitted by statute.

State law reference—Real estate exemptions, MCL 211.7 et seq.

Sec. 6.13. Tax day.

Unless otherwise provided the thirty-first day of December in each year shall be tax day of [for] both real and personal property in the City.

State law reference—Levy date, MCL 211.2.

Sec. 6.14. Preparation of the assessment roll.

On or before the first Monday in March in each year the assessor shall prepare and certify an assessment roll of all property in the City subject to taxation. Such roll shall be prepared in accordance with statute and this charter. Values shall be estimated according to recognized methods of systematic assessment. The records of the assessor shall show separate figures for the value of the land, of the building improvements and of the personal property; and the method of estimating all such values shall be as nearly uniform as possible. Notwithstanding the foregoing, if the county prepares such assessment roll as provided by statute the City shall utilize such assessment roll.

State law reference—Charter to provide for the times of preparation and confirmation of assessment roll, MCL 117.3(i); assessment roll, MCL 211.24 et seq.

Sec. 6.15. City tax roll.

After the Board of Review has completed its review of the assessment roll the Assessor shall prepare a copy of the assessment roll to be known as the "City Tax Roll" and upon receiving the certification of the several amounts to be raised the assessor shall spread upon said tax roll the several amounts determined by the Council to be charged, assessed or reassessed against persons or property. He shall also spread the amounts of the general City tax according to and in proportion to the several valuations set forth in said assessment roll. To avoid fractions in computation on any tax roll, the assessor may add to the amount of the several taxes to be raised not more than the amount prescribed by statute. Any excess created thereby on any tax rolls shall belong to the City.

State law reference—Completion of assessment, avoidance of fractions, MCL 211.39.

Sec. 6.16. City tax roll certified for collection.

After extending taxes aforesaid the assessor shall certify said tax roll and shall annex his warrant thereto, directing and requiring the Treasurer to collect from the several persons named in said roll the several sums mentioned therein opposite their respective names as a tax or assessment, and granting to him for the purpose of collecting the taxes, assessments, and charges on such roll, all the powers and immunities possessed by township treasurers for the collection of taxes under the general laws of the state.

State law reference—Board of review, endorsement and signed statement, MCL 211.30(3); completed roll valid, conclusive presumption, MCL 211.31.

Sec. 6.17. Taxes lien.

The taxes thus assessed shall become a debt due to the City from the persons to whom they are assessed. The amounts assessed on any interest in real property shall become a lien upon such real property for such amounts and for all interest and charges thereon and all personal taxes shall become a first lien on all personal property of such persons so assessed. The liens shall take precedence over all other claims, encumbrances and liens to the extent provided by statute and shall continue until such taxes, interest and charges are paid.

Sec. 6.18. Taxes due; notification.

City taxes shall be due on the first day of July of the year when levied. The Treasurer shall not be required to call upon the persons named in the City tax roll, nor to make personal demand for the payment of taxes, but he shall give notice as provided by state statute, which notice shall be deemed sufficient for the payment of all taxes on said roll. Failure on the part of the treasurer to give said notice shall not invalidate the taxes on said tax roll nor release any person or property assessed from the penalty provided in this charter in case of nonpayment of the same.

Sec. 6.19. Collection of city taxes.

City taxes shall be due and payable on the first day of July of each year. To all taxes there may be added one percent as a collection fee. To all taxes paid after September 15, there may be added, up to the maximum, a penalty as provided by state statute. The added collection fees and penalties and interest herein provided shall belong to the City and shall constitute a charge and shall be a lien against the property to which the taxes themselves apply, collectible in the same manner as the taxes to which they are added.

State law reference—Collection of taxes, MCL 211.44 et seq.

Sec. 6.20. Protection of city lien.

The City shall have the power to acquire by purchase any premises within the City at any tax or other public sale or by direct purchase from the State of Michigan or the fee owner, when such purchase is necessary to protect the lien of the City, lease or sell the same for the purpose of securing therefrom the amount of such taxes or special assessments, or both together with any incidental expenses incurred in connection with the exercise of this power. Any such procedure exercised by the City in the protection of its tax lien shall be deemed to be for a public purpose.

Sec. 6.21. State, county, and school taxes.

For the purpose of assessing taxes in the City for state, county, and school purposes, the City shall be considered the same as a township, and all provisions of state law relative to the collection of such taxes and the fees to be paid therefor, the accounting therefor to the appropriate taxing units, and the returning of taxes to the county treasurer for nonpayment thereof shall apply to the performance thereof by the Treasurer, who shall perform the same duties and have the same powers as township treasurers under the state law.

State law reference—Charter to provide for taxation, MCL 117.3(h).

Sec. 6.22. Municipal borrowing power.

Subject to the applicable provisions of law and this charter, the Council may by ordinance or resolution authorize the borrowing of money for any purpose within the scope of powers vested in the City and permitted by law and may authorize the issuance of bonds or other evidence of indebtedness, therefore, such bonds or other evidence of indebtedness shall include, but not be limited to, the following types:

(1) General Obligations which pledge the full faith, credit and resources of the City for the payment of such obligations; when authorized by a three-fifths vote of the electors voting thereon at any general or special election.

(2) Notes issued in anticipation of the collection of taxes.

(3) In case of fire, flood, or other calamity, emergency loans due in not more than five years for the relief of the inhabitants of the City and for the preservation of municipal property.

(4) Special assessment bonds issued in anticipation of the payment of special assessments made for the purpose of defraying the cost of any public improvement, or in anticipation of the payment of any combination of such special assessments. Such special assessment bonds may be an obligation of the special assessment district or districts or may be both an obligation of the special assessment district or districts and a general obligation of the City.

(5) Mortgage bonds for the acquiring, owning, purchasing constructing, improving, or operating of any public utility which the City is authorized by this charter to acquire or operate, provided such bonds shall not impose any liability upon such City but shall be secured only upon the property and revenues of such public utility including a franchise, stating the terms upon which, in case of foreclosure the purchaser may operate the same, which franchise shall in no case extend for a longer period than twenty years from the date of the sale of such utility and franchise on foreclosure. Such bonds shall be authorized by a three-fifths vote of the electors voting thereon at any general or special election. A sinking fund shall be created in the event of the issuance of such bonds, by setting aside such percentage of the gross or net earnings of the public utility as may be deemed sufficient for the payment of the mortgage bonds at maturity, unless serial bonds are issued of such a nature that no sinking fund is required.

(6) Bonds for the refunding of the funded indebtedness of the City.

(7) Revenue bonds as authorized by statute which are secured only by the revenues from a public improvement and do not constitute a general obligation of the City.

State law reference—Municipal power to borrow money and contract debts, Mich. Const. art. VII, § 21; charter may provide for city borrowing, MCL 117.4a.

ARTICLE VII. PLANNING*

***State law reference—**Municipal planning, MCL 125.33.

Sec. 7.01. Planning.

There shall be a City planning board created by ordinance established and governed by the laws of the State of Michigan with regards to duties, members, appointment, compensation, term, removal from office and vacancies. The planning board shall have such tasks, duties and other responsibilities as required by ordinance or the laws of the state of Michigan.

Editor's note—The planning board is now referred to as the planning commission.

ARTICLE VIII. NOMINATIONS AND ELECTIONS*

***State law reference—**Michigan election law, MCL 168.1 et seq.; elections, time, manner, means, MCL 117.3(c).

Sec. 8.01. City elections.

(a) *Regular elections*. The regular City election shall be held on the first Tuesday after the first Monday of November in each odd numbered year.

(b) *Qualified voters*. All citizens qualified by the constitution and laws of the state of Michigan to vote in the City and who satisfy the requirements for registration prescribed by law shall be qualified voters of the City within the meaning of this charter.

(c) *Conduct of elections*. Except as otherwise provided by this charter, the provisions of the general election laws of the state of Michigan shall apply to elections held under this charter. All elections provided for by the charter shall be conducted by the election authorities established by law. For the conduct of City elections, for the

prevention of fraud in such elections and for the recount of ballots in cases of doubt or fraud, the Council shall adopt by ordinance all regulations which it considers desirable, consistent with law and this charter, and the election authorities may adopt, and if they adopt shall publicize, further regulations consistent with law and this charter and the regulations of the Council.

State law reference—Elections, general provisions, MCL 117.26; odd year general election on first Tuesday of November, MCL 168.644a.

Sec. 8.02. Nominations.

(a) *Petitions*. Candidates for election to the City Council shall be nominated by petition. Any qualified voter of the City may be nominated for election as a Councilman at large by a petition signed by qualified voters of the city, of not more than 30 nor less than 15 for which the candidate is nominated [sic]. The signatures to a nominating petition need not all be affixed to one paper, but to each separate paper of a petition there shall be attached an affidavit executed by its circulator stating the number of the signers of the paper, that each signature on it was affixed in his presence and that he believes each signature to be the genuine signature of the person whose name it purports to be. The signatures shall be executed in ink or indelible pencil. Each signer shall indicate next to his signature the date of his signing and the place of his residence.

(b) *Filling [Filing] and acceptance*. All separate papers comprising a nominating petition shall be assembled and filed with the Clerk as one instrument in no case later than the date on which a primary would be held. The Tuesday after the first Monday in August [sic]. The election authorities shall make a record of the exact time when each petition is filed. No nominating petition shall be accepted unless accompanied by a signed acceptance of the nomination.

(c) *Procedure after filing*. Within five days after the filing of a nominating petition, the election authorities shall notify the candidate and the person who filed the petition whether or not it satisfies the requirements prescribed by this charter. If a petition is found insufficient, the election authorities shall return it immediately to the person who filed it with a statement certifying wherein it is found insufficient. Within the regular time for filing petitions such a petition may be amended and filed again as a new petition or a different petition may be filed for the same candidate. The election authorities shall keep on file all petitions found sufficient at least until the expiration of the term for which the candidates are nominated in those petitions.

State law reference—Charter to provide for nomination of elective officers, MCL 117.3(b); candidates for local offices, MCL 168.646a.

Sec. 8.03. Council ballots.

Names on ballots. The full names of all candidates nominated for membership in the City Council, except those who have withdrawn, died or become ineligible, shall be printed on the official ballots without party designation or symbol. If two or more candidates have the same surname or surnames so similar as to be likely to cause confusion, their residence addresses or occupations shall be printed with their names on the ballot. Candidates' names shall appear on the ballot according to state law.

State law reference—Candidate names on ballots, MCL 168.691.

Sec. 8.04. Watchers and challengers.

A regularly nominated candidate shall be entitled, upon written application to the election authorities at least five days before the election, to appoint two persons to represent him as watchers and challengers at each polling place where voters may cast their ballots for him. A person so appointed shall have all the rights and privileges prescribed for watchers and challengers by or under the general election laws of the state of Michigan. The watchers and challengers may exercise their rights throughout the voting and until the ballots have been counted.

State law reference—Rights of watchers and challengers, MCL 168.733.

Sec. 8.05. Determination of election results.

Number of votes. Every voter shall be entitled to vote for as many candidates for the City Council as there are members to be elected to the Council.

Sec. 8.06. Ballots for ordinances and charter amendments.

An ordinance or charter amendment to be voted on by the City shall be presented for voting by ballot title. The ballot title of a measure may differ from its legal title and shall be a clear, concise statement describing the substance of the measure without argument or prejudice. Below the ballot title shall appear the following question: "Shall the above described (ordinance) (amendment) be adopted?" Immediately below such question shall appear, in the following order, the words "yes" and "no" and to the left of each a square in which by making a cross (X) the voter may cast his vote.

Sec. 8.07. Voting machines.

The Council may provide for the use of mechanical or other devices for voting or counting the votes not inconsistent with law.

State law reference—Voting machines, MCL 168.772.

Sec. 8.08. Availability of list of qualified voters.

If for any purpose relating to a general or City election or to candidates or issues involved in such an election, any organization, group or person requests a list of qualified voters of the city, the department, office or agency which has custody of that list shall either permit the organization, group or person to copy the voters' names and addresses from the list or furnish a copy of the list.

ARTICLE IX. INITIATIVE AND REFERENDUM*

***State law reference—**Permissible for charter to provide for initiative and referendum, MCL 117.4i(g).

Sec. 9.01. General authority.

(a) *Initiative*. The qualified voters of the City shall have the power to propose ordinances to the Council and, if the Council fails to adopt an ordinance so proposed without any change in substance, to adopt or reject it at the City election, provided that such power shall not extend to the budget or capital program or any ordinance relating to appropriation of money, levy of taxes or salaries of City officers or employees.

(b) *Referendum*. The qualified voters of the City shall have power to require reconsideration by the Council of any adopted ordinance and, if the Council fails to repeal an ordinance so reconsidered, to approve or reject it at a City election, provided that such power shall not extend to the budget or capital program or any emergency ordinance or ordinance relating to appropriation of money or levy of taxes.

Sec. 9.02. Commencement of proceedings; petitioners; committee; affidavit.

(a) Any five qualified voters may commence initiative or referendum proceedings by filing with the City Clerk an affidavit stating they will constitute the petitioners' committee and be responsible for circulating the petition and filing it in proper form, stating their names and addresses and specifying the address to which all notices to the committee are to be sent, and setting out in full the proposed initiative ordinance or citing the ordinance sought to be reconsidered.

(b) Promptly after the affidavit of the petitioners' committee is filed the Clerk shall issue the appropriate petition blanks to the petitioners' committee.

Sec. 9.03. Petitions.

(a) *Number of signatures*. Initiative and referendum petitions must be signed by qualified voters of the City equal in number to at least 15 percent of the total number of qualified voters registered to vote at the last regular City election.

(b) *Form and content*. All papers of a petition shall be uniform in size and style and shall be assembled as one instrument for filing. Each signature shall be executed in ink or indelible pencil and shall be followed by the address of the person signing. Petitions shall contain or have attached thereto throughout their circulation the full text of the ordinance proposed or sought to be reconsidered.

(c) *Affidavit of circulator*. Each paper of a petition shall have attached to it when filed an affidavit executed by the circulator thereof stating that he personally circulated the paper, the number of signatures thereon, that all the signatures were affixed in his presence, that he believes them to be the genuine signatures of the persons whose

names they purport to be and that each signer had an opportunity before signing to read the full text of the ordinance proposed or sought to be reconsidered.

(d) *Time for filing referendum petitions*. Referendum petitions must be filed within 30 days after adoption by the Council of the ordinance sought to be reconsidered.

State law reference—Filing petitions, signatures, MCL 117.25 et seq.

Sec. 9.04. Procedure after filing.

(a) *Certificate of clerk; amendment*. Within twenty days after the petition is filed, the City Clerk shall complete a certificate as to its sufficiency, specifying, if it is insufficient, the particulars wherein it is defective and shall promptly send a copy of the certificate to the petitioners' committee by registered mail. A petition certified insufficient for lack of the required number of valid signatures may be amended once if the petitioners' committee files a notice of intention to amend it with the Clerk within two days after receiving the copy of his certificate and files a supplementary petition upon additional papers within ten days after receiving the copy of such certificate. Such supplementary petition shall comply with the requirements of subsections (b) and (c) of section 9.03, and within five days after it is filed the Clerk shall complete a certificate as to the sufficiency of the petition as amended and promptly send a copy of such certificate to the petitioners' committee by registered mail as in the case of an original petition. If a petition or amended petition is certified sufficient, or if a petition or amended petition is certified insufficient and the petitioners' committee does not elect to amend or request Council review under subsection (b) of this section within the time required, the Clerk shall promptly present his certificate to the Council and the certificate shall then be a final determination as to the sufficiency of the petition.

(b) *Council review*. If a petition has been certified insufficient and the petitioners' committee does not file notice of intention to amend it or if an amended petition has been certified insufficient, the committee may, within two days after receiving the copy of such certificate, file a request that it be reviewed by the Council. The Council shall review the certificate at its next meeting following the filing of such request and approve or disapprove it, and the Council's determination shall then be a final determination as to the sufficiency of the petition.

(c) *Court review; new petition*. A final determination as to the sufficiency of a petition shall be subject to court review. A final determination of insufficiency, even if sustained upon court review, shall not prejudice the filing of a new petition for the same purpose.

Sec. 9.05. Referendum petitions; suspension of effect of ordinance.

When a referendum petition is filed with the City Clerk, the ordinance sought to be reconsidered shall be suspended from taking effect. Such suspension shall terminate when:

(1) There is a final determination of insufficiency of the petition; or

(2) The petitioners' committee withdraws the petition; or

(3) The Council repeals the ordinance; or

(4) Thirty days have elapsed after a vote of the City on the ordinance.

Sec. 9.06. Action on petitions.

(a) *Action by council*. When an initiative or referendum petition has been finally determined sufficient, the Council shall promptly consider the proposed initiative ordinance in the manner provided in Article III or reconsider the referred ordinance by voting its repeal. If the Council fails to adopt a proposed initiative ordinance without any change in substance within 60 days or fails to repeal the referred ordinance within 30 days after the date the petition was finally determined sufficient, it shall submit the proposed or referred ordinance to the voters of the city.

(b) *Submission to voters*. The vote of the City on a proposed or referred ordinance shall be held not less than 30 days and not later than one year from the date of the final Council vote thereon. If no regular City election is to be held within the period prescribed in this subsection, the Council shall provide for a special election; otherwise, the vote shall be held at the same time as such regular election, except that the Council may in its discretion provide for a special election at an earlier date within the prescribed period. Copies of the proposed or referred ordinance shall be made available at the polls.

(c) *Withdrawal of petitions*. An initiative or referendum petition may be withdrawn at any time prior to the fifteenth day preceding the day scheduled for a vote of the City by filing with the City Clerk a request for withdrawal signed by at least four members of the petitioners' committee. Upon the filing of such request the petition shall have no further force or effect and all proceedings thereon shall be terminated.

Sec. 9.07. Results of election.

(a) *Initiative*. If a majority of the qualified electors voting on a proposed initiative ordinance vote in its favor, it shall be considered adopted upon certification of the election results and shall be treated in all respects in the same manner as ordinances of the same kind adopted by the Council. If conflicting ordinances are approved at the same election, the one receiving the greatest number of affirmative votes shall prevail to the extent of the conflict.

(b) *Referendum*. If a majority of the qualified electors voting on a referred ordinance vote against it, it shall be considered repealed upon certification of the election results.

State law reference—Elections, general provisions, MCL 117.26.

ARTICLE X. PUBLIC IMPROVEMENTS AND SPECIAL ASSESSMENTS*

***State law reference—**Obligations in anticipation of special assessments, MCL 133.9; mandatory notices and hearings, MCL 211.741 et seq.; deferment for older persons, MCL 211.761 et seq.; deferment of special assessments on homesteads, MCL 211.761 et seq.; public improvements, MCL 41.721 et seq., MCL 68.31 et seq.

Sec. 10.01. General power relative to special assessments.

The Council shall have the power to determine the necessity of any local or public improvement and to determine that the whole or any part of the expense thereof shall be defrayed by special assessment upon the property especially benefited and shall so declare by resolution, provided that all special assessments levied shall be based upon or be in proportion to the benefits derived or to be derived. Such resolution shall state the estimated cost of the improvement, what proportion of the cost thereof shall be paid by special assessment, and what part, if any, shall be a general obligation of the city, and the number of installments in which assessments may be paid, and shall designate the districts or land and premises upon which special assessments shall be levied.

Sec. 10.02. Detailed procedure to be fixed by ordinance.

The Council shall prescribe by general ordinance the complete special assessment procedure concerning the initiation of projects, plans and specifications, estimates of costs, notice of hearings making and confirming assessment rolls in advance of starting the improvement, and the correction of errors therein, collection of special assessments, and any other matters concerning making of improvements by the special assessment method.

ARTICLE XI. MUNICIPAL UTILITIES*

***State law reference—**Restrictions, Mich. Const. art. VII, §§ 24, 25; ownership and operation of water supply or sewage disposal facility by city, Mich, Const. art. VII, § 26; permissible city power over utilities, MCL 117.4f; local authority to provide and regulate sewer and water service, MCL 324.4301 et seq.; water and sewer authorities, MCL 124.281 et seq.; franchises limited to a term of 30 years, Mich. Const. art. VII, § 30.

Sec. 11.01. General powers respecting utilities.

The City shall possess and hereby reserves to itself all the powers granted to cities by the constitution and general laws of the State of Michigan to acquire, construct, own, operate, improve, enlarge, extend, repair and maintain, either within or without its corporate limits, including, but not by the way of limitation, public utilities for supplying water, light, heat, power, gas, sewage treatment, and garbage disposal facilities, or any of them, to the municipality and the inhabitants thereof; and also to sell and deliver water, light, heat, power, gas and other public utility services, without its corporate limits to any amount not to exceed the limitations set by state law and constitution.

State law reference—Permissible city powers over utilities, MCL 117.4f.

Sec. 11.02. Rates.

The Council shall have the power to fix, from time to time, such just and equitable rates as may be deemed advisable for supplying the inhabitants of the City and others with water; with electricity for light, heat, and power;

and with such other utility services as the City may provide.

Sec. 11.03. Utility charges—Collections.

The Council shall provide, by ordinance or resolution, for the collection of all public utility charges made by the City. With respect to water, the City shall have all the power granted to cities by Public Act No. 178 of 1939 (MCL 123.161 et seq.). When any person or persons, or any firm or corporation, shall fail or refuse to pay to the City any sums due on utility bills, service or services upon which such delinquency exists may be shut off or discontinued and such delinquent sums shall be a lien upon the property and collected as provided for the collection of City taxes. Suit may be instituted by the City for the collection of the same in any court of competent jurisdiction.

Sec. 11.04. Accounts.

Separate accounts, distinct from any other City accounts, shall be kept for each public utility owned or operated by the City in such manner as to show the true and complete financial result of such City ownership or operation, or both, including all assets, liabilities, revenues and expenses. They shall show, as nearly as possible, the value of any service furnished to or rendered by any such public utility by or to any City department. The Council shall annually cause a report to be made, showing the financial results of such City ownership or operation, or both, which report shall give for each utility, the information specified in this section, and such further information as the Council shall deem expedient. Such report shall be on file in the office of the Clerk for public inspection.

ARTICLE XII. STREETS AND PUBLIC GROUNDS*

***State law reference—**Recording of street openings and vacations in platted areas, MCL 560.256; city control of highways, Mich. Const. art. VII, §§ 16, 29; major street system of city, MCL 247.656; local street system of city, MCL 247.658.

Sec. 12.01. Supervision of public ways.

(a) The Council shall have supervision and control of all public highways, bridges, streets, avenues, alleys, sidewalks and public grounds within the City, and shall cause the same to be kept in repair, and free from nuisance.

(b) The City shall not be liable in damages sustained by any person in such City either to his person or property by reason of any defective street, sidewalk, crosswalk, or public highway, situated in the city, or by reason of any obstruction, ice, snow or other encumbrance upon such street, sidewalk, crosswalk or public highway situated in the City unless such person shall serve, or cause to be served, within one hundred and twenty (120) days after such injury shall have occurred, a notice in writing upon the City Clerk, which notice shall set forth substantially the time when and place where such injury took place, the manner in which it occurred, and the extent of such injury as far as the same has become known, and that the person receiving such injury intends to hold the City liable for such damages as may have been sustained by him. Such notice shall also give the names and addresses of the witnesses known at the time of such notice by the claimant. Such notice shall be in writing and under oath.

(c) No person shall bring any action for such injuries against the City for any such damages until such claim shall have been filed with the City Clerk and until the Council shall have been given opportunity to act thereon, either by allowing or refusing to allow such claim.

(d) It shall be a sufficient bar and answer in any court to any action or proceeding for the collection of any demand or claim against the City under this section that the notice of injury and verified proof of claim as in this section required were not presented and filed within the time and in the manner as herein provided.

State law reference—Permissible for city to regulate public ways, MCL 117.4h.

Sec. 12.02. Requirement of public dedication.

The City shall not be responsible for the care, improvement or repair of any street or alley laid out or dedicated to public use by the proprietors of any lands which had not been actually accepted, worked and used by the public as a street or alley before its incorporation as a city, nor for the improvement and repair or [of] any street or alley laid out or dedicated by any such proprietor after such incorporation, unless the dedication shall have been accepted and confirmed by the Council by an ordinance or resolution especially passed for that purpose.

Sec. 12.03. Maintenance of public ways.

The Council shall have authority to lay out, open, widen, extend, straighten, alter, close, vacate or abolish any

highway, street or alley in the City whenever they shall deem the same a public improvement; and if in so doing it shall be necessary to take or use private property, the same may be acquired by purchase, gift, condemnation, lease or otherwise of private property. The expense of such improvement may be paid by special assessments upon the property adjacent to or benefited by such improvement, or in the discretion of the Council, a portion of such costs and expenses may be paid by special assessment, and the balance from the general street fund.

State law reference—Permissible improvement of public streets, MCL 117.4h.

Sec. 12.04. Vacation of streets and alleys.

When the Council shall deem it advisable to vacate, discontinue or abolish any street, alley, or other public ground, or any part thereof, they shall by resolution so declare, and in the same resolution shall appoint a time, not less than four weeks thereafter, when they will meet and hear objections thereto. Notice of such meeting with a copy of said resolution shall be published for not less than four weeks before the time appointed for such meeting, in one of the newspapers published or circulated in the City. Objections to such proposed action of the Council may be filed with the City Clerk in writing, and if any such shall be filed, the street, alley or public ground, or any part thereof, shall not be vacated or discontinued, except by a concurring vote of two-thirds of the Councilmen elect.

Sec. 12.05. Recording dedication or vacation of streets.

Whenever the Council shall by resolution or other enactment, open any new street, highway, or alley, or vacate any street, highway, or alley or any portion of the same, or extend, widen, or change the name of any existing street, highway, or alley, it shall be the duty of the City Clerk within thirty days after the adoption as [of] such resolution or other enactment to forward to the auditor general of the State of Michigan and record with the register of deeds, a certified copy of the same, together with his certificate, giving the name or names of plat, subdivision or addition affected by such resolution or other enactment and such resolution, ordinance or other enactment shall have no force or effect until so recorded.

Sec. 12.06. Easement for public utilities.

Whenever the Council shall determine that it is necessary for the health, welfare, comfort and safety of the people of the City to discontinue an existing street or alley, as platted, it may by resolution, ordinance or other enactment, vacating such street or alley, reserve therein an easement for public utility purposes within the right-of-way of any street or alley so vacated.

ARTICLE XIII. GENERAL PROVISIONS

Sec. 13.01. Prohibitions.

(a) *Activities prohibited.*

(1) No person shall be appointed to or removed from, or in any way favored or discriminated against with respect to any City position or appointive City administrative office because of race, sex, political or religious opinions or affiliations.

(2) No person shall willfully make any false statement, certificate, mark, rating or report in regard to any test, certification or appointment under the personnel provisions of this charter or the rules and regulations made thereunder, or in any manner commit or attempt to commit any fraud preventing the impartial execution of such provisions, rules and regulations.

(3) No person who seeks appointment or promotion with respect to any City position or appointive City administrative office shall directly or indirectly give, render or pay any money, service or other valuable thing to any person for or in connection with his test, appointment, proposed appointment, promotion or proposed promotion.

(b) *Penalties*. Any person who by himself or with others willfully violates any of the provisions of paragraphs [(a)](1) through (3) shall be guilty of a misdemeanor and upon conviction thereof shall be punishable by a fine of not more than one hundred dollars ($100.00) or by imprisonment for not more than ninety days, or both. Any person convicted under this section shall be ineligible for a period of five years thereafter to hold any City office or position and, if an officer or employee of the city, shall immediately forfeit his office or position.

Sec. 13.02. Charter amendment.

Amendments to this charter may be framed and proposed in a manner prescribed by the laws of the State of Michigan.

State law reference—Authority of city to amend charter, Mich. Const. art. VII, § 22; mandatory procedures for revision of charter, MCL 117.18 et seq.

Sec. 13.03. Separability.

If any provision of this charter is held invalid, the other provisions of the charter shall not be affected thereby. If the application of the charter or any of its provisions to any person or circumstance is held invalid, the application of the charter and its provisions to other persons or circumstances shall not be affected thereby.

ARTICLE XIV. TRANSITIONAL PROVISIONS

Sec. 14.01. Officers and employees.

(a) *Rights and privileges preserved*. Nothing in this charter except as otherwise specifically provided shall affect or impair the rights or privileges of persons who are City officers or employees at the time of its adoption.

(b) *Continuance of office or employment*. Except as specifically provided by this charter, if at the time this charter takes full effect a City administrative officer or employee holds any office or position which is or can be abolished by or under this charter, he shall continue in such office or position until the taking effect of some specific provision under this charter directing that he vacate the office or position.

(c) *Personnel system*. An employee holding a City position at the time this charter takes full effect, who was serving in that same or a comparable position at the time of its adoption, shall not be subject to competitive tests as a condition of continuance in the same position but in all other respects shall be subject to the personnel system provided for in section 5.02.

Sec. 14.02. Departments, offices and agencies.

(a) *Transfer of powers*. If a City department, office or agency is abolished by this charter, the powers and duties given it by law shall be transferred to the City department, office or agency designated in this charter or, if the charter makes no provision, designated by the City Council.

(b) *Property and records*. All property, records and equipment of any department, office or agency existing when this charter is adopted shall be transferred to the department, office or agency assuming its powers and duties, but, in the event that the powers or duties are to be discontinued or divided between units or in the event that any conflict arises regarding a transfer, such property, records or equipment shall be transferred to one or more departments, offices or agencies designated by the Council in accordance with this charter.

Sec. 14.03. Pending matters.

All rights, claims, actions, orders, contracts and legal or administrative proceedings shall continue except as modified pursuant to the provisions of this charter and in each case shall be maintained, carried on or dealt with by the City department, office or agency appropriate under this charter.

Sec. 14.04. State and municipal laws.

In general. All City ordinances, resolutions, orders and regulations which are in force when this charter becomes fully effective are repealed to the extent that they are inconsistent or interfere with the effective operation of this charter or of ordinances or resolutions adopted pursuant thereto. To the extent that the constitution and laws of the State of Michigan permit, all laws relating to or affecting this City or its agencies, officers or employees which are in force when this charter becomes fully effective are superseded to the extent that they are inconsistent or interfere with the effective operation of this charter or of ordinances or resolutions adopted pursuant thereto.

Sec. 14.05. First elections under this charter.

The first election of officers under this charter shall be held on the first Tuesday after the first Monday in November, 1989, at which election there shall be elected four (4) councilmen who shall hold office for terms as set forth in section 3.10(c) [3.01(c)]. The second election of Councilmen under this charter shall be held on the first

Tuesday after the first Monday in November, 1991, at which election there shall be elected four (4) Councilmen who shall be the three holdover Councilmen and the Councilman who was elected to the two-year term as provided for in Section 3.01(b) [3.01(c)]. The nomination and election of officers at the above specified elections shall be in accordance with the provisions of this charter. Thereafter, all City elections for the election of officers of the City shall be held upon the dates specified therefor in this charter. The terms specified in this section are for the purpose of bridging the transition from the schedule of terms of office in the prior charter of the City and those herein provided.

PART II
CODE OF ORDINANCES

Chapter 1
GENERAL PROVISIONS

Sec. 1-1. Designation and citation of Code.

The ordinances embraced in this and the following chapters shall constitute and be designated as the "Code of Ordinances, City of Potterville, Michigan," and may be so cited. Such ordinances may also be cited as the "Potterville Code."

(Code 1972, § 11-1; Code 2006, § 1-1)

State law reference—Authority to codify ordinances, MCL 117.5b.

Sec. 1-2. Definitions and rules of construction.

The following definitions and rules of construction shall apply to this Code and to all ordinances and resolutions unless the context requires otherwise:

Generally. When provisions conflict, the specific shall prevail over the general. All provisions shall be liberally construed so that the intent of the city council may be effectuated. Words and phrases shall be construed according to the common and approved usage of the language, but technical words, technical phrases and words and phrases that have acquired peculiar and appropriate meanings in law shall be construed according to such meanings.

Agencies, officers. Any reference to any local, state or federal agency or officer shall include any successor agency or officer.

Charter. The term "Charter" means the Charter of the City of Potterville, Michigan.

City. The term "city" means the City of Potterville, Michigan.

City council, council. The terms "city council" and "council" mean the city council of the City of Potterville, Michigan.

Civil infraction. The term "civil infraction" means an act or omission prohibited by law which is not a crime and for which civil sanctions may be ordered.

Code. The term "Code" means the Code of Ordinances, City of Potterville, Michigan, as designated in section 1-1.

Common and technical terms. Except as otherwise provided in this section, words and phrases shall be construed according to the common usage of the language; provided, however, that technical words and phrases and such others as may have acquired a special meaning in the law shall be construed according to such technical or special meaning.

Computation of time. In computing a period of days, the first day is excluded and the last day is included. If the last day of any period or a fixed or final day is a Saturday, Sunday or legal holiday, the period or day is extended to include the next day that is not a Saturday, Sunday or legal holiday.

Conjunctions. In a provision involving two or more items, conditions, provisions or events, which items, conditions, provisions or events are connected by the conjunction "and," "or" or "either . . . or," the conjunction shall be interpreted as follows:

(1) The term "and" means all the connected terms, conditions, provisions or events apply.

(2) The term "or" means the connected terms, conditions, provisions or events apply singly or in any combination.

(3) The term "either . . . or" means the connected terms, conditions, provisions or events apply singly, but not in combination.

Corporate limits. Wherever in this Code an act is prohibited, declared unlawful or required to be performed, directly or by implication, such references shall imply "within the corporate limits of the city."

County. The term "county" means Eaton County, Michigan.

Crime. The term "crime" means an act or omission forbidden by law that is not designated as a civil infraction and that is punishable upon conviction by imprisonment, fine not designated as a civil fine, or other penal discipline or any combination thereof.

Delegation of authority. A provision that authorizes or requires a city officer or city employee to perform an act or make a decision authorizes such officer or employee to act or make a decision through subordinates.

Fee schedule. The term "fee schedule" means the official consolidated list of rates and amounts of city fees and charges as determined from time to time by the city council. The fee schedule is on file in the office of the city clerk.

Gender. Words importing the masculine shall extend and be applied to the feminine and neuter genders.

Health department, department of public health. The terms "health department" and "department of public health" mean the county health department.

Health officer. The term "health officer" means the director of the county health department.

Highway. The term "highway" includes any street, alley, highway, avenue or public place or square, bridge, viaduct, tunnel, underpass, overpass or causeway, dedicated or devoted to public use.

Includes, including. The terms "includes" and "including" are terms of enlargement and not of limitation or exclusive enumeration, and the use of the terms does not create a presumption that components not expressed are excluded.

Joint authority. A grant of authority to three or more persons as a public body confers the authority on a majority of the number of members as fixed by statute or ordinance.

May. The term "may" is to be construed as being permissive and not mandatory.

May not. The term "may not" states a prohibition.

MCL. The abbreviation "MCL" means the Michigan Compiled Laws, as amended.

Month. The term "month" means a calendar month.

Must. The term "must" is to be construed as being mandatory.

Number. The singular includes the plural and the plural number includes the singular.

Oath, affirmation, sworn, affirmed. The term "oath" includes an affirmation in all cases where an affirmation may be substituted for an oath. In similar cases, the term "sworn" includes the term "affirmed."

Officers, departments, etc. References to officers, departments, boards, commissions or employees are to city officers, city departments, city boards, city commissions and city employees.

Ordinance. The term "ordinance" means legislative acts of the city that are general and permanent in nature.

Owner. The term "owner," as applied to property, includes any part owner, joint owner, tenant in common, tenant in partnership, joint tenant or tenant by the entirety of the whole or part of such property. With respect to special assessments, however, the owner shall be considered to be the person who appears on the assessment roll for the purpose of giving notice and billing.

Person. The term "person" means any individual, partnership, corporation, association, club, joint venture, estate, trust, limited liability company, or governmental unit, and any other group or combination acting as a unit, and the individuals constituting such group or unit.

Personal property. The term "personal property" means any property other than real property.

Preceding, following. The terms "preceding" and "following" mean next before and next after, respectively.

Premises. The term "premises," as applied to real property, includes land and structures.

Property. The term "property" means real and personal property.

Public acts. References to public acts are references to the Public Acts of Michigan. (For example, a reference to Public Act No. 279 of 1909 is a reference to Act No. 279 of the Public Acts of Michigan of 1909.) Any reference to a public act, whether by act number or by short title, is a reference to the act as amended.

Real property, real estate, land, lands. The terms "real property," "real estate," "land" and "lands" include lands, tenements and hereditaments.

Reasonable time. In all cases where provision is made for an act to be done or notice to be given within a reasonable time, it shall be deemed to mean such time only as may be necessary for the prompt performance of such act or the giving of such notice.

Resolution. The term "resolution" means a legislative act of the city of a special or temporary character.

Roadway. The term "roadway" means that portion of a street improved, designed or ordinarily used for vehicular traffic.

Shall. The term "shall" is to be construed as being mandatory.

Sidewalk. The term "sidewalk" means any portion of the street between the curb, or the lateral line of the roadway, and the adjacent property line, intended for the use of pedestrians.

Signature, subscription. The terms "signature" and "subscription" include a mark when the person cannot write.

State. The term "state" means the State of Michigan.

Street. The term "street" means any street, alley, highway, avenue, or public place or square, bridge, viaduct, tunnel, underpass, overpass or causeway, dedicated or devoted to public use.

Swear. The term "swear" includes the term "affirm."

Tenses. The present tense includes the past and future tenses. The future tense includes the present tense.

Week. The term "week" means seven consecutive days.

Written. The term "written" includes any representation of words, letters, symbols or figures.

Year. The term "year" means 12 consecutive months.

(Code 1972, §§ 12-1, 12-2; Code 2006, § 1-2)

State law reference—Definitions and rules of construction applicable to state statutes, MCL 8.3 et seq.

Sec. 1-3. Catchlines of sections; history notes; references.

(a) 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 are not titles of such sections, or of any part of the section, nor unless expressly so provided shall they be so deemed when any such section, including the catchline, is amended or reenacted.

(b) The history or source notes appearing in parentheses after sections in this Code have no legal effect and only indicate legislative history. Charter references, cross references and state law references that appear in this Code after sections or subsections, or that otherwise appear in footnote form, are provided for the convenience of the user of the Code and have no legal effect.

(c) Unless specified otherwise, all references to chapters or sections are to chapters or sections of this Code.

(Code 2006, § 1-3)

State law reference—Catchlines in state statutes, MCL 8.4b.

Sec. 1-4. Effect of repeal of ordinances.

(a) Unless specifically provided otherwise, the repeal of a repealing ordinance does not revive the ordinance originally repealed or impair the effect of any saving provision in it.

(b) The repeal or amendment of an ordinance does not affect any punishment or penalty incurred before the repeal took effect, nor does such repeal or amendment affect any rights, privileges, suit, prosecution or proceeding pending at the time of the amendment or repeal.

(Code 2006, § 1-4)

State law reference—Effect of repeal of state statutes, MCL 8.4.

Sec. 1-5. Amendments to Code; effect of new ordinances; amendatory language.

(a) All ordinances adopted subsequent to this Code that amend, repeal or in any way affect this Code may be numbered in accordance with the numbering system of the Code and printed for inclusion in the Code. Portions of this Code repealed by subsequent ordinances may be excluded from this Code by omission from reprinted pages affected thereby.

(b) Amendments to provisions of this Code may be made with the following language: "Section (chapter, article, division or subdivision, as appropriate) of the Code of Ordinances, City of Potterville, Michigan, is amended to read as follows . . .."

(c) If a new section, subdivision, division, article or chapter is to be added to the Code, the following language may be used: "Section (chapter, article, division or subdivision, as appropriate) of the Code of Ordinances, City of Potterville, Michigan, is created to read as follows . . .."

(d) All provisions desired to be repealed should be repealed specifically by section, subdivision, division, article or chapter number, as appropriate, or by setting out the repealed provisions in full in the repealing ordinance.

(Code 1972, § 14-1; Code 2006, § 1-5)

Sec. 1-6. Supplementation of Code.

(a) Supplements to this Code shall be prepared and printed whenever authorized or directed by the city. A supplement to this Code shall include all substantive permanent and general parts of ordinances adopted during the period covered by the supplement and all changes made thereby in the Code. The pages of the supplement shall be so numbered that they will fit properly into the Code and will, where necessary, replace pages that have become obsolete or partially obsolete. The new pages shall be so prepared that, when they have been inserted, the Code will be current through the date of the adoption of the latest ordinance included in the supplement.

(b) In preparing a supplement to this Code, all portions of the Code that have been repealed shall be excluded from the Code by the omission thereof from reprinted pages.

(c) When preparing a supplement to this Code, the person authorized to prepare the supplement may make formal, nonsubstantive changes in ordinances included in the supplement, insofar as necessary to do so in order to embody them into a unified code. For example, the person may:

(1) Arrange the material into appropriate organizational units.

(2) Supply appropriate catchlines, headings and titles for chapters, articles, divisions, subdivisions and sections to be included in the Code, and make changes in any such catchlines, headings and titles, or in any such catchlines, headings and titles already in the Code.

(3) Assign appropriate numbers to chapters, articles, divisions, subdivisions and sections to be added to the Code.

(4) Where necessary to accommodate new material, change existing numbers assigned to chapters, articles, divisions, subdivisions or sections.

(5) Change the words "this ordinance," or similar words, to "this chapter," "this article," "this division," "this subdivision," "this section" or "sections _____ through _____" (inserting section numbers to indicate the sections of the Code that embody the substantive sections of the ordinance incorporated in the Code).

(6) Make other nonsubstantive changes necessary to preserve the original meaning of the ordinances inserted in the Code.

(Code 2006, § 1-6)

Sec. 1-7. Severability.

If any provision of this Code or its application to any person or circumstance is held invalid or unconstitutional, the invalidity or unconstitutionality does not affect other provisions or applications of this Code that can be given effect without the invalid or unconstitutional provision or application, and, to this end, the provisions of this Code are severable.

(Code 1972, § 13-1; Code 2006, § 1-8)

State law reference—Severability of state statutes, MCL 8.5.

Sec. 1-8. Conflicting provisions.

(a) If the provisions of different chapters conflict with each other, the provisions of each individual chapter shall control all issues arising out of the events and persons intended to be governed by that chapter.

(b) If the provisions of different sections of the same chapter conflict with each other, the provision which is more specific in its application to the events or person raising the conflict shall control over the more general provision.

(c) If any of the provisions hereof conflict, and the conflict cannot be resolved by application of subsections (a) and (b) of this section, the more stringent regulation shall apply and the specific provision shall prevail over the general.

Sec. 1-9. Provisions deemed continuation of existing ordinances.

The provisions of this Code, insofar as they are substantially the same as legislation previously adopted by the city relating to the same subject matter, shall be construed as restatements and continuations thereof and not as new enactments.

(Code 2006, § 1-9)

State law reference—Similar provisions as to state statutes, MCL 8.3u.

Sec. 1-10. Code does not affect prior offenses or rights.

Nothing in this Code or the ordinance adopting this Code affects any offense or act committed or done, any penalty or forfeiture incurred or any contract or right established before the effective date of this Code. The adoption of this Code does not authorize any use or the continuation of any use of a structure or premises in violation of any city ordinance on the effective date of this Code.

(Code 2006, § 1-10)

Sec. 1-11. Certain ordinances not affected by Code.

(a) Nothing in this Code or the ordinance adopting this Code affects the validity of any ordinance or portion of any ordinance:

(1) Annexing property into the city or describing the corporate limits.

(2) Deannexing property or excluding property from the city.

(3) Promising or guaranteeing the payment of money or authorizing the issuance of bonds or other instruments of indebtedness.

(4) Authorizing or approving any contract, deed or agreement.

(5) Granting any specific right or franchise, or establishing the procedure for granting a right or franchise.

(6) Making or approving any appropriation or budget.

(7) Providing for the duties of city officers or employees not codified in this Code.

(8) Providing for salaries or other employee benefits.

(9) Adopting or amending a comprehensive plan.

(10) Levying or imposing any special assessments.

(11) Dedicating, establishing, naming, locating, relocating, opening, paving, widening, repairing or vacating any street, sidewalk or alley.

(12) Establishing the grade of any street or sidewalk.

(13) Dedicating, accepting or vacating any plat or subdivision.

(14) Not codified in this Code that levies, imposes or otherwise relates to taxes, exemptions from taxes and fees in lieu of taxes.

(15) Pertaining to zoning.

(16) That is temporary, although general in effect.

(17) That is special, although permanent in effect.

(18) The purpose of which has been accomplished.

(b) The ordinances or portions of ordinances designated in subsection (a) of this section continue in full force and effect to the same extent as if published at length in this Code.

(Code 2006, § 1-11)

Sec. 1-12. General penalty; continuing violations.

(a) In this section, the term "violation of this Code" means any of the following:

(1) Doing an act that is prohibited or made or declared unlawful, an offense or a violation by ordinance or by rule or regulation authorized by ordinance.

(2) Failure to perform an act that is required to be performed by ordinance or by rule or regulation authorized by ordinance.

(3) Failure to perform an act if the failure is prohibited or is made or declared unlawful, an offense or a violation by ordinance or by rule or regulation authorized by ordinance.

(b) Any provision of this Code that is made or declared to be a misdemeanor, civil infraction or municipal civil infraction is a violation of this Code.

(c) In this section, the term "violation of this Code" does not include the failure of a city officer or city employee to perform an official duty unless it is specifically provided that the failure to perform the duty is to be punished as provided in this section.

(d) Except as specifically provided otherwise by state law, this Code, or other city ordinance, all violations of this Code are municipal civil infractions. Except as otherwise provided by state law, this Code, or other city ordinance, a person convicted of a violation of this Code that is a municipal civil infraction shall be punished by a fine as set out in the following schedule:

(1) For all civil infractions not specifically identified in subsections (d)(2) through (4) of this subsection, the fine shall be $100.00.

(2) For violations of chapter 22 article II pertaining to junk and blight, the fine shall be $100.00 ~~$175.00~~.

(3) For second offenses, the civil fines set forth in subsections (d)(1) and (2) of this section shall be doubled.

(4) For third offenses, or more, the fine shall be $500.00.

(e) Except as otherwise provided by state law, this Code, or other city ordinance, a person convicted of a violation of this Code that is a misdemeanor shall be punished by a fine not to exceed $500.00 and costs of prosecution, or by imprisonment for a period of not more than 90 days, or by both such fine and imprisonment. However, unless otherwise provided by law, a person convicted of a violation of this Code which substantially corresponds to a violation of state law that is a misdemeanor for which the maximum period of imprisonment is 93 days is punishable by a fine not to exceed $500.00 and costs of prosecution, or by imprisonment for a period of not more than 93 days, or by both such fine and imprisonment.

(f) Except as otherwise provided by law or ordinance, with respect to violations of this Code that are continuous with respect to time, each day that the violation continues is a separate offense. As to other violations,

each violation constitutes a separate offense.

(g) The imposition of a penalty does not prevent suspension or revocation of a license, permit or franchise or other administrative sanctions.

(h) Violations of this Code that are continuous with respect to time are a public nuisance and may be abated by injunctive or other equitable relief. The imposition of a penalty does not prevent injunctive relief or civil or quasi-judicial enforcement.

(i) Applicable costs as authorized by statute and this Code shall be in addition to the penalties specified in this section.

(Code 1972, § 15-1; Code 2006, § 1-7; Ord. No. 166, § 15-1, 7-15-1997)

State law reference—Penalty for ordinance violations, MCL 117.4i(10), 117.4l.

Chapter 2

ADMINISTRATION*

***State law reference**—Home rule cities, MCL 117.1 et seq.; Freedom of Information Act, MCL 15.231 et seq.; Open Meetings Act, MCL 15.261 et seq.

ARTICLE I. IN GENERAL

Secs. 2-1--2-18. Reserved.

ARTICLE II. CITY COUNCIL

Sec. 2-19. Compensation.

(a) *Mayor.* The mayor shall receive an annual stipend in the amount of $300.00. This amount may be paid in a lump sum or in installments as the council shall direct by resolution. In addition, for each regular or special council meeting actually attended, and each workshop session actually attended, the mayor shall receive additional compensation in the amount of $25.00 per meeting. Such payments for meetings shall be made in quarterly installments or more often as the council shall direct by resolution.

(b) *Councilmembers.* Each councilmember shall receive an annual stipend in the amount of $125.00. This amount may be paid in a lump sum or in installments as the council shall direct by resolution. In addition, for each regular and special meeting actually attended and each workshop session actually attended, each councilmember shall receive additional compensation in the amount of $20.00 per meeting. The payments for meetings shall be made in quarterly installments or more often as the council shall direct by resolution.

(c) *Meetings and workshop on same date.* Whenever a council meeting and workshop occur on the same date, the mayor and councilmembers are entitled to receive compensation for one meeting only and shall not receive compensation for having attended two meetings.

(Code 2006, §§ 2-51--2.53; Ord. No. 186, §§ 17.1--17.3, 2-12-2001; Ord. No. 07-218, §§ 17.1, 17.2, 12-27-2007; Ord. No. 2016-242, §§ 1, 2, 10-20-2016; Ord. No. 2016-243, §§ 1, 2, 11-17-2016)

Secs. 2-20--2-41. Reserved.

ARTICLE III. OFFICERS AND EMPLOYEES*

***State law reference**—Standards of conduct and ethics, MCL 15.341 et seq.; conflicts of interest as to contracts, MCL 15.321 et seq.; political activities by public employees, MCL 15.401 et seq.; legal defense of public employees, MCL 691.1408; incompatible offices, MCL 15.181 et seq.; nondiscrimination in employment, MCL 37.2102.

Sec. 2-42. City manager authority and duties.

(a) *Generally.* The city manager shall see that all laws, ordinances, rules and regulations adopted by the city council and the provisions of this Code are properly enforced. He shall attend all meetings of the city council, regular and special. During the absence or disability of the city manager, an acting city manager shall be appointed in accordance with section 4.03 of the Charter. If the city manager is unable to attend an event or meeting or official function, the manager shall appoint a designee to represent him in his absence. Such shall be done in accordance with this section and the manager shall notify the mayor or deputy mayor.

(b) *Appointment and supervisions of department heads.* All administrative officers are responsible to the city manager for the effective administration of their respective departments and offices, and all activities assigned to them. He shall employ or appoint all officers and employees except as otherwise provided by the Charter or this Code. The city manager may set aside any action taken by any administrative officer other than the city attorney or the city clerk and may supersede any officer other than the city attorney or the city clerk in the functions of his office.

(c) *Preparation of personnel system.* The city manager shall prepare personnel rules and shall refer such rules to the city council for its review. The city council, by resolution, may adopt them, with or without amendment.

The personnel rules shall comply with, but shall not be limited by, the provisions of section 5.02 of the Charter.

(Code 2006, §§ 2-101--2-103; Ord. No. 141, §§ 19-1--19-3, 10-12-1992; Ord. No. 2016-242, § 3, 10-20-2016; Ord. No. 2016-243, § 3, 11-17-2016)

~~**Sec. #. Ethics and standards of conduct.**~~

~~City employees and elected officials shall comply with all obligations imposed on them by the Political Activities of Public Employees Act, Act 169 of 1976, MCL 15.401 et seq.; the Contracts of Public Servants with Public Entities Act, Act 317 of 1968, MCL 15.321 et seq. and the Standards of Conduct for Public Officers and Employees Act, Act 196 of 1973, MCL 15.341 et seq.~~

~~(Ord. No. 2014-239, § 2, 12-8-2014)~~

Secs. 2-43--2-72. Reserved.

ARTICLE IV. BOARDS, COMMISSIONS AND SIMILAR BODIES

DIVISION 1. GENERALLY

Sec. 2-73. Housing commission.

Pursuant to ~~Public Act No. 18 of the Extra Session of 1933~~ MCL 125.651 et seq., the city has created a commission in and for the city to be known as the "Potterville Housing Commission."

(Ord. No. 98, § 1, 3-21-1977)

State law reference—Municipal housing commissions, MCL 125.653 et seq.

Secs. 2-74--2-104. Reserved.

DIVISION 2. PLANNING COMMISSION*

***State law reference**—City planning, MCL 125.31 et seq.; Michigan Planning Enabling Act, MCL 125.3801 et seq.

Sec. 2-105. Purpose.

The city hereby determines that it is necessary for the best interests of the city to confirm the establishment of the city planning commission pursuant to the Michigan Planning Enabling Act, ~~Public Act 33 of 2008,~~ MCL 125.3801 et seq. (MPEA), and to provide for its composition, powers, and duties.

(Ord. No. 10-222, § 2(26-38), 6-8-2010)

Sec. 2-106. Establishment.

(a) Pursuant to the MPEA, the city confirms the establishment of the city planning commission which was formerly established under the Municipal Planning Act, ~~Public Act 285 of 1931,~~ MCL 125.31 et seq.

(b) All official actions taken by the planning commission that were constituted before the effective date of the ordinance from which this division is derived are hereby approved, ratified, and reconfirmed.

(c) Members of the planning commission as of the effective date of the ordinance from which this division is derived shall continue to serve for the remainder of their existing terms so long as they continue to meet all of the eligibility requirements for planning commission membership under the MPEA.

(Ord. No. 10-222, § 2(26-39), 6-8-2010)

State law reference—Authority to establish, MCL 125.653.

Sec. 2-107. Appointment, eligibility and terms of members.

(a) The planning commission shall consist of five members. Members shall be appointed by the mayor, subject to a majority vote of the members of city council. Members shall be qualified electors of the city, except that two members may be individuals who are not qualified electors of the city.

(b) The planning commission's membership shall be representative of important segments of the city, such as the economic, governmental, educational, and social development of the city, in accordance with the major

interests as they exist in the city, such as agriculture, natural resources, recreation, education, public health, government, transportation, industry, and commerce. The membership shall also be representative of the entire geography of the city to the extent practicable.

(c) The city manager or a person designated by the city manager, if any, the mayor, one or more members of the city council, or any combination thereof, may be appointed to the planning commission as ex officio members. Not more than one-third of the members of the planning commission may be ex officio members. The term of an ex officio member of the planning commission shall be as follows:

(1) The term of a mayor shall correspond to his term as mayor.

(2) The term of a city manager shall expire with the term of the mayor that appointed him as the city manager.

(3) The term of a member of city council shall expire with his term on the city council.

(d) Except for ex officio members, elected officers or employees of the city are not eligible to be members of the planning commission.

(e) Except for ex officio members, the term of each member shall be three years. However, of the members of the planning commission, other than ex officio members, first appointed, a number shall be appointed to one-year or two-year terms such that, as nearly as possible, the terms of one-third of all the planning commission members will expire each year.

(Ord. No. 10-222, § 2(26-40), 6-8-2010)

State law reference—Similar provisions, MCL 125.654.

Sec. 2-108. Removal; conflicts of interest; vacancies.

(a) The city council may remove a member of the planning commission for misfeasance, malfeasance, or nonfeasance in office upon written charges and after a public hearing.

(b) Before casting a vote on a matter on which a member may reasonably be considered to have a conflict of interest, the member shall disclose the potential conflict of interest to the planning commission. The member is disqualified from voting on the matter if so provided by the bylaws or by a majority vote of the remaining members of the planning commission. Failure of a member to disclose a potential conflict of interest as required by this subsection constitutes malfeasance in office.

(c) The planning commission shall define conflict of interest for purposes of this section in its bylaws.

(d) The city council shall fill all vacancies for the unexpired term in the same manner as provided for an original appointment. A member shall hold office until his successor is appointed.

(Ord. No. 10-222, § 2(26-41), 6-8-2010)

State law reference—Similar provisions, MCL 125.654.

Sec. 2-109. Compensation.

The city council may, by resolution, provide for the compensation of members of the planning commission. The planning commission may adopt bylaws relative to compensation and expenses of its members and employees for travel when engaged in the performance of activities authorized by the city council, including, but not limited to, attendance at conferences, workshops, educational and training programs, and meetings. Planning commission remuneration shall constitute $40.00 for chair and $35.00 for other members per meeting and may be amended by resolution of city council.

(Ord. No. 10-222, § 2(26-42), 6-8-2010; Ord. No. 2016-242, § 26, 10-20-2016; Ord. No. 2016-243, 11-17-2016)

State law reference—Compensation, etc., MCL 125.655.

Sec. 2-110. Bylaws; officers; meetings; records; annual written report.

(a) The planning commission shall adopt bylaws for the transaction of business.

(b) The planning commission shall elect its chairperson and secretary from among its members and create and fill other officers as it considers advisable. Ex officio members shall not be eligible to serve as chairperson. The

term of each officer shall be one year, with opportunity for reelection as provided in the planning commission's bylaws.

(c) The planning commission shall hold not less than four regular meetings each year and by resolution shall determine the time and place of the meetings. Unless the bylaws provide otherwise, a special meeting of the planning commission may be called by the chairperson or by two other members, upon written request to the secretary. Unless the bylaws provide otherwise, the secretary shall send written notice of a special meeting to planning commission members not less than 48 hours before the meeting.

(d) The planning commission shall keep a public record of its resolutions, transactions, findings, and determinations.

(e) The planning commission shall make an annual written report to the city council concerning its operations and the status of planning activities, including recommendations regarding actions by the city council related to planning and development.

(Ord. No. 10-222, § 2(26-43), 6-8-2010)

State law reference—Similar provisions, MCL 125.655.

Sec. 2-111. Adoption of master plan.

The planning commission shall make and approve a master plan as a guide for development within the city in accordance with the MPEA.

(Ord. No. 10-222, § 2(26-44), 6-8-2010)

Sec. 2-112. Zoning powers.

Pursuant to MCL 125.3883, the city confirms the transfer of all powers, duties, and responsibilities provided for zoning boards or zoning commissions by the former City and Village Zoning Act, ~~Public Act 207 of 1921,~~ MCL 125.581 et seq.; the Michigan Zoning Enabling Act, ~~Public Act 110 of 2006,~~ MCL 125.3101 et seq., or other applicable zoning statutes to the planning commission formerly established under the Municipal Planning Act, ~~Public Act 285 of 1931,~~ MCL 125.31 et seq.

(Ord. No. 10-222, § 2(26-45), 6-8-2010)**Secs. 2-113--2-137. Reserved.**

ARTICLE V. FINANCE*

***State law reference**—Revised Municipal Finance Act, MCL 141.2101 et seq.; Uniform Budgeting and Accounting Act, MCL 141.421 et seq.; deposit of public moneys, MCL 211.43b; designation of public fund depositories, MCL 129.11 et seq.; general powers of city to levy taxes for public purposes, Mich. Const. art. XII, § 21.

DIVISION 1. GENERALLY

Secs. 2-138--2-157. Reserved.

~~DIVISION 2. COST RECOVERY FOR CLEANUP OF HAZARDOUS MATERIALS~~

~~DIVISION 3. FIRE RUN CHARGES~~

DIVISION 2. BUDGET STABILIZATION FUND*

***State law reference—**Budget stabilization funds, MCL 141.441 et seq.

Sec. 2-158. Creation.

The city has established a budget stabilization fund which shall be separate and distinct from the city's general fund. Appropriations to the fund and expenditures from the fund shall be made as provided in this division and shall comply with the requirements of ~~Public Act No. 30 of 1978~~ MCL 141.441 et seq.

(Code 2006, § 2-231; Ord. No. 03-206, § 1(17-1), 6-9-2003)

State law reference—Creation authorized, MCL 141.442.

Sec. 2-159. Purposes.

The budget stabilization fund is created for the following purposes:

(1) To cover a general fund deficit, when the city's annual audit reveals such a deficit.

(2) To prevent a reduction in the level of public services or in the number of employees at any time in a fiscal year when the city's budgeted revenue is not being collected in an amount sufficient to cover budgeted expenses.

(3) To prevent a reduction in the level of public services or in the number of employees when, in preparing the budget for the next fiscal year, the city's estimated revenue does not appear sufficient to cover estimated expenses.

(4) To cover expenses arising because of a natural disaster, including a flood, fire, or tornado. However, if federal or state funds are received to offset the appropriations from the fund, that money shall be returned to the fund.

(Code 2006, § 2-232; Ord. No. 03-206, § 1(17-2), 6-9-2003)

Sec. 2-160. Appropriations to the fund.

The city council may appropriate all or part of a surplus in the general fund, which results from an excess of revenue in comparison to expenses, to the budget stabilization fund. The appropriations shall be made by ordinance or resolution, adopted by a two-thirds vote of the members elected or serving on the city council.

(Code 2006, § 2-233; Ord. No. 03-206, § 1(17-3), 6-9-2003)

State law reference—Similar provision, MCL 141.443.

Sec. 2-161. Tax increase prohibition.

The city shall not impose additional taxes producing revenue in excess of that needed for its estimated budget in order to provide money to be appropriated to the budget stabilization fund.

(Code 2006, § 2-234; Ord. No. 03-206, § 1(17-4), 6-9-2003)

Sec. 2-162. Consideration of reduced state tax money.

In considering whether the city's revenue is sufficient to cover its expenses, a reduction in the amount of money received for the fiscal year from any source in comparison to the amount of money received for the previous fiscal year, including a reduction in the allocation of state tax money, shall be considered.

(Code 2006, § 2-235; Ord. No. 03-206, § 1(17-5), 6-9-2003)

State law reference—Similar provision, MCL 141.444.

Sec. 2-163. Investment.

The money in the budget stabilization fund may, from time to time, be invested as permitted by law. All earnings on the money from the budget stabilization fund shall be returned to the general fund of the city.

(Code 2006, § 2-236; Ord. No. 03-206, § 1(17-6), 6-9-2003)

State law reference—Similar provision, MCL 141.443.

Sec. 2-164. Limits on budget stabilization fund.

The amount of money in the budget stabilization fund shall not exceed either 15 percent of the city's most recent general fund budget, as originally adopted, or 15 percent of the average of the city's five most recent general fund budgets, as amended, whichever is less. Moneys in the budget stabilization fund in excess of the aforementioned limitations shall be appropriated in the city's next general fund budget but shall not be appropriated to the budget stabilization fund.

(Code 2006, § 2-237; Ord. No. 03-206, § 1(17-7), 6-9-2003)

State law reference—Similar provision, MCL 141.443.

Sec. 2-165. Prohibitions on uses of funds.

The money in the budget stabilization fund shall not be appropriated for the acquisition, construction or alteration of a facility as part of a general capital improvements program.

(Code 2006, § 2-238; Ord. No. 03-206, § 1(17-8), 6-9-2003)

State law reference—Similar provision, MCL 141.445.

Chapter 3

RESERVED

Chapter 4

ANIMALS

State law reference—Authority to adopt animal control ordinance, MCL 287.290, MCL 12.541; crimes related to animals and birds, MCL 750.49 et seq., MCL 28.244 et seq.; wildlife conservation, MCL 324.40101 et seq.; cruelty to animals, MCL 750.50.

ARTICLE I. IN GENERAL

Sec. 4-1. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Cattery means any establishment wherein or whereon five or more cats are kept for organized shows, breeding, or rodent control.

Continuous barking means barking, howling, or yelping for a period of time in excess of 15 minutes.

Dangerous dog means a dog that bites or attacks a person, or a dog that bites or attacks and cause serious injury or death to another dog while the other dog is on the property or under the control of its owner. The term "dangerous dog" does not include the following:

(1) A dog that bites or attacks a person who is knowingly trespassing on the property of the animal's owner.

(2) A dog that bites or attacks a person who provokes or torments the animal.

(3) A dog that is responding in a manner that an ordinary and reasonable person would conclude was designed to protect a person if that person is engaged in a lawful activity or is the subject of an assault.

Fowl means live guineas, pea fowl, pheasants, and other game birds possessed or being reared under authority of a breeder's license pursuant to ~~part 427 (breeders and dealers) of the natural resources and environmental protection act, Act No. 451 of the Public Acts of 1994, being sections~~ MCL 324.42701--324.42714.

Kennel ~~shall be construed as an establishment wherein~~ means any combination of four or more cats or dogs confined and kept for sale, boarding, breeding, or training purposes, for remuneration.

Livestock means horses, stallions, colts, geldings, mares, sheep rams, lambs, bulls, bullocks, steers, heifers, cows, calves, mules, jacks, jennets, burros, goats, kids, and swine, and fur-bearing animals being raised in captivity.

Owner, when applied to the proprietorship of a dog, means every person having a right of property in the dog, and every person who keeps or harbors the dog or has it in his care, and every person who permits the dog to remain on or about any premises occupied by him.

Pet means a domestic or tamed animal or bird kept for companionship or pleasure and treated with appropriate care.

Poultry means all domestic fowl, chickens, ducks, and turkeys.

(Ord. No. 230, § 4-1, 6-21-2012; Ord. No. 2016-243, § 6, 11-17-2016)

Sec. 4-2. Prohibited animals.

(a) *Only household pets may be kept in city.* Except as otherwise provided in this article, no person shall keep or house any animal, bird, or reptile within the city except dogs, cats, canaries or other animals which are commonly kept and housed inside dwellings as household pets.

(b) *Nuisance animals.* No person shall harbor or keep any animal or bird which causes annoyance or disturbance within the city limits, by making sounds common to its species or otherwise, or which endangers the safety of any person or property. ~~Petitions for exception to this subsection may be submitted to and will be considered by the animal committee and a permit maybe required.~~

(c) *Bees.* No person shall keep, harbor or raise bees in the city.

(d) *Large livestock.* Horses, stallions, colts, geldings, mares, sheep rams, lambs, bulls, bullocks, steers,

heifers, cows, calves, mules, jacks, jennets, burros, goats, kids, and swine are prohibited in the city.

(e) *Poisonous or venomous species.* It is unlawful to keep within the city any animal, reptile, insect, or other creature that has poisonous venom which, if injected into a human being, would result in severe pain, suffering, illness, or death.

(Ord. No. 230, § 4-8, 6-21-2012)

Sec. 4-3. Chickens and ducks.

(a) *Permit for keeping required; term; fee.* The owner of single-family dwelling in the city who wants to keep chickens or ducks shall obtain a permit from the city prior. Application shall be made to the zoning administrator ~~city clerk~~ with a fee to be determined by resolution of city council. The principal use of the property for which the permit is sought must be single-family residential. Permits expire five years after the date of issuance.

(b) *Waiver for 4-H members.* A permit waiver will be issued to children that are members of 4-H if they have a letter from their 4-H leader. A permit waiver under this subsection applies only to the named child and only for fowl actually used in the 4-H project. The waiver is for the permit requirement only. All other restrictions of this section on the keeping of such fowl shall apply.

(c) *Private restrictions barring fowl.* Notwithstanding the issuance of a permit under this section, private restrictions on the use of property shall remain enforceable and take precedence over a permit. Private restrictions include, but are not limited to, deed restrictions, condominium master deed restrictions, neighborhood association bylaws, and covenant deeds. A permit issued to a person whose property is subject to private restrictions that prohibits the keeping of fowl is void. The interpretation and enforcement of the private restriction is the sole responsibility of the private parties involved.

(d) *Standards, specifications and prohibitions.*

(1) No more than four ducks, chickens or combination thereof may be kept on a single property under a permit issued in accordance with this section. The four fowl may not include any rooster, geese, or peafowl.

(2) The poultry shall be provided with a covered enclosure and must be kept in the covered enclosure or an adjoining fenced enclosure at all times. Fenced and covered enclosures are subject to inspection by the zoning administrator.

(3) A person shall not keep poultry in any location on the property other than in the backyard.

(4) No covered enclosure or fenced enclosure shall be located closer than five feet to any property line of an adjacent property, or closer than 20 feet to any occupied residential structure on an adjacent property.

(5) All enclosures for the keeping of chickens shall be so constructed or repaired as to prevent rats, mice, feral cats or other rodents from being harbored underneath, within, or within the walls of the enclosure.

(6) All feed and other items associated with the keeping of poultry that are likely to attract or become infested with or infected by rats, mice, or other rodents shall be protected so as to prevent rats, mice or other rodents from gaining access to or coming into contact with them. All areas where feed and other items associated with the keeping of poultry are stored are subject to inspection by the zoning administrator.

(7) If poultry is butchered, the procedure must be conducted out of the sight of the public, within a garage or building. Stringing chickens on a line outdoors is prohibited. ~~If a person does not have a proper place to process their chickens then they must take the chickens to a processor. Contact phone numbers may be available at City Hall.~~

(8) A person who has been issued a permit shall submit it for examination upon demand by any police officer or the zoning administrator.

(e) *Violations and penalties.* Violation of any provisions of this section may result in revocation of the permit issued hereunder in addition to applicable penalties. Violations of this section constitute civil infractions. Each day a violation exists shall constitute a separate offense.

~~The owner of single-family dwelling who wants to keep chickens or ducks in the city shall obtain a~~

~~permit from the city prior to acquiring the poultry. Application shall be made to the city clerk with a fee to be determined by resolution of city council. A permit waiver will be issued to a child that is a member of 4H if they have a letter from the child's 4-H leader, this waiver is only for a child that is raising fowl for their 4H project, a waiver will not be issued if the household is raising a flock. Maximum limit 1 household can have is 4 fowl (combination of ducks and chickens). Permits expire and become invalid five years after the date of issuance. A person who wishes to continue keeping poultry shall obtain a new permit on or before the expiration date of the previous permit. Application for a new permit shall be pursuant to the procedures and requirements that are applicable at the time the person applies for a new permit.~~

(Ord. No. 230, § 4-7, 6-21-2012; Ord. No. 2016-242, § 9, 10-20-2016; Ord. No. 2016-243, § 9, 11-17-2016)

Sec. 4-4. Minimum standards of animal care.

Every owner or caregiver of an animal shall be required to provide the animal with the minimum standard of care set forth in this section, which means the provision of sufficient food, water, shelter, sanitary conditions, exercise, and veterinary medical attention in order to maintain an animal in a state of good health. Appropriate and sufficient care must include at least the following:

(1) *Sufficient food and water.* Every owner or caregiver of an animal shall provide, on a daily basis, the animal with sufficient good and wholesome food and water.

(2) *Cleanliness*. Every owner or caregiver of animals shall keep all animals in a clean, sanitary and healthy manner and not confined so as to force the animals to stand, sit or lie in their own excrement.

(3) *Shelter*. Every owner or caregiver of animals shall provide all animals with proper shelter and protection from the weather.

(4) *Veterinary care.* The owner or caregiver of a diseased or injured animal shall provide the animal with appropriate veterinary care and shall segregate the diseased animal from other animals to prevent transmittal of disease.

(5) *Abuse prohibited.* No person shall overwork, torture, torment, deprive of necessary sustenance, cruelly beat, mutilate, poison or cruelly kill any animal or bird.

(6) *Abandonment and neglect prohibited.* No owner or caregiver of an animal shall abandon or neglect any animal. An animal is deemed abandoned or neglected if the owner or caregiver fails to properly maintain the animal.

(7) *Poisoning prohibited.* No person shall throw or deposit a poisonous substance on any exposed public or private place where it endangers or is likely to endanger any animal or bird.

(8) *Disfigurement prohibited.* No person, except a licensed veterinarian, shall crop an animal's ears or dock an animal's tail.

(9) *Leaving unattended prohibited.* No animal shall be left without proper attention and care for more than 24 consecutive hours.

(10) *Alcohol and drug administration.* No person shall give an animal any alcoholic beverage or prescription drug, unless prescribed by a veterinarian.

(11) *Intentional exposure to nature animal enemies.* No person shall knowingly allow animals that are natural enemies, temperamentally unsuited, or otherwise incompatible, to be quartered together or so near each other as to cause injury, fear or torment.

(12) *Proper exercise and adequate rest periods.* Working animals shall be given adequate rest periods with water and shade provided. Confined or retrained animals shall be given proper exercise.

(Ord. No. 230, § 4-2, 6-21-2012)

Sec. 4-5. Kennel construction and minimum operating requirements.

A kennel facility shall be constructed as to prevent the public or stray dogs from obtaining entrance thereto and gaining contact with the animals lodged in the kennel. Kennel operators within the city comply with the licensing and operational requirements of ~~Any persons who keep or operate a kennel are subject to follow the~~ MCL

287.270.

(Ord. No. 230, § 4-3, 6-21-2012; Ord. No. 2016-242, § 7, 10-20-2016; Ord. No. 2016-243, § 7, 11-17-2016)

State law reference—Operation of kennel—licensure, fees, metal tags, inspections, MCL 287.270; kennel tags, MCL 287.271.

Sec. 4-6. Enforcement officials; violations and penalties.

(a) *County enforcement personnel.* The chief animal control officer and his designees, the county sheriff and county deputies are the county officials authorized to issue municipal civil infraction citations and violation notices for violations of this chapter.

(b) *City enforcement personnel.* The city police department ~~and the city zoning administrator~~ may also issue civil infraction citations when they personally observe a violation. They also may issue a civil infraction citations and notices after investigation, if there is reasonable cause to believe that a violation has occurred. ~~and the issuance is approved by the prosecuting attorney~~

(c) *Prosecution and penalties.* Violations of this chapter that are also violation of state law may be prosecuted under either. If processed as violations of this chapter, unless specifically stated otherwise, violations shall be deemed to be municipal civil infractions subject to the procedure and the penalties provided in section 24-2. Violations of this chapter declared to be misdemeanors or prosecuted as a state law violations shall be subject to misdemeanor penalties as provided in section 1-12. ~~Municipal Civil Infraction Citations: A person who violates this article shall be deemed responsible for a municipal civil infraction, the penalty which, shall be a civil fine plus any cost, damages, expenses, and other sanctions, as authorized under Chapter 87 of 1961 PA 236, as amended, being MCL 600.8701 et seq., and other applicable laws.~~

~~Service of Municipal Civil Infractions: Municipal civil infractions should be served personally if possible. If personal service cannot readily be obtained, municipal civil infractions may be served by first class mail. When served by mail, the defendant's correct name and address shall be confirmed prior to mailing.~~

~~Municipal Civil Infraction Citations - A municipal civil infraction citation shall contain:~~

~~A description of the violation;~~

~~The time within which the alleged violator must contact the bureau for purposes of admitting or denying responsibility;~~

~~The address and telephone number of the bureau;~~

~~Further, the citation shall inform the alleged violator that he may do one of the following:~~

~~Admit responsibility for the municipal civil infraction within the time specified for appearance and pay the specified fine by mail or in person;~~

~~Admit responsibility for the municipal civil infraction "with explanation" within the time specified for appearance by mail or in person, or by representation; or~~

~~Deny responsibility for the municipal civil infraction and requesting either an informal or formal hearing in the matter.~~

~~Establishment of municipal civil infractions violations bureau: The municipal civil infraction violations bureau for disposition of municipal civil infractions is the county 56A District Court Office, 1045 Independence Boulevard, Charlotte, Michigan.~~

(Ord. No. 230, § 4-9, 6-21-2012; Ord. No. 2016-242, § 11, 10-20-2016; Ord. No. 2016-243, § 10, 11-17-2016)

Secs. 4-7--4-30. Reserved.

ARTICLE II. DOGS*

***State law reference**—Dog Law of 1919, MCL 287.266 et seq.

Sec. 4-31. Dog control requirements.

(a) *Duty of owner or keeper.* Any person housing, harboring or feeding a dog in the city shall be deemed the lawful owner thereof and shall be responsible for compliance with the requirement of this section and with all

applicable requirements of the Dog Law of 1919, MCL 287.266 et seq.

(b) *Running at large.* It is unlawful to permit a dog to run at large or unrestrained on public property, including city parks. It is also unlawful for the owner or keeper of any dog to permit or allow such dog to run or roam at large in the city away from the premises or enclosure of the owner or keeper of such dog, and not held properly on a leash.

(c) *Restraint required when on public property.* No person owning or in control of any dog shall allow the dog to enter upon any public sidewalk, street, or any other public property unless the dog is being held by a person with a leash, except as may be otherwise permitted by park rules. A first violation of this subsection shall be subject to a fine of $25.00, provided that the violation resulted in no physical harm. The second and all subsequent violations within a calendar year shall be subject to penalties for civil infractions as provided in section 1-12. ~~Where notice or citation of infraction is given to animal owners neglecting to lawfully employ a leash, first offenses within a calendar year, resulting in no physical harm, shall incur a fine of $25. Subsequent infractions shall be fined pursuant to general provisions.~~

(d) *Night confinement required.* Every dog between sunset of each day and sunrise of the following day shall be confined upon the premises of its owner or custodian, except when the dog is otherwise under the reasonable control of a responsible ~~some~~ person.

(e) *Confinement in front yard restricted.* No dog shall be kept, restrained, confined, or housed in the front yard of any single-family or two-family residence unless attended by a person who is also present in the front yard.

(f) *Destruction of property; trespassing.* It is unlawful for an owner or keeper to allow his dog to create a nuisance in any manner, including, but not limited to, damage to or destruction of private property or trespassing on private property ~~person to own, keep or have charge of any dog that by the destruction of property, or trespassing on others' property, becomes a nuisance. Nuisance constitutes~~ Any action or occurrence which substantially interferes with an individual's ~~the~~ reasonable use or enjoyment of ~~another individual's~~ his property or which harms the community at large constitutes a nuisance under this subsection.

(g) *Removal of feces.* Any person who owns, harbors, keeps, or is in charge of a dog that defecates on public property or on the private property of another without permission shall immediately remove and discard the feces in a sanitary manner. Feces may be placed in a bag designed for that purpose and deposited in a container, if any, provided and maintained in a city park designated for such purpose. ~~No person owning, harboring, keeping or in charge of any dog shall cause, suffer, or allow the dog to soil, defile, defecate, or to commit any nuisance on any public thoroughfare, sidewalk, passageway, bypass, play area, park, or any place where people congregate or walk, or upon any public property whatsoever, or upon any private property without permission of the owner of the property unless: The person who owns, harbors, keeps, or is in charge of a dog shall immediately remove all droppings deposited by such dog by a sanitary method. The person shall possess a container of sufficient size to collect and remove above-mentioned dog droppings and exhibit the container, if requested by any official empowered to enforce this section. The droppings removed from the afore-mentioned areas shall be disposed of by the person owning, harboring, keeping, or in charge of such dog in a sanitary method on the property of the person owning, harboring, or in charge of the dog or in an appropriate container provided and maintained in a city park designated for such purpose.~~

(h) *Barking.* No owner of a dog shall permit continuous barking which disturbs another person.

(Code 1972, §§ 54-1, 54-2, 54-5, 54-8; Code 2006, §§ 4-31--4-33, 4-35; Ord. No. 230, §§ 4-4, 4-31--4-33, 4-35, 6-21-2012; Ord. No. 2016-242, § 8, 10-20-2016; Ord. No. 2016-243, § 8, 11-17-2016)

State law reference—Supervision of dogs, MCL 287.264; injuries by dogs and liability of owners, MCL 287.351; trespass by dogs, MCL 287.279; leash requirements, MCL 287.262.

~~Sec. 4-31. Ownership.~~

~~Any person housing, harboring or feeding a dog in the city shall be deemed the lawful owner thereof and shall be responsible for the dog.~~

~~(Code 1972, § 54-2; Code 2006, § 4-31; Ord. No. 230, § 4-31, 6-21-2012)~~

~~Sec. 4-32. Permitting dog to run at large.~~

~~It is unlawful for the owner or keeper of any dog to permit or allow such dog to run or roam at large away from the premises or enclosure of the owner or keeper of such dog, and not held properly on a leash, within the limits of the city.~~

~~(Code 1972, § 54-4; Code 2006, § 4-32; Ord. No. 230, § 4-32, 6-21-2012)~~

~~Sec. 4-33. Confinement at night.~~

~~Every dog between sunset of each day and sunrise of the following day shall be confined upon the premises of its owner or custodian, excepting when the dog is otherwise under the reasonable control of some person.~~

~~(Code 1972, § 54-5; Code 2006, § 4-33; Ord. No. 230, § 4-33, 6-21-2012)~~

~~Sec. 4-35. Destruction of property; trespassing.~~

~~It is unlawful for any person to own, keep or have charge of any dog that by the destruction of property or trespassing on others' property becomes a nuisance.~~

~~(Code 1972, § 54.8; Code 2006, § 4-35; Ord. No. 230, § 4-35, 6-21-2012)~~

Sec. 4-32. License and tag required; procedure.

(a) Dogs four months old or older must be licensed by the city as provided in this section and must at all times wear a collar with an attached identifying tag of a type approved by the state department of agriculture. No person shall remove the collar or license tag from the dog without the owner's permission. This section does not apply to hunting dogs while engaged in lawful hunting and accompanied by the owner.

(b) On or before June 1 of each year, the owner of a dog four months or older shall apply in writing for a county ~~city~~ dog license. The owner of a dog that attains the age of four months after June 1 shall have 30 days from the date the dog attains the age of four months to obtain a license as required by this section.

~~The application for a license shall contain the breed, sex, color, markings, and the address of the previous owner of the dog.~~

~~The application for license shall be accompanied by a valid certificate of vaccination signed by a licensed veterinarian evidencing vaccination of the dog for rabies with a vaccine approved by the federal department of agriculture. The license fee established by the county shall also be submitted with the application.~~

(c) Owners may apply for a license at city hall between January 1 and February 28. Thereafter, the application must be made at the appropriate county office.

~~It is unlawful for any person to own or harbor a dog four months old or older unless the dog is licensed To own any dog four months old or older that does not at all times wear a collar with an identifying tag approved by the Director of the Michigan Department of Agriculture attached as provided, except when engaged in lawful hunting accompanied by its owner; of (c) To remove any collar and license tag from a dog, except the owner.~~

~~License Application: On or before June 1 of each year, the owner of a dog 4 months or older shall apply in writing for a license for each dog owned or kept by the owner. The application for a license shall be accompanied by proof of vaccination of the dog for rabies by a valid certificate of vaccination for rabies, with a vaccine licensed by the United States Department of Agriculture, signed by an accredited veterinarian. The owner of a dog that attains the age of four months after June 1st shall have (30) days to obtain a license. The application for a license shall contain the breed, sex, color, markings, and the address of the previous owner of the dog.~~

~~Owners may apply for a license at City Hall starting January 1 through February 28, after which all licenses must be applied for at the county.~~

~~License Fees: The license fees are set by the county~~

(Ord. No. 230, § 4-5, 6-21-2012)

State law reference—Licensure and control of dogs, MCL 287.262; identification and location of unlicensed dogs, MCL 287.277.

Sec. 4-33. Dangerous dogs.

It is unlawful for any person owning, possessing or having charge of any dog known to be a dangerous dog to person or property to permit or allow the dog to be at large in the city at any time.

~~As used in this section, the term "dangerous dog" means a dog that bites or attacks a person, or a dog that bites or attacks and causes serious injury or death to another dog while the other dog is on the property or under the control of its owner. However, a dangerous dog does not include any of the following:~~

- ~~A dog that bites or attacks a person who is knowingly trespassing on the property of the animal's owner.~~
- ~~A dog that bites or attacks a person who provokes or torments the animal.~~
- ~~A dog that is responding in a manner that an ordinary and reasonable person would conclude was designed to protect a person if that person is engaged in a lawful activity or is the subject of an assault.~~

(Code 1972, § 54-6; Code 2006, §§ 4-6, 4-34; Ord. No. 230, §§ 4-6, 4-34, 6-21-2012)

State law reference—Dangerous animals, MCL 287.321 et seq.

~~**Sec. 4-6. Dangerous dogs.**~~

~~It is unlawful for any person owning, possessing, or having charge of a dog known to be dangerous dog to persons or property to permit or allow the dog to be at large in the city at any time.~~

~~As used in this section, the term "dangerous dog" means a dog that bites or attacks a person, or a dog that bites or attacks and causes serious injury or death to another dog while the other dog is on the property or under the control of its owner. However, a dangerous dog does not include any of the following:~~

- ~~A dog that bites or attacks a person who is knowingly trespassing on the property of the animal's owner.~~
- ~~A dog that bites or attacks a person who provokes or torments the animal.~~
- ~~A dog that is responding in a manner that an ordinary and reasonable person would conclude was designed to protect a person if that person is engaged in a lawful activity or is the subject of an assault.~~

~~(Code 1972, 54-6; state law Reference—Dangerous Animals, MCL 287.321; Ord. No. 230, § 4-6, 6-21-2012)~~

Sec. 4-34. Seizure of dogs in violation.

(a) Any peace officer ~~or any special officers appointed by the city manager or designee~~ shall have authority to catch and take into his control each and every dog running at large within the limits of the city and as soon as practicable make arrangements to transfer control of the animal to county animal control.

(b) In cases where a ~~sworn~~ complaint of the existence of a dangerous animal held on private property have been made, any peace officer ~~or any special officers appointed by the city council~~ shall have authority to catch and take into their control each and every such dangerous animal on such property and, as soon as practicable, make arrangements to transfer control of the animal to county animal control.

(Code 1972, § 54.9; Code 2006, § 4-36; Ord. No. 230, § 4-36, 6-21-2012; Ord. No. 2016-242, § 10, 10-20-2016)

Chapter 5

RESERVED

Chapter 6

BUILDINGS AND CONSTRUCTION*

***State law reference**—Stille-DeRossett-Hale Single State Construction Code Act, MCL 125.1501 et seq.; dangerous buildings, MCL 125.538 et seq.

Sec. 6-1. Construction code enforcement; designation of floodprone hazard areas.

(a) Pursuant to the provisions of ~~Public Act No. 230 of 1972~~ the Stille-DeRossett-Hale Single State Construction Code Act, MCL 125.1501 et seq., the city hereby designates the county building department as the enforcing agency to discharge the responsibilities of the city under such Act, including specifically Appendix G, Flood-Resistant Construction, of the Michigan Building Code. The county has assumed responsibility for the administration and enforcement of such Act throughout the corporate limits of the city commencing December 1, 1989, and continuing.

(b) The Federal Emergency Management Agency flood insurance study titled "Eaton County, Michigan—All Jurisdictions," dated November 26, 2010, and the flood insurance rate map panel numbers 26045C, 0200E, 0213E, 0325E, 0326E, dated November 26, 2010, are adopted by reference for the purpose of administration of the state construction code and declared to be part of section 1612.3 of the state building code, and to provide the content of the "flood hazards" section of Table R301.2(1) of the state residential code.

(Code 2006, § 6-31; Ord. No. 131, § 61-1, 11-13-1989; Ord. No. 10-225, § 1(1—3), 11-18-2010)

Sec. 6-2. Permit required for certain aboveground swimming pools.

Building permits are necessary for any aboveground pool that is two feet deep or more to ensure all safety requirements are met.

~~*Fencing.* Pools in the city shall be surrounded by fencing that is at least four feet high. The space between the bottom of the fence and the ground must be two inches or less. In all other respects, pool fencing shall comply with the Michigan Residential Code. According to the Michigan Residential Code, fencing is required to surround your pool and be a minimum of 4 feet high, with the space between the bottom of the fence and the ground 2 inches or less.~~

~~*Gates.* All entrances to the pool area must open outward, away from the pool. Each gateway must have a self-closing and self-latching device attached to it.~~

~~*Access ladders.* Access ladders leading to the pool must be removable or must be locked in a position so they cannot be used by children to reach the water.~~

~~*Electrical requirements.* Power outlets used to supply pool equipment must be at least five feet from the inside walls of the pool. The outlet must be a single plug type, have a locking design, and must have ground-fault protection.~~

~~*Above-ground pool location.* An above-ground pool must be situated at least six feet from a side or rear lot line, except that on corner lots or outside lot lines, the pool must ten feet from lot lines. It is recommended that the pool be no closer than ten feet to any building. Pools are not allowed in the front yard.~~

(Ord. No. 13-235, §§ 5-31—5-35, 7-18-2013)

Chapter 7

RESERVED

Chapter 8

BUSINESSES

ARTICLE I. IN GENERAL

Sec. 8-1. Peddlers and solicitors.

(a) *Peddling defined.* As used in this section, the term "peddling" means the act of traveling by foot, wagon, motor vehicle or any other type of conveyance from door to door, house to house, place to place, or street to street, or remaining in one place, carrying, conveying or transporting food products, goods, wares, merchandise, magazines or any other product, for the purposes of offering such products for immediate sale. Any person who engages in such acts shall be known as a peddler.

(b) *Soliciting defined.* As used in this section, the term "soliciting" means the act of going from door to door, house to house, place to place, or street to street, or remaining in one place, for the purpose of soliciting orders for the sale of goods, wares and merchandise, or personal property of any nature whatsoever for immediate or future delivery, or for services to be furnished or performed immediately or in the future. The term "soliciting" includes the act of soliciting for or receiving funds or contributions of any kind from the public, including solicitation of funds based upon the representation that the funds will be used for a charitable purpose. Any person who engages in such acts shall be known as a solicitor. Newspaper carriers and persons traveling on a regularly established route at the request, expressed or implied, of their customers, shall not be considered to be engaged in the act of soliciting under the terms of this section.

(c) *Registration and vehicle license required.* It is unlawful for any person to engage in soliciting or peddling within the city without first registering with the city police department ~~clerk~~ and showing the police department ~~clerk~~ a photo identification. Such photo identification shall be carried while soliciting or peddling and shown to anyone upon request. ~~Furthermore, it is unlawful for any person to operate as a solicitor or peddler within the township without first having obtained a license for each vehicle or piece of equipment used in connection with such soliciting or peddling.~~

Code 2006, §§ 24-1, 24-2)**State law reference**—Public Safety Solicitation Act, MCL 14.301 et seq.; Charitable Organizations and Solicitations Act, MCL 400.271 et seq.; transient merchants, MCL 445.371 et seq.

Sec. 8-2. Marihuana businesses and establishments prohibited.

Pursuant to MCL 333.27956, part of the Michigan Regulation and Taxation of Marihuana Act, MCL 333.27951 et seq., the city prohibits marihuana businesses and establishments within its boundaries.

(Ord. No. 2019-245, art. I, 10-26-2019)

Secs. 8-3--8-20. Reserved.

ARTICLE II. USED MOTOR VEHICLE DEALERSHIPS*

***State law reference**—Dealers and wreckers must be licensed, MCL 257.248 et seq.

DIVISION 1. GENERALLY

Sec. 8-21. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

B-3 commercial district means the corresponding district established by city zoning regulations.

Established place of business means premises actually and continuously occupied by a used motor vehicle dealer in the transaction of his business.

Junker means any motor vehicle which has been disassembled, dismantled, or damaged to the extent that it cannot operate under its own power and which requires major repairs or the installation of major parts to render it

operable.

Junkyard means premises where junkers are stored or displayed or parts thereof disassembled, dismantled, or removed.

Used motor vehicle means every self-propelled vehicle which has been sold, bargained, exchanged, given away or title transferred from the person who first obtained an official certificate of title.

Used motor vehicle dealer means every person engaged in the business of selling, or disposing of, used motor vehicles. The term "used motor vehicle dealer" includes persons who sell, offer for sale, or dispose of used vehicles, title to which is in another person.

(Code 2006, § 8-101)

Sec. 8-22. Records.

Every used motor vehicle dealer shall maintain the records required by ~~section 251 of Public Act No. 300 of 1945~~ MCL 257.251, which records shall be open to inspection by any police officer of the city during reasonable business hours.

(Code 2006, § 8-102; Ord. No. 03-203, § 87-7, 2-10-2003)

Sec. 8-23. Maintenance of place of business.

(a) All sites for which a license shall have been granted under the provisions of this article shall be maintained in a neat, clean and orderly manner.

(b) No motor vehicle, trailer, semitrailer, trailer coach, or any other type of vehicle shall be parked in such a manner, or in such a place, as to prevent free and unobstructed vision to motorists driving from adjacent streets, alleys or private driveways onto intersecting streets.

(c) No used motor vehicles may be stored or displayed for sale on the premises unless located within the area designated on the application as the display area for the used motor vehicles.

(d) The motor vehicles shall be displayed in rows so that motor vehicles may be easily moved into and out of the display area.

(Code 2006, § 8-103; Ord. No. 03-203, § 87-8, 2-10-2003)

Sec. 8-24. Display of unsafe vehicles.

It shall be a violation of this article to display or expose for sale any used motor vehicle which is in such state of disrepair, in such mechanical condition, or without required equipment, as to be unsafe for operation on the public highways, or which would constitute a violation of state law if the vehicle were operated upon a public highway. The presence of such a motor vehicle upon the premises shall be deemed prima facie display or exposure for the purpose of sale.

(Code 2006, § 8-104; Ord. No. 03-203, § 87-9, 2-10-2003)

Sec. 8-25. Repair and servicing of vehicles.

The repair or servicing of motor vehicles, except as to minor repairs strictly incidental to the operation of a used motor vehicle business, shall be prohibited.

(Code 2006, § 8-105; Ord. No. 03-203, § 87-10, 2-10-2003)

Sec. 8-26. Vehicle registration and title transfer.

When a used motor vehicle dealer holds a used motor vehicle for resale and operates the vehicle only for purposes incidental to resale and displays thereon the registration plates issued for such vehicle or when a used motor vehicle dealer does not drive such vehicle or permit it to be driven upon the highways, except for demonstration purposes incidental to a resale, the dealer shall not be required to obtain transfer of registration of such vehicle or forward the certificate to the appropriate state agency, but such dealer shall retain and have in his immediate possession at all times such assigned certificate of title and upon transferring his title or interest to another person shall execute and acknowledge an assignment and warranty of title upon the certificate of title and deliver the same to the person to whom such transfer is made.

(Code 2006, § 8-106; Ord. No. 03-203, § 87-11, 2-10-2003)

Sec. 8-27. Penalties.

A violation of any provision of this article shall be a municipal civil infraction.

(Code 2006, § 8-107; Ord. No. 03-207, § 87-13, 6-9-2003)

Secs. 8-28--8-46. Reserved.

DIVISION 2. LICENSE

Sec. 8-47. Required.

No person shall engage in or carry out the business of used motor vehicle dealer unless that person has a valid used motor vehicle dealer license issued by the city pursuant to the provisions of this division for each and every separate office or place of business conducted by such person.

(Code 2006, § 8-131; Ord. No. 03-203, § 87-3, 2-10-2003)

Sec. 8-48. Application.

Every applicant for a license to maintain or operate a used motor vehicle dealership shall file an application under oath with the city clerk's office upon a form provided by the city and pay a nonrefundable application investigation fee. Such fee shall be set by city council resolution and shall be renewed annually. The application shall contain the following information:

(1) The location, mailing address and all telephone numbers where the business is to be conducted.

(2) The names and residence addresses of each applicant.

a. If the applicant is a corporation, the names and residence addresses of each of the officers and directors of the corporation and of each stockholder owning more than ten percent of the stock of the corporation, the address of the corporation itself, if different from the address of the establishment, and the name and address of a resident agent in the county.

b. If the applicant is a partnership or limited liability company, the names and residence addresses of each of the partners or members and the organization itself, if different from the address of the dealership, and the name and address of a resident agent in the county.

(3) The two previous addresses, if any, immediately prior to the present address of the applicant.

(4) Proof that the applicant is at least 18 years of age.

(5) All criminal convictions other than misdemeanor traffic violations, including the dates of convictions, nature of the crimes and place convicted.

(6) The site upon which such business is to be conducted, and whether it is to be an established place of business.

(7) The length of time such dealer has been in business as a used motor vehicle dealer continuously prior to the application.

(8) The date and number of licenses from the secretary of state, authorizing the conduct of a business in used motor vehicles, and sales tax license number. No license shall be issued to any person not currently licensed by the secretary of state under ~~Public Act No. 300 of 1949~~ MCL 257.1 et seq., or who does not possess a sales tax license issued by the state department of revenue.

(9) The application shall state whether or not the applicant, in addition to the conducting of a used motor vehicle business, proposes to engage in the conducting of any other type of business on the premises for which a license is sought; and it shall particularly state whether or not the applicant proposes to operate a public garage, and whether he proposes to store or display junkers or operate a junkyard.

(10) A description of the site which meets the requirements of this article and the city zoning code, showing the location on the premises of the office, the location of the cars to be displayed for sale, and customer parking.

(Code 2006, § 8-132; Ord. No. 03-203, § 87-4, 2-10-2003; Ord. No. 03-207, § 87-4, 6-9-2003)

Sec. 8-49. Investigation; issuance.

The city clerk shall submit the application for a license under this division to the zoning administrator, police chief, and city manager. The zoning administrator shall determine if the premises is located in the proper zone and meets the requirements of the zoning code. The police chief shall determine if the license from the state is current and in force and shall determine if the criminal history is accurate. The city manager, or his designee, shall determine if the site meets the requirements of this division. If the city officials, within 30 days of application, indicate that the application meets with the requirements of this article and the zoning code, the license shall be issued.

(Code 2006, § 8-133; Ord. No. 03-203, § 87-5, 2-10-2003)

Sec. 8-50. Established place of business and paved display area required.

(a) No license shall be granted to any person who does not have at the time of application an established place of business, unless he furnishes satisfactory evidence to the city clerk that, if a license is issued, such established place of business is immediately procurable.

(b) The display area for its automobiles shall be on a paved surface (asphalt or concrete), separate from the area reserved for parking for its customers. The asphalt shall have a minimum depth of two inches.

(Code 2006, § 8-134; Ord. No. 03-203, § 87-6, 2-10-2003)

Sec. 8-51. Revocation.

Any license issued under the terms of this division may be suspended or revoked for any of the following reasons after due notice and a hearing before the city council:

(1) Revocation by the secretary of state of the dealer's license issued by the secretary of state.

(2) Where the licensee is a corporation or partnership, any stockholder, officer, director or partner of the licensee has been guilty of any act or omission which would be cause for suspending or revoking a license issued to such stockholder, officer, director or partner as an individual.

(3) Two or more violations of the provisions of this article in any one-year period.

(4) The licensee, or principal stockholder, partner or member, is convicted of a felony.

(Code 2006, § 8-135; Ord. No. 03-203, § 87-12, 2-10-2003)

Secs. 8-52--8-70. Reserved.

ARTICLE III. GARAGE SALES

Sec. 8-71. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Family means two or more persons related by blood, marriage or adoption, or a group not to exceed two persons not related by blood or marriage, occupying a single premises and living as a single housekeeping unit.

Front yard means the open space extending the full width of the lot, the depth of which is the minimum horizontal distance between the front lot line and the nearest point of the building.

Garage sale means and includes the public sale of any new or used tangible personal property which is conducted at a private residence in a residentially zoned district and which is advertised by any means, and shall include, by example and not by way of limitation, all sales entitled "garage sale," "yard sale," "lawn sale," "attic sale," or "rummage sale," when conducted on a private residence and shall not include the sale of a single automobile by means of a "for sale" sign in the window.

(Code 2006, § 28-31; Ord. No. 100, § 1, 7-11-1977; Ord. No. 13-236, § 28-32, 7-18-2013)

Sec. 8-72. Purpose and intent.

It is the intent of this article to regulate and control the holding of garage and yard sales, as they may become

nuisances and safety hazards if not so regulated, and so that residential areas do not become commercialized through a proliferation of such sales and similar commercial activity.

(Ord. No. 13-236, § 28.31, 7-18-2013)

~~**Sec. 28-35. Exceptions.**~~

~~The provisions of this article shall not apply to the following persons or sales:~~

~~(1) Persons selling goods pursuant to a court order license to sell.~~

~~(2) Persons acting in accordance with their duties as public officials.~~

~~(3) Any person selling or advertising for sale items of personal property which are each specifically named or described in the advertisement for sale and which separate items do not exceed five in number.~~

~~(Code 2006, § 28-35; Ord. No. 100, § 6, 7-11-1977)~~

Sec. 8-73. Number and manner of conduct of sales restricted; signs.

No person or family shall conduct any garage sale within the city except pursuant to the following regulations:

(1) *Number of sales annually.* No more than two garage sales may be conducted at any residential premises within any one calendar year without express approval of the ~~planning commission~~ zoning administrator.

(2) *Time and length of sale.* No garage or yard sale shall continue later than one-half hour after sunset nor begin prior to 8:00 a.m. No garage sale may be conducted, nor any goods publicly displayed, for a period of more than 72 consecutive hours.

(3) *Wholesale sales; sales of free samples.* No wholesale sales shall be made at any garage or yard sale. No salesmen's or free samples or the like shall be sold at any garage or yard sales.

(4) *Sign location; removal after sale.* All signs posted must be removed within 24 hours after the close of the garage sale. No signs shall be posted on city property or on telephone or light poles. All garage sale signs must comply with city sign and zoning regulations. ~~follow the provision of the zoning ordinance appendix 1-4 section 19.07~~

(5) *Traffic obstruction.* No garage or yard sale shall be situated so as to obstruct traffic, nor shall any sale patrons park their vehicles so as to obstruct traffic.

(6) *Excessive noise.* Excessive noise emanating from the area of the garage or yard sale is expressly prohibited.

(Code 2006, § 28-32; Ord. No. 100, § 2, 7-11-1977; Ord. No. 13-236, §§ 28-33, 28-36, 7-18-2013)

Sec. 8-74. Permit required; display.

It is unlawful for any person to conduct a garage sale in the city without first filing with the zoning administrator ~~clerk~~ the information specified in this article and obtaining from such zoning administrator ~~clerk~~ a permit to do so, to be known as a garage sale permit. Each permit issued under this article must be prominently displayed on the premises upon which the garage sale is conducted throughout the entire period of the permitted sale.

(Code 2006, § 28-33; Ord. No. 100, § 3, 7-11-1977; Ord. No. 13-236, § 28-34, 7-18-2013)

Secs. 8-75--8-91. Reserved.

~~**Sec. 28-35. Information required.**~~

~~The information to be filed with the clerk pursuant to this article shall be as follows:~~

~~(1) The name of the person conducting the sale.~~

~~(2) The name of the owner of the property on which the sale is to be conducted, and the consent of the owner if the applicant is other than the owner.~~

~~(3) The location at which the sale is to be conducted.~~

~~— The number of days of the sale.~~

~~— The date and nature of any past sale.~~

~~— The relationship or connection the applicant may have had with any other person conducting the sale and the dates of such sale.~~

~~— Whether or not the applicant has been issued any other vendor's license by any local, state, or federal agency.~~

~~— A sworn statement or affirmation by the person signing that the information therein given is full and true and known to him to be so.~~

~~(Code 2006, § 28-34; Ord. No. 100, § 4, 7-11-1977)~~

ARTICLE IV. MASSAGE ESTABLISHMENTS*

***State law reference**—Massage therapy, MCL 333.17951 et seq.; therapist licensing preempted by state law, MCL 333.17967.

Sec. 8-92. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Apprentice or *student* means any person who, under the guidance of an instructor in a massage school or in a massage establishment, is being trained or instructed in theory, method or practice of massage therapy.

Employee means any individual who is paid by the operator or customer for performing any service for the operator or customer at the licensed location.

Instructor means any person who gives lessons or teaches theory, method or practice of massage therapy.

Massage establishment means any place or establishment where a massage is offered or performed, whether as the primary or secondary purpose of a business.

Massage school means any accredited or licensed public or private community college, college, university, vocational school, or occupational school that meets the minimum standards and curriculum, in compliance with ~~section 16148 of Public Act No. 368 of 1978~~ MCL 333.16148.

Massage therapist means any individual engaged in the practice of massage therapy.

Operator means any person who owns, manages, supervises or is in any way in the charge of the operations of a massage establishment or massage school.

Practice of massage therapy means the application of a system of structured touch, pressure, movement and the holding to the soft tissue of the human body in which the primary intent is to enhance or restore the health and well-being of the client. The term "practice of massage therapy" includes complementary methods, including the external application of water, heat, cold, lubrication, salt scrubs, body wraps or other topical preparations; and electromechanical devices that mimic or enhance the actions possible by the hands. The term "practice of massage therapy" does not include medical diagnosis; practice of physical therapy; high-velocity, low-amplitude thrust to a joint; electrical stimulation; application of ultrasound; or prescription of medicines.

(Ord. No. 13-239, § 8-31, 7-18-2013)

Sec. 8-93. License required; minimum age for licensure.

Any person who owns, conducts, manages or is in charge of an existing or proposed massage establishment or massage school shall obtain a license from the city. ~~It is hereby declared to be unlawful for any person to engage in the business of a massage establishment school as, defined herein, without first obtaining a license as provided in this chapter.~~ No license shall be issued under this article to any applicant unless the applicant is over 18 years of age.

(Ord. No. 13-239, § 8-32, 7-18-2013)

Sec. 8-94. Exception to instructor license requirement.

This requirements of this article regarding instructor's licenses ~~section~~ shall not apply to licensed individuals

engaged in the personal performance of the duties of their respective profession, including physicians, surgeons, chiropractors, osteopaths, physical therapists, registered nurses, athletic trainers of any organized athletic team or an individual operating under the direct personal supervision of such licensed person, or a massage therapist, who meet one or more of the following criteria:

(1) Proof of graduation from a school of massage licensed by the state.

(2) Official certified transcripts verifying completion of at least 300 hours of message training from an American college or university, plus three references from massage therapists who are professional members of a recognized message association.

(3) Certificate of professional membership in the American Massage Therapy Association, International Myomassethics Federation or any other recognized message therapy association with equivalent professional membership standards.

(Ord. No. 13-239, § 8-39, 7-18-2013)

Sec. 8-95. Contents of license application; amendments.

(a) In addition to the information required when applying for a business license, the application for a massage establishment or massage school license shall contain the following information:

(1) Name and address of the applicant and the name and address of the owner of the massage establishment or massage school. If a partnership, the name and address of each partner thereof. If a corporation, the name and address of the local officials, managing employees and the resident agent of such corporation.

(2) Whether the applicant has ever been convicted of a violation of this article or has ever been convicted of any felony.

(3) The place where the massage establishment or massage school is to be established.

(4) A list of the formal training in massage completed by each masseur/masseuse employed in the establishment with dates of completion or award of degree.

(5) A listing of the massage-related experience of each masseur or masseuse.

(b) If any information provided in the application changes, the licensee shall inform the city clerk, city fire chief, city zoning official and the city police chief of such changes.

(Ord. No. 13-239, § 8-33, 7-18-2013)

Sec. 8-96. Procedure; investigations and submission to city council; hours of operation.

(a) The application for license shall be made in duplicate, both copies of which shall be filed with the city zoning administrator ~~clerk~~. The city zoning administrator ~~clerk~~ shall notify the following city officials to make the investigation indicated:

(1) The city police chief will investigate the applicant's criminal history to determine if the applicant is without a felony.

(2) The city zoning administrator shall ascertain from an investigation of the location where the applicant proposes to operate a massage establishment or massage school whether such operation would be violate any building or zoning law or regulation.

(3) The city fire chief shall determine from an investigation of the location where the applicant proposes to operate such massage establishment or massage school whether such operation would violate any fire safety ordinance or statute.

(b) Upon the ~~city clerk's~~ determination of the city zoning administrator that the applicant meets the requirements contained in this article, and upon receipt of approvals from the city police chief, the city zoning administrator ~~official~~ and the city fire chief, the city clerk shall submit one copy of the application to the city council with the zoning administrator's ~~clerk's~~ recommendation of approval.

(c) The city council shall approve or deny the license application. The hours of operation shall be set by the city council and be listed on the license granted to any applicant. The hours of operations may be modified by the

council on its own motion, or subject to the council's discretion in response to a request by the applicant or licensee.

(Ord. No. 13-239, § 8-34, 7-18-2013)

Sec. 8-97. License fee.

The annual license fee is established by the village fee schedule. ~~for each instructor shall be $10.00. The annual license fee for an owner/operator and for each massage establishment and massage school shall be $50.00. In the event that a massage establishment and massage school are being operated at the same address, only one fee of $50.00 shall be charged.~~

(Ord. No. 13-239, § 8-35, 7-18-2013)

Sec. 8-98. Display of license; transfer of location or ownership.

(a) *Display of license*. The license granted by the city shall be displayed in plain view of all patrons together with the license/proof of graduation from a school of massage licensed by the state.

(b) *New location*. If a licensee shall move his place of business to another location within the city, the license may be transferred to the new location upon application to the city clerk, giving street and number of new location, and the approval thereof being given by the city police chief, the city zoning official, the city fire chief and the city council. ~~(should this new location require a new fee).~~

(c) *New owner.* When the business of a licensee is sold or transferred, the licensee or licenses of such licensee may be transferred to the new owner or transferee upon application to the city clerk giving new owner or transferee name with the consent of the city police chief, the city zoning official, the city fire chief and the city council.

(Ord. No. 13-239, § 8-36, 7-18-2013)

Sec. 8-99. Penalties and other remedies.

Violations of this article are misdemeanors punishable as provided in section 1-12. A second violation shall also be grounds for revocation of any license issued under this article.

~~It is unlawful for any person to knowingly allow the use of any place, business, establishment or premises owned, operated, leased or managed by him to be used in the violation of any provisions of this section or any other ordinances of the city or any state law.~~

~~It shall be a misdemeanor for any person to violate any provisions of this section or to aid, assist or abet another to violate such provisions, rules or regulations.~~

~~In addition to any other penalty provided under this section, any licensee hereunder who shall be convicted a second time of a violation of any of the provisions in this chapter shall upon such second conviction forfeit any and all rights or privileges granted or conferred by any license issued by virtue of this chapter.~~

(Ord. No. 13-239, § 8-37, 7-18-2013)

Sec. 8-100. Enforcement; inspections.

(a) The city zoning administrator ~~clerk~~ shall have the authority to request the assistance of any department designated by the city manager in order to enforce these rules and regulations.

(b) Every establishment being operated as a massage establishment or massage school shall be open for inspection by a duly authorized representative of any city department concerned with the licensing and supervising of such establishment during operating hours for the purpose of enforcing any of the provisions of this article or other ordinances or regulation of the city relating to the public health, safety and welfare.

(c) It is unlawful for any person to refuse entry to premises in which a massage establishment or massage school is being operated, by duly authorized city, county and state representative for the purpose of making lawful inspections.

(Ord. No. 13-239, § 8-38, 7-18-2013)

Sec. 8-101. Maintenance of premises.

(a) Every establishment shall be kept clean and in a sanitary condition at all times. All tables and surfaces

on which the practice of massage therapy is performed shall be covered by a permanent, washable material.

(b) The premises used for a massage establishment shall be well-lighted and ventilated. They shall be kept clean and the furniture and equipment shall be maintained in a safe and sanitary condition. There shall be adequate supply of running hot and cold water during business hours. Bathing devices shall be thoroughly cleaned before the use of each patron.

(Ord. No. 13-239, § 8-40, 7-18-2013)

Sec. 8-102. Advertising restricted.

It is unlawful for any person to advertise the offering of the practice of massage therapy unless the advertised establishment is duly licensed.

(Ord. No. 13-239, § 8-41, 7-18-2013)

Sec. 8-103. Scope of service.

(a) No apprentice or student shall perform the practice of massage therapy unless in the presence and under the supervision of an instructor.

(b) Service in massage establishments licensed under this article shall be limited to exercise, baths and the practice of massage therapy. Medical treatment of any kind shall not be given to any patron without a prescription from a licensed physician. The use of any medical or electrical devices other than heat lamps and sunray lamps is prohibited.

(c) The private parts of patrons must be covered when in the presence of an employee or massage therapist. Any contact with a patron's genital areas are prohibited.

(Ord. No. 13-239, § 8-42, 7-18-2013)

Sec. 8-104. Disease control.

(a) No person who has any visible symptoms of a communicable disease, such as a rash, discharge, or fever, may be attended by a licensee under this article or any person engaged in the practice of massage therapy.

(b) Each applicant for an apprentice or student certificate of registration, employee or applicant for an instructor's or operator's license under this article or a renewal thereof, shall present to the city clerk a certificate from a registered physician, certifying that he is free from communicable disease. A current certificate shall also be provided prior to the renewal of any license. If the city council receives information that any individual listed in subsection (a) of this section may no longer be free of a communicable disease, then the council may in its discretion direct that such individual terminate all contact with patrons and prohibit the individual's presence on the licensed premises. The presence of such person at the licensed establishment shall be a basis for the immediate suspension of the license and closure of the business until compliance is obtained.

(c) The skin of the hands of those attending patrons shall be clean and in healthful condition, and the nails shall be kept short. The hands shall be washed thoroughly before providing the patron any service. A minimum of one separate wash basin shall be provided in each massage establishment for the use of employees of any such establishment. There shall be provided, at each wash basin, sanitary towels placed in permanently installed dispensers.

(Ord. No. 13-239, § 8-43, 7-18-2013)

Sec. 8-105. Minors.

(a) The practice of massage therapy shall not be performed on any individual under the age of 18 years, and it shall be the obligation of the operator and its employees to ascertain the age of any individual requesting massage therapy, and if such individual is unable to provide proof of age of 18 years or older, it shall be a violation of this section to provide the practice of massage therapy for or on behalf of this individual. If the person under the age of 18 years is accompanied by a parent or guardian during the massage treatment and signs a waiver, this provision shall not apply.

(b) No person under the age of 18 years shall enter or remain, nor shall the owner or operator allow any such person to enter or remain, on the premises of a massage establishment at any time.

(c) No person operating a massage school or massage establishment, nor any instructor, shall permit training of an apprentice or student who has not attained the age of 18 years.

(d) It is unlawful for any person to falsify his age in order to obtain training as an apprentice or student in a massage school or massage establishment.

(Ord. No. 13-239, § 8-44, 7-18-2013)

Sec. 8-106. Linens, wearing apparel, etc.

(a) All robes, towels, blankets and linens furnished for the use of one patron shall be thoroughly laundered before being offered to another.

(b) Nontransparent uniforms or garments covering the torso shall be worn by the instructor, operator, massage therapist, employee or apprentice while attending patrons, which shall be of washable material, and shall be kept in clean condition. The sleeves shall not reach below the elbow.

(Ord. No. 13-239, § 8-45, 7-18-2013)

Sec. 8-107. Areas for the practice of massage therapy restricted.

(a) The practice of massage therapy shall not be performed in a massage establishment or massage therapy school in a private room which is closed to other persons by means of a door containing any latch or locking device. However, reasonable measures may be used to offer privacy to patrons such as partitions, stalls, curtains and the like.

(b) No massage establishment shall be conducted in direct connection with living quarters.

(Ord. No. 13-239, § 8-46, 7-18-2013)

Sec. 8-108. Students prohibited from the practice of massage therapy upon each other.

Students at a massage school shall be prohibited from performing the practice of massage therapy on each other.

(Ord. No. 13-239, § 8-47, 7-18-2013)

Sec. 8-109. Protection of patron.

Any person providing any service to a patron shall exercise every precaution for the safety of such patron. They shall watch for early signs of fatigue or weakness and immediately discontinue whatever form of service is being given upon the appearance of such signs.

(Ord. No. 13-239, § 8-48, 7-18-2013)

Chapter 9

RESERVED

Chapter 10

EMERGENCY MANAGEMENT AND SERVICES*

***State law reference**—Emergency Management Act, MCL 30.401 et seq.; police and fire protection, MCL 41.801 et seq.; expenses for reimbursement for emergency response, MCL 769.1f; environmental remediation, MCL 324.20101 et seq.; appointed emergency manager, MCL 141.1549 et seq.

(RESERVED)

Chapter 11

RESERVED

Chapter 12

ENVIRONMENT*

***State law reference**—Natural Resources and Environmental Protection Act, MCL 324.101 et seq.; liability for costs and damages of pollution remediation, MCL 324.20126; recovery of environmental response activity costs and damages, MCL 324.20126a.

ARTICLE I. IN GENERAL

Secs. 12-1--12-18. Reserved.

ARTICLE II. HAZARDOUS MATERIALS CLEANUP COSTS

Sec. 12-19. Purpose.

In order to protect the citizens within the city from the dangers associated with a hazardous materials release, and in order to ensure that the cost of responding to a hazardous materials release is borne by the parties responsible for such release, the city hereby authorizes the imposition of charges to recover reasonable and actual costs incurred by the ~~Potterville~~ Benton Township Fire Department in responding to calls for assistance in connection with such hazardous materials release.

(Code 2006, § 2-181; Ord. No. 00-188, § 52-20, 2-12-2001)

Sec. 12-20. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Fire department means the Benton Township Fire Department.

Hazardous material includes, but is not limited to, a combustible liquid, an explosive, toxics, and corrosives. The term "hazardous material" includes those materials declared to be hazardous under rules and regulations established by the Federal Environmental Protection Agency or ~~the state department of environmental quality~~the state Environment, Great Lakes and Energy Department (EGLE) or successor agency.

Release means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, leaching, dumping, or disposing into and about the environment.

Responsible party means any individual, firm, corporation, association, partnership, unincorporated association, governmental entity, or other legal entity that is responsible for a release of a hazardous material, either actual or threatened, or that is an owner, tenant, occupant, or party in control of property onto which or from which hazardous materials release.

(Code 2006, § 2-182; Ord. No. 00-188, § 52-21, 2-12-2001)

Sec. 12-21. Imposition of charges.

When the fire department responds to a call for assistance in connection with a hazardous materials release, all costs or expenses incurred by the fire department in responding to such call shall be imposed upon the responsible party. Those costs and expenses include:

(1) All personnel-related costs incurred by the fire department as a result of responding to the hazardous materials incident. Such costs may include, but are not limited to, fire personnel wages and reimbursement costs paid to volunteer firefighters.

(2) Other expenses incurred by the fire department in responding to the hazardous materials incident, including, but not limited to, the rental of machinery and equipment, the purchase of water, and replacement costs related to disposable personal protective equipment, extinguishing agents, and other supplies.

(3) Charges to the fire department imposed by any local, state, or federal government entities related to the

hazardous materials incident.

(4) Costs incurred in accounting for all hazardous material incident-related expenditures, including billing and collection costs.

(5) All other costs or expenses incurred by the fire department as a result of responding to the hazardous materials incident.

(Code 2006, § 2-183; Ord. No. 00-188, § 52-22, 2-12-2001)

Sec. 12-22. Billing procedures.

(a) Following the response by the fire department to a hazardous materials release, or where the fire department responded to a call for assistance where a hazardous materials release was reasonably believed to have occurred, the fire chief shall submit a detailed listing of all known costs and expenses to the responsible party for payment. The invoice shall demand full payment within 30 days of receipt of the statement.

(b) Any additional costs or expenses that become known to the fire department following the transmittal of the statement to the responsible party shall be billed in the same manner on a subsequent statement to the responsible party.

(c) For any amounts due that remain unpaid after 30 days, the fire department shall impose a late charge of one percent per month, or for each fraction of a month.

(Code 2006, § 2-184; Ord. No. 00-188, § 52-23, 2-12-2001)

Sec. 12-23. Collection of charges; cumulative remedies.

(a) The charges assessed under this article shall constitute a lien on the property for which the fire service charges were incurred and the charges may be collected pursuant to the procedure as set forth in section 14-43.

(b) Notwithstanding subsection (a) of this section, the city may maintain proceedings in any court of competent jurisdiction to collect any moneys remaining unpaid and shall have any and all other remedies provided by law for the collection of such charges.

(Code 2006, § 2-185; Ord. No. 00-188, § 52-24, 2-12-2001; Ord. No. 2016-242, § 4, 10-20-2016; Ord. No. 2016-243, § 4, 11-17-2016)

Chapter 13

RESERVED

Chapter 14

FIRE PREVENTION AND PROTECTION*

***State law reference**—State fire prevention code, MCL 29.1 et seq.; crimes related to fires, MCL 750.240 et seq.; crimes related to explosives and bombs, MCL 750.200 et seq.; Explosives Act, MCL 29.41 et seq.

ARTICLE I. IN GENERAL

Secs. 14-1--14-18. Reserved.

ARTICLE II. FIRE DEPARTMENT

DIVISION 1. GENERALLY

Secs. 14-19--14-39. Reserved.

DIVISION 2. FIRE RUN CHARGES

Sec. 14-40. Purpose.

This division is adopted for the purpose of providing financial assistance to the city and the Township of Benton in the operation of a fire department from those receiving direct benefits from the fire protection service. It is the further purpose of this division to provide for full funding of the fire department operation which remains, in part, an at-large governmental expense based upon the general benefits derived by all property owners within the township and the city from the existence of a joint fire department and its availability to extinguish fires within the city and township and perform other emergency services.

(Code 2006, § 2-201; Ord. No. 03-205, § 52-5.1, 4-14-2003)

Sec. 14-41. Charges established.

(a) Charges for fire department and fire department related services in the amounts provided in the city fee schedule ~~following charges~~ shall be due and payable to the city fire department from the recipient of the ~~any of the following enumerated~~ services.

~~(1) Automotive fire~~	~~$500.00~~
~~(2) Rubbish fire~~	~~$500.00~~
~~(3) Grass fire~~	~~$500.00~~
~~(4) Grass fire set by trains~~	~~$500.00~~
~~(5) House fire~~	~~$500.00~~
~~(6) Fire in a commercial establishment~~	~~$500.00~~
~~(7) Fire in an industrial or manufacturing establishment~~	~~$500.00~~
~~(8) Fire in a multifamily building~~	~~$500.00~~
~~(9) Hotel or motel fire~~	~~$500.00~~

~~(10) Aircraft fire~~	~~$500.00~~
~~(11) Train fire~~	~~$500.00~~
~~(12) Truck fire~~	~~$500.00~~
~~(13) Forest fire~~	~~$500.00~~
~~(14) Lift assist~~	~~$250.00~~
~~(15) Other services not specifically enumerated~~	~~$250.00-$500.00~~

(b) All fire runs made where the fire was caused by actions which under ordinance would require a permit and no permit was obtained shall be charged twice the rate established.

(c) The charges set forth in this section may be amended by resolution of the city council upon recommendation by the city manager.

(Code 2006, § 2-202; Ord. No. 03-205, § 52-5.2, 4-14-2003; Ord. No. 2016-242, § 5, 10-20-2016; Ord. No. 2016-243, § 5, 11-17-2016)

Sec. 14-42. Exemptions.

The following properties and services shall be exempt from the charges set forth in section 14-41:

(1) False alarms regarding any property located within the city ~~or township~~ except after four false alarms occur to the same property within a 60-day period. At that point, all false alarms occurring shall be charged in accordance with the charges in section 14-41 for the structures existing on the premises for the next 12 months.

(2) Fire service performed outside the jurisdiction of the fire department under a mutual aid contract with an adjoining municipality.

(Code 2006, § 2-203; Ord. No. 03-205, § 52-5.3, 4-14-2003)

Sec. 14-43. Charges to constitute lien; enforcement of lien.

The charges imposed by this division shall constitute a lien on the property for which the fire service charges were incurred, including both real and personal property, and if not paid within three months after the charge is due, the official in charge of the collection thereof shall, prior to May 1 of each year, certify to the tax assessing officer of the city and township the facts of such delinquency, whereupon such officers shall enter such delinquent charges affecting the property within their jurisdictions upon the next general tax roll as a charge against the premises and the liens thereupon shall be enforced in the same manner as provided by law for delinquent and unpaid taxes.

(Code 2006, § 2-204; Ord. No. 03-205, § 52-5.4, 4-14-2003)

Sec. 14-44. Additional methods of collection.

Notwithstanding section 14-43, the City of Potterville-Township of Benton Fire Administrative Board shall be empowered to maintain proceedings in any court of competent jurisdiction to collect any moneys remaining unpaid and shall have any and all other remedies provided by law for the collection of such charges.

(Code 2006, § 2-205; Ord. No. 03-205, § 52-5.5, 4-14-2003)

Sec. 14-45. Charges not exclusive.

The rates and charges imposed by this division shall not be exclusive of the charges that may be made by the city and township for the costs and expenses of maintaining a fire department but shall only be supplemental thereto. Charges may additionally be collected by the city or township through general taxation after a vote of the electorate

approving such charges or by a special assessment established under the state statutes pertinent thereto. General fund appropriations may also be made to cover such additional costs and expenses.

(Code 2006, § 2-206; Ord. No. 03-205, § 52-5.6, 4-14-2003)

Sec. 14-46. Service benefitting more than one person or property.

When a particular service rendered by the joint fire department directly benefits more than one person or property, the owner of each property so benefitted and each person so benefitted where property protection is not involved shall be liable for the payment of the full charge for such service outlined in this division. The interpretation and application of this section is delegated to the fire chief subject only to appeal, within the time limits for payment, to the City of Potterville-Township of Benton Fire Administrative Board. This section shall be administered so that charges shall only be collected from the recipients of the service.

(Code 2006, § 2-207; Ord. No. 03-205, § 52-5.7, 4-14-2003)

Secs. 14-47--14-65. Reserved.

ARTICLE III. FIRE REGULATIONS

DIVISION 1. GENERALLY

Sec. 14-66. Fire code adopted.

Pursuant to the authority of the city under ~~provisions of section (k) of Public Act No. 279 of 1909~~ MCL 17.3(k), ~~the home rule cities act,~~ and for the purpose of prescribing regulations governing conditions hazardous to life and property from fire and explosion, the city has adopted by reference, as though fully set forth in this section, the fire code, (NFPA1), published by the National Fire Prevention Association~~, as modified in this article. and as so adopted shall be known as the Potterville fire code~~, subject to the following amendments and modifications:

(1) Section 101.1. Title. These regulations shall be known as the fire code of the city, hereinafter referred to as section 14-66 of this Code. ~~"this code."~~

(2) Section 109.3. Violation Penalties. Persons who shall violate a provision of this code or shall fail to comply with any of the requirements thereof, or who shall erect, install, alter, repair, or perform work in violation of the approved construction documents or directives of the code official, or of a permit or certificate used under the provisions of this code, shall be guilty of a municipal civil infraction punishable by a fine of not more than $500.00. Each day the violation continues shall be deemed a separate offense.

(3) Section 109.3.1. Abatement of Violation. In addition to the imposition of penalties herein described, the code official is authorized to institute appropriate action to prevent unlawful construction or to restrain, correct, or abate a violation; or to prevent illegal occupancy of a structure or premises; or to stop an illegal act, conduct of businesses, or occupancy of a structure on or about any premises.

(4) Section 111.4. Failure to Comply. Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be liable to pay a fine of not less than $100.00 nor more than $500.00.

(5) Section. 307.6. It is unlawful to burn rubbish or trash.

(6) The limits referred to in certain sections of the adopted fire code are hereby established as follows:

a. Section 3204.3.1.1: The limits as established by the state office of fire safety.

b. Section 3404.2.9.5.2: The limits as established by the state office of fire safety.

c. Section 3406.2.4.4: The limits as established by the state office of fire safety.

d. Section 3804.2: The limits as established by the state office of fire safety.

(Code 2006, §§ 14-31—14-33; Ord. No. 03-205, §§ 52-1—52-3, 4-14-2003; Ord. No. 14-236, 2-28-2014)

State law reference—State fire prevention code, MCL 29.1 et seq.; local rules must be consistent with state code, MCL 29.31; crimes relating to fires, MCL 750.200 et seq.

Secs. 14-67--14-90. Reserved.

DIVISION 2. FIREWORKS*

***State law reference—**Michigan Fireworks Safety Act, MCL 28.451 et seq.; regulation of novelties by local governments, MCL 28.453; regulation of fireworks by local governments, MCL 28.457.

Sec. 14-91. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

APA Standards 87-1 means standard for construction and approval for transportation of fireworks, novelties, and theatrical pyrotechnics as published by the American Pyrotechnics Association.

Consumer fireworks means fireworks devices that are designed to produce visible effects by combustion and that are required to comply with the construction, chemical composition and labeling regulations promulgated by the Federal Consumer Product Safety Commission under 16 CFR parts 1500 and 1507 and that is listed in APA Standard 87-1, 3.1.2, 3.1.3, or 3.5. ~~As defined in HB 4293 & 4294~~ The term "consumer fireworks" does not include low-impact fireworks.

Display fireworks means large fireworks devices that are explosive materials intended for use in fireworks displays and designed to produce visible or audible effects by combustion, deflagration, or detonation, as provided in 27 CFR 555.11, 49 CFR 172, and APA Standard 87-1, 4.1. ~~16 CFR 1500 and 1507, 49 CFR 172 and APA Standard 87-1 As defined in HB 4293 & 4294~~

Firework or *fireworks* means any composition or device, except for a starting pistol, a flare gun, or a flare, designed for the purpose of producing a visible or audible effect by combustion, deflagration, or detonation. Fireworks consist of consumer fireworks, low-impact ~~low-grade~~ fireworks, pyrotechnic articles, display fireworks, homemade fireworks, and special effects. ~~As defined in HB 4293 & 4294~~

Low-impact fireworks means ground and handheld sparkling devices as that phrase is defined under APA Standard 87-1, 3.1, 3.1.1.1 to 3.1.1.8, and 3.5. ~~one or more of the following: (i) ground and handheld sparking devices as that phrase is defined under APA Standard 87-1 3.1; (ii) novelties as defined under APA Standard 87-1 3.2; (iii) toy plastic or paper caps for toy pistols, (iv) toy pistols, toy cannons, toy canes, toy trick noisemakers, and toy guns, (v) flitter sparklers, and (vi) toy snakes. As defined in HB 4293 & 4294~~

Minor means any individual who is less than 18 years of age.

National holiday means the following legal public holidays:

(1) New Year's Day, January 1.

(2) Birthday of Martin Luther King, the third Monday in January.

(3) Washington's Birthday, the third Monday in February.

(4) Memorial Day, the last Monday in May.

(5) Independence Day, July 4.

(6) Labor Day, the first Monday in September.

(7) Columbus Day, the second Monday in October.

(8) Veterans Day, November 11.

(9) Thanksgiving Day, the fourth Thursday in November.

(10) Christmas Day, December 25.

(Ord. No. 13-234, § 14-61.2, 6-20-2013)

Sec. 14-92. Exceptions to division provisions.

The possession, transportation, sale or use of blank cartridges or blank cartridge pistols for show or theater or for the training or exhibiting of dogs, or for signal purposes or athletic events or by railroads, or for the use by the

militia or any organization of war veterans, shall be permitted notwithstanding the other provisions of this division.

(Code 2006, § 14-62; Ord. No. 03-205, § 52-4.2, 4-14-2003)

~~**Sec. 14-63. Manufacture, sale, distribution and possession.**~~

~~Except as otherwise permitted by state law, no person shall manufacture, sell, expose for sale, keep with intent to sell, distribute, transport, or possess any fireworks within the city.~~

~~(Code 2006, § 14-63; Ord. No. 03-205, § 52-4.3, 4-14-2003)~~

Sec. 14-93. Ignition, discharge and use of consumer fireworks.

A person shall not ignite, discharge or use consumer fireworks, except on the day preceding, the day of, or the day after a national holiday from 8:00 a.m. until 12:00 midnight, and during the following additional times:

(1) On December 31 from 8:00 a.m. until 1:00 a.m. on January 1.

(2) On the Saturday and Sunday immediately preceding Memorial Day from 8:00 a.m. until 12:00 midnight.

(3) On June 29 to July 5 from 8:00 a.m. until 12:00 midnight on each of those days.

(4) On the Saturday and Sunday immediately preceding Labor Day from 8:00 a.m. until 12:00 midnight.

(Code 2006, § 14-64; Ord. No. 03-205, § 52-4.4, 4-14-2003; Ord. No. 13-234, § 14-64, 6-20-2013)

~~**Sec. 14-65. Sale to minors.**~~

~~Notwithstanding any other law, regulation or ordinance, it is unlawful to sell, offer to sell, distribute, give or furnish any fireworks to any person under the age of 18 years.~~

~~(Code 2006, § 14-65; Ord. No. 03-205, § 52-4.5, 4-14-2003)~~

~~**Sec. 14-65.2. Possession of consumer firework by minor.**~~

~~A minor shall not possess consumer fireworks.~~

~~(Ord. No. 13-234, § 14-65.2, 6-20-2013)~~

~~**Sec. 14-66. Storage.**~~

~~The storage of fireworks at the site of a wholesaler, dealer, retailer, or jobber shall be regulated pursuant to the provisions of the state fireworks law, section 243d of Public Act No. 358 of 1968 (MCL 750.243d), which section, and any subsequent amendments, are hereby incorporated by reference and made a part of this Code.~~

~~(Code 2006, § 14-66; Ord. No. 03-205, § 52-4.6, 4-14-2003)~~

~~**Sec. 14-67. Labeling and packaging; seizure.**~~

~~All fireworks which are possessed, stored, sold, displayed, or distributed within the city shall be properly labeled and packaged as required by regulations of the state department of agriculture and the U.S. Consumer Product Safety Commission. Any fireworks which are improperly labeled, stored, or packaged are hereby declared to be contraband and subject to immediate seizure and destruction by the fire marshal and police chief, in addition to any other penalty provided in this Code.~~

~~(Code 2006, § 14-67; Ord. No. 03-205, § 52-4.7, 4-14-2003)~~

Sec. 14-94. Permit for public displays.

(a) *Grant; transferability*. The city council may, upon receipt of written application, grant a permit for the supervised public display of fireworks by fair associations, amusement parks, or other organizations or groups approved by the city council, or permits for outdoor pest control or agricultural purposes. Applications for permits shall be made in writing on forms provided by the director of the department of state police, or by the police chief, and shall designate a competent operator approved by the police chief. The display shall be of such a character and so located, discharged or fired so as, in the opinion of the chief, after proper investigation, not to be hazardous to property or endanger any person. No permit granted under this section shall be transferable.

(b) *Bond or certificate of public liability insurance*. The permittee shall furnish a bond or certificate of public

liability insurance in an amount deemed adequate by the police chief for the payment of all damages which may be caused to persons or property by reason of the permitted display.

(Code 2006, § 14-68; Ord. No. 03-205, § 52-4.8, 4-14-2003)

Sec. 14-95. Determination of violation; seizure.

If a police officer determines that a violation of this division has occurred, the officer may seize the consumer fireworks as evidence of the violation.

(Ord. No. 13-234, § 14-69, 6-20-2013)

Sec. 14-96. Penalty.

Violations of this division are subject to a fine of $1,000.00, $500.00 of which shall be remitted by the city to the law enforcement agency responsible for enforcing this division. ~~A violation of this article is a civil infraction, punishable by a fine of up to $500.00 plus the cost of prosecution. Following final disposition of a finding of responsibility for violating this article the city may dispose of or destroy any consumer fireworks retained as evidence in that prosecution. In addition to any other penalty a person that is found responsible for a violation of this article shall be required to reimburse the city for the cost of storing, disposing of or destroying consumer fireworks that were confiscated for a violation of this article~~

(Ord. No. 13-234, § 14-70, 6-20-2013)

Chapter 15

RESERVED

Chapter 16

HEALTH AND PUBLIC WELFARE

(RESERVED)

Chapter 17

RESERVED

Chapter 18

HUMAN RELATIONS*

***State law reference—**Elliott-Larsen Civil Rights Act, MCL 37.2101 et seq.; housing discrimination, MCL 37.2501 et seq.

(RESERVED)

Chapter 19

RESERVED

Chapter 20

LAW ENFORCEMENT*

***State law reference**—Commission on Law Enforcement Standards Act, MCL 28.601 et seq.; minimum employment standards, MCL 28.609.

ARTICLE I. IN GENERAL

Secs. 20-1--20-18. Reserved.

ARTICLE II. POLICE DEPARTMENT (RESERVED)

Secs. 20-19--20-39. Reserved.

ARTICLE III. MUNICIPAL CIVIL INFRACTIONS*

***State law reference**—Municipal ordinance violations bureau, MCL 600.8396 et seq.; Revised Judicature Act of 1961, MCL 600.101 et seq.; municipal civil infractions, MCL 600.8701 et seq.

Sec. 20-40. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Authorized city official means a police officer or other personnel of the city authorized by section 20-46 to issue municipal civil infraction citations or municipal civil infraction violation notices.

Bureau means the city municipal ordinance violations bureau as established by this article.

Civil infraction means and references the violation of a particular statute for which the penalty is minor, such as a parking infraction.

Municipal civil infraction action means a civil action in which the defendant is alleged to be responsible for a municipal civil infraction.

Municipal civil infraction citation means a written complaint or notice prepared by an authorized city official, directing a person to appear in court regarding the occurrence or existence of a municipal civil infraction violation by the person cited.

Municipal civil infraction violation notice means a written notice prepared by an authorized city official, directing a person to appear at the city municipal ordinance violations bureau and to pay the fine and costs, if any, prescribed for the violation by the schedule of civil fines adopted by the city, as authorized under ~~sections 8396 and 8707(6) of the act~~ MCL 600.8396 and MCL 600.8707(6)).

(Code 2006, § 18-31; Ord. No. 181, § 15-2, 4-10-2000; Ord. No. 2016-242, § 16, 10-20-2016; Ord. No. 2016-243, § 16, 11-17-2016)

State law reference—Similar definitions, MCL 600.8701.

Sec. 20-41. Warning letters and commencement of action.

(a) Prior to commencing a municipal civil infraction action, an authorized city official may send a warning letter by regular or certified mail to the alleged violator advising the recipient of the alleged municipal civil infraction and directing the alleged violation be corrected within 30 days of the date the warning letter was issued, or within a designated time of up to 30 days. If the authorized city official determines that the recipient has made substantial progress to correct the violation within the initially specified timeframe, the period to correct the violation may be extended in writing. If the violation is not corrected within the initially specified timeframe, the authorized city official may commence a municipal civil infraction action or issue a violation notice as permitted by this article. Nothing in this section shall be construed to require a warning letter prior to commencing a civil infraction action or issuing a violation notice.

(b) A municipal civil infraction action may be commenced for any violation of this Code designated by this

Code as a municipal civil infraction upon the issuance by an authorized city official of a municipal civil infraction citation directing the alleged violator to appear in court or a municipal civil infraction violation notice directing the alleged violator to appear at the city municipal ordinance violation bureau.

(Code 2006, § 18-32; Ord. No. 181, § 15-3, 4-10-2000; Ord. No. 2016-242, § 17, 10-20-2016; Ord. No. 2016-243, § 17, 11-17-2016)

State law reference—Similar provisions, MCL 600.8703.

Sec. 20-42. Issuance and service of citations.

Municipal civil infraction citations shall be issued and served by authorized city officials as follows:

(1) The time for appearance specified in a citation shall be within a reasonable time after the citation is issued.

(2) The place for appearance specified in a citation shall be the district court for the county.

(3) Each citation shall be numbered consecutively and shall be in a form approved by the state court administrator. The original citation shall be filed with the district court. Copies of the citation shall be retained by the city and issued to the alleged violator as provided by ~~section 8705 of the act~~ MCL 600.8705.

(4) A citation for a municipal civil infraction signed by an authorized city official shall be treated as made under oath if the violation alleged in the citation occurred in the presence of the official signing the complaint and if the citation contains the following statement immediately above the date and signature of the official: "I declare under the penalties of perjury that the statements above are true to the best of my information, knowledge and belief."

(5) An authorized city official who witnesses a person commit a municipal civil infraction shall prepare and subscribe, as soon as possible and as completely as possible, an original and required copies of a citation.

(6) An authorized city official may issue a citation to a person if:

a. Based upon investigation, the official has reasonable cause to believe that the person is responsible for a municipal civil infraction; or

b. Based upon investigation of a complaint by someone who allegedly witnessed the person commit a municipal civil infraction, the official has reasonable cause to believe that the person is responsible for an infraction and the prosecuting attorney or city attorney approves in writing the issuance of the citation.

(7) Municipal civil infraction citations shall be served by an authorized city official as follows:

a. Except as otherwise provided by this section, an authorized city official shall personally serve a copy of the citation upon the alleged violator.

b. If the municipal civil infraction action involves the use or occupancy of land, a building, or other structure, a copy of the citation does not need to be personally served upon the alleged violator, but may be served upon an owner or occupant of the land, building, or structure by posting the copy on the land or attaching the copy to the building or structure. In addition, a copy of the citation shall be sent by first class mail to the owner of the land, building, or structure at the owner's last known address.

(Code 2006, § 18-33; Ord. No. 181, § 15-4, 4-10-2000)

State law reference—Similar provisions, MCL 600.8707.

Sec. 20-43. Citation contents.

(a) A municipal civil infraction citation shall contain the name and address of the alleged violator, the municipal civil infraction alleged, the place where the alleged violator shall appear in court, the telephone number of the court, and the time at or by which the appearance shall be made.

(b) Further, the citation shall inform the alleged violator that he may do one of the following:

(1) Admit responsibility for the municipal civil infraction by mail, in person, or by representation, at or by the time specified for appearance.

(2) Admit responsibility for the municipal civil infraction with explanation by mail by the time specified for appearance, or in person, or by representation.

(3) Deny responsibility for the municipal civil infraction by doing either of the following:

a. Appearing in person for an informal hearing before a judge or district court magistrate, without the opportunity of being represented by an attorney, unless a formal hearing before a judge is requested by the city.

b. Appearing in court for a formal hearing before a judge, with the opportunity of being represented by an attorney.

(c) The citation shall also inform the alleged violator of the following:

(1) That if the alleged violator desires to admit responsibility with explanation in person or by representation, the alleged violator must apply to the court in person, by mail, by telephone, or by representation within the time specified for appearance and obtain a scheduled date and time for an appearance.

(2) That if the alleged violator desires to deny responsibility, the alleged violator must apply to the court in person, by mail, by telephone, or by representation within the time specified for appearance and obtain a scheduled date and time to appear for a hearing, unless a hearing date is specified on the citation.

(3) That a hearing shall be an informal hearing unless a formal hearing is requested by the alleged violator or the city.

(4) That at an informal hearing the alleged violator must appear in person before a judge or district court magistrate, without the opportunity of being represented by an attorney.

(5) That at a formal hearing the alleged violator must appear in person before a judge with the opportunity of being represented by an attorney.

(d) The citation shall contain a notice in boldface type that the failure of the alleged violator to appear within the time specified in the citation or at the time scheduled for a hearing or appearance is a misdemeanor and will result in entry of a default judgment against the alleged violator on the municipal civil infraction.

(e) All issued citations/notices shall bear a boldfaced heading or subject line clearly identifying the document as a citation. ~~All issued notices shall bear a boldfaced heading or subject line clearly identifying the document.~~

(Code 2006, § 18-34; Ord. No. 181, § 15-5, 4-10-2000; Ord. No. 2016-242, § 18, 10-20-2016; Ord. No. 2016-243, § 18, 11-17-2016)

State law reference—Similar provisions, MCL 600.8709.

Sec. 20-44. Municipal ordinance violations bureau.

(a) *Established*. The city hereby establishes a municipal ordinance violations bureau, as authorized under ~~section 8396 of the act~~ MCL 600.8396, to accept admissions of responsibility for municipal civil infractions in response to municipal civil infraction violation notices issued and served by authorized city officials, and to collect and retain civil fines and costs as prescribed by this Code or any ordinance.

(b) *Location; supervision; employees; adoption of rules and regulations*. The bureau shall be located at the city office and is under the supervision and control of the city manager. The manager, subject to the approval of the city ~~board~~ council, shall adopt rules and regulations for the operation of the bureau and appoint any necessary qualified city employees to administer the bureau.

(c) *Disposition of violations*. The bureau may dispose only of municipal civil infraction violations for which a fine has been scheduled by section 1-12(d) and for which a municipal civil infraction violation notice, as compared with a citation, has been issued. The fact that a fine has been scheduled for a particular violation shall not entitle any person to dispose of the violation at the bureau. Nothing in this article shall prevent or restrict the city from issuing a municipal civil infraction citation for any violation or from prosecuting any violation in a court of

competent jurisdiction. No person shall be required to dispose of a municipal civil infraction violation at the bureau, and a person may have the violation processed before a court of appropriate jurisdiction. The unwillingness of any person to dispose of any violation at the bureau shall not prejudice the person or in any way diminish the person's right, privileges, and protection accorded by law.

(d) *Bureau limited to accepting admissions of responsibility*. The scope of the bureau's authority shall be limited to accepting admissions of responsibility for municipal civil infractions and collecting and retaining civil fines and costs as a result of those admissions. The bureau shall not accept payment of a fine from any person who denies having committed the offense or who admits responsibility only with explanation, and in no event shall the bureau determine, or attempt to determine, the truth or falsity of any fact or matter relating to an alleged violation.

(e) *Municipal civil infraction violation notices*. Municipal civil infraction violation notices shall be issued and served by authorized city officials under the same circumstances and upon the same persons as provided for citations as provided in section 20-42. In addition to any other information required by this article or any other ordinance, the notice of violation shall indicate the time by which the alleged violator must appear at the bureau, the methods by which an appearance may be made, the address and telephone number of the bureau, the hours during which the bureau is open, the amount of the fine scheduled for the alleged violation, and the consequences for failure to appear and pay the required fine within the required time.

(f) *Appearance; payment of fines and costs*. An alleged violator receiving a municipal civil infraction violation notice shall appear at the bureau and pay the specified fine and costs at or by the time specified for appearance in the municipal civil infraction violation notice. An appearance may be made by mail, in person, or by representation.

(g) *Procedure where admission of responsibility not made or fine not paid*. If an authorized city official issues and serves a municipal ordinance violation notice and if an admission of responsibility is not made and the civil fine and costs, if any, prescribed by the schedule of fines for the violation are not paid at the bureau, a municipal civil infraction citation may be filed with the district court and a copy of the citation may be served by first class mail upon the alleged violator at the alleged violator's last known address. The citation shall comply in all particulars with the requirements for citations as provided by ~~sections 8705 and 8709 of the act~~ MCL 600.8705 and 600.8709 and shall fairly inform the alleged violator how to respond to the citation.

(Code 2006, § 18-35; Ord. No. 181, § 15-6, 4-10-2000)

Sec. 20-45. Schedule of civil fines.

(a) A schedule of fines payable to the municipal ordinance violations bureau for admissions of responsibility by persons served with municipal ordinance violation notices is established in section 1-12(d).

(b) A copy of the schedule, as amended from time to time, shall be posted at the bureau.

(c) Unless another penalty is expressly provided for by this section or by any other city ordinance for the violation of any particular provision or section, every person found responsible by the judge or district court magistrate for a violation of any provision of a city ordinance designated as a municipal civil infraction shall pay a civil fine of not more than $500.00 plus costs, damages, and expenses as follows:

(1) A person found responsible by the judge or district court magistrate for any violation of a city ordinance charged as a municipal civil infraction shall pay the stipulated civil fine and costs to be determined by the court or magistrate, which may include all expenses, direct and indirect (including attorney fees), to which the city has been put in connection with the municipal civil infraction, up to the entry of the judgment. Costs of not less than $9.00 nor more than $500.00 shall be ordered.

(2) In addition to ordering the defendant to pay a civil fine, costs, damages, and expenses, the judge or district court magistrate may issue such writs or injunctive orders as necessary to abate a nuisance as provided by ~~section 2940 of the act~~ MCL 600.2940, or issue any judgment, writ or order necessary to enforce the city ordinance as provided by ~~section 8302 of the act~~ MCL 600.8302.

(3) If a defendant fails to comply with an order or judgment issued pursuant to this section within the time prescribed by the court, the court may proceed under ~~sections 8729 and 8731 of the act~~ MCL 600.8729 and MCL 600.8731. A defendant who fails to answer a citation or notice to appear in court for a municipal

civil infraction is guilty of a misdemeanor and shall be punished by a fine of not more than $500.00 and costs of prosecution or by imprisonment for not more than 90 days, or both such fine and imprisonment.

(4) If a defendant does not pay a civil fine or costs or expenses or an ordered installment payment within 30 days after the date on which payment is due in a municipal civil infraction action brought for a violation involving the use or occupation of land or a building or other structure, the city may obtain a lien against the land, building or structure involved in the violation by recording a copy of the court order requiring payment of the fine, costs, and expenses with the county register of deeds containing the legal description of the property, which lien may be recorded and enforced in the manner provided by ~~section 8731 of the act~~ MCL 600.8731.

(5) In a municipal civil infraction action involving the use or occupancy of land or a building or other structure, a copy of the citation need not be personally served upon the alleged violator but may be served upon an owner or occupant of the land, building, or structure by posting the copy on the land or attaching the copy to the building or structure. In addition, a copy of the citation shall be sent by first class mail to the owner of the land, building, or structure at the owner's last known address.

(6) Each act of violation and every day upon which a violation shall occur shall constitute a separate offense.

(Code 2006, § 18-36; Ord. No. 181, § 15-7, 4-10-2000)

Sec. 20-46. Persons authorized to issue violation notices.

Any city police officer, county or deputy sheriff, the city building official, the city zoning administrator, and the city manager and his designees are authorized to issue municipal civil infraction citations or municipal civil infraction violation notices under this article.

(Code 2006, § 18-37; Ord. No. 181, § 15-8, 4-10-2000)

Chapter 21

RESERVED

Chapter 22

NUISANCES*

***State law reference—**Public nuisances and abatement, MCL 600.3801 et seq.

ARTICLE I. IN GENERAL

Secs. 22-1--22-18. Reserved.

ARTICLE II. REFUSE, JUNK AND BLIGHT*

***State law reference**—Abandoned vehicles, MCL 257.252 et seq.; littering, MCL 324.8901 et seq.

Sec. 22-19. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Blighted structure means, without limitation, any dwelling, garage, or outbuilding, or any factory, shop, store, office building, warehouse or any other structure or part of a structure, which, because of fire, wind, or other natural disaster, or physical deterioration, is no longer habitable as a dwelling, nor useful for the purpose for which it may have been intended.

Building materials means, without limitation, lumber, brick, concrete or cinderblocks, lumbering materials, electrical wiring or equipment, heating ducts or equipment, shingles, mortar, concrete or cement, nails, screws, or any other materials used in constructing any structure.

Junk means, without limitation, parts of machinery or motor vehicles, broken and unusable furniture, stoves, refrigerators or other appliances, remnants of wood, metal or any other cast-off material of any kind, whether or not the same could be put to any reasonable use.

Junk motor vehicles means, without limitation, any vehicle which is not licensed for use upon the highways of the state for a period in excess of 30 days, and shall also include, whether licensed or not, any motor vehicle which is inoperative for any reason for a period in excess of 30 days. There is excepted from the definition of the term "junk motor vehicles" unlicensed, but inoperative, vehicles which are kept as the stock in trade of a regularly licensed and established dealer of new or used automobiles or other motorized vehicles.

Person means all natural persons, firms, copartnerships, and corporations and all associations of natural persons, incorporated or unincorporated, whether acting by themselves, or by a servant, agent or employee. Anyone~~All persons~~ who violates any of the provisions of this article, whether as owner, occupant, lessee, agent, servant, or employee, shall, except as otherwise provided in this article, be equally liable as principals.

Trash, rubbish and *refuse* mean any and all forms of debris not otherwise classified in this section.

(Code 1972, § 53-2; Code 2006, § 12-31)

Sec. 22-20. Purpose.

The purpose of this article is to combat the storage or accumulation of refuse, trash, rubbish, junk, junk vehicles, or building materials and the maintenance of blighted structures upon any private property within the city which tends to result in blighted and deteriorated neighborhoods, the spread of vermin and disease, and increase in criminal activity, and, therefore, is contrary to the public peace, health, safety and general welfare of the community.

(Code 1972, § 53-3; Code 2006, § 12-32)

Sec. 22-21. Dumping or storing trash on street or other public place.

No person shall dump, place or keep any trash, refuse or rubbish of any kind upon any street or public place of the city, unless the trash, refuse or rubbish is in a container for the purpose of rubbish collection by the city or by recognized rubbish collectors.

(Code 1972, § 53-4; Code 2006, § 12-33)

Sec. 22-22. Dumping or storing materials harboring vermin.

No person shall dump, place or keep any trash, refuse or rubbish of any kind, building materials or other materials upon any lot or premises in the city in a manner as to, or which does, harbor rats or other vermin or which serves as a breeding place for mosquitoes or other noisome insects; provided, however, that the prohibitions of this section shall not prevent the placing of building materials upon any lot or premises for the purposes of the building of any structure which is in the course of construction or is to be built within 90 days after such materials are placed upon the premises.

(Code 1972, § 53.5; Code 2006, § 12-34)

Sec. 22-23. Accumulation of trash or junk on private property.

It is unlawful for any person to store or to permit the storage or accumulation of trash, rubbish, junk, or junk vehicles on any private property in the city except within a completely enclosed building or upon the premises of a properly zoned licensed or approved junk dealer, junk buyer, dealer in used auto parts, or dealer in secondhand goods or junk.

(Code 1972, § 53-6; Code 2006, § 12-35)

Sec. 22-24. Blighted structures.

It is unlawful for any person to keep or maintain any blighted or vacant structure, dwelling, garage, outbuilding, factory, shop, store, or warehouse unless the same is kept securely locked, and the windows kept glazed or neatly boarded up and otherwise protected to prevent entrance thereto by unauthorized persons, or unless such structure is in the course of construction in accordance with a valid building permit issued by the city, and unless such construction is completed within a reasonable time.

(Code 1972, § 53-7; Code 2006, § 12-36)

Sec. 22-25. Storage of building materials.

It is unlawful for any person to store or permit the storage or accumulation of building materials on any private property, except in a completely enclosed building or except where such building materials are part of the stock in trade or business located on the property, or except when such materials are being used in the construction of a structure on the property in accordance with a valid building permit issued by the city, and unless such construction is complete within a reasonable time.

(Code 1972, § 53.8; Code 2006, § 12-37)

Sec. 22-26. Removal of junk vehicles by city; exception for vehicle awaiting repair; extensions.

(a) The zoning administrator and city police officers ~~mayor, city clerk or enforcement officer or the duly authorized representative of such officials~~ may remove or cause to be removed any junk vehicle or parts thereof from any unenclosed private property after having notified, in writing, the owner or occupant of such property of his intention to do so at least 48 hours prior to such removal. Such junk vehicles or parts thereof shall be removed and disposed of in accordance with the law; the owner of blighted property may be billed for any associated costs.

(b) As an exception to the 30-day time limit established in the definition of the term "junk motor vehicles" in section 22-19, an inoperable vehicle may remain upon the premises of a motor vehicle repair garage for a period of 120 days rather than 30 days, with an extension of an additional 30-day period upon presentation to the enforcing officer of written proof that the offending vehicle is involved in insurance claims litigation or a similar matter and additional time is required for settlement before a vehicle can be moved.

(c) The cost of hauling away and disposing of the junk vehicles or parts thereof may be charged to the person who appears as owner or party in interest upon the last local tax assessment records of the city and shall be collected in the same manner as other taxes are collected.

(d) The city shall have a lien upon such lands for such expense, which shall be enforced in the same manner prescribed by state law providing for the enforcement of tax liens.

(e) Removal by the designated enforcement official pursuant to this section shall not excuse or relieve any person of the obligation imposed by this article to keep his property free from storage or accumulation of junk

vehicles or parts thereof, nor from the penalties for violation thereof.

(f) A resident may petition the city council to extend the 30-day time limit for remove of a junk vehicle. The city council may grant an extension only in exceptional circumstances, and in granting an extension may impose other requirements, such as requiring that it be enclosed within a building, requiring that it be covered by a manufactured car cover, and designating the location on the property in which the automobile may be stored. The city council, in granting an extension of time, may not grant an extension in excess of 120 days.

(Code 1972, §§ 53-9, 53-11; Code 2006, §§ 12-38, 12-39; Ord. No. 2016-242, § 12, 10-20-2016; Ord. No. 2016-243, 11-17-2016)

Secs. 22-27--22-55. Reserved.

ARTICLE III. NOXIOUS WEEDS*

***State law reference**—Noxious weeds, MCL 247.61 et seq.

Sec. 22-56. Cutting required.

(a) No person who is the owner, possessor, or occupier of lands within the city shall fail to cut down or pull out all ragweed (*Ambrosia elatior L.*), Canada thistle (*Circum arvense*), doddlers (any species of Cuscute), mustards (charlock, black mustard, and Indian mustard, species of *Brassica* or *Sinapis*), wild carrot (*Cancus carote*), poison ivy (*Rhus toxicondendron*), poison sumac (*Rhus vernix*), or other noxious weeds, or any weed or grass, the height of which is ~~12~~ eight inches or greater, growing thereon or on the parkway adjacent to the streets or alleys of the city, as often in each year as shall be sufficient to prevent them from going to seed, and to prevent ragweed from going to blossom.

(b) No person shall release or cause to be released into the storm drainage system any substance not composed entirely of storm drain water, including, but not limited to, grass clippings, yard waste, animal waste, or any other non-water substance. Violations shall be subject to enforcement of general provisions.

(Code 2006, § 12-61; Ord. No. 104, § 53-11.1, 8-14-1978; Ord. No. 2016-242, § 13, 10-20-2016; Ord. No. 2016-243, § 13, 11-17-2016)

Sec. 22-57. Declaration of nuisance.

The noxious weeds described in section 22-56, or any tree, shrub, or plant, including weeds, which endangers public property or the health or safety of the public, are hereby declared to be a public nuisance.

(Code 2006, § 12-62; Ord. No. 104, § 53-11.2, 8-14-1978)

Sec. 22-58. Notice to abate.

The zoning administrator ~~building inspector~~ shall give written notice to the owner or occupier of the premises upon which such nuisance is located, or which adjoins that portion of a street or alley where such nuisance is located, to remove, trim, or dispose of the same within five days after service of such written notice.

(Code 2006, § 12-63; Ord. No. 104, § 53-11.3, 8-14-1978)

Sec. 22-59. Abatement by city upon failure to comply with notice.

If, at the expiration of the time limit in the notice provided for in section 22-58, the owner has not complied with the requirements thereof, the zoning administrator ~~building inspector~~ shall take such steps as, in his judgment, may be necessary to abate such nuisance. The cost of such abatement shall be charged against the premises, and the owner thereof, in accordance with the provisions of chapter 34.

(Code 2006, § 12-64; Ord. No. 104, § 53-11.4, 8-14-1978)

Sec. 22-60. Emergency abatement.

The zoning administrator ~~building inspector~~ may abate any public nuisance under this article without giving notice if the public health or safety requires immediate attention. The cost of abating such nuisance may be charged against the premises, and the owner thereof, in accordance with the provisions of chapter 34.

(Code 2006, § 12-65; Ord. No. 104, § 53-11.5, 8-14-1978)

Sec. 22-61. Right of entry.

The zoning administrator ~~building inspector~~ and his authorized representatives are hereby empowered to enter upon any premises in the city for the purpose of destroying noxious weeds under the provisions of this Code, and no person shall molest or interfere with the zoning administrator ~~building inspector~~ or his authorized representatives while he or they are engaged in destroying noxious weeds as provided in this article.

(Code 2006, § 12-66; Ord. No. 104, § 53-11.6, 8-14-1978)

Secs. 22-62--22-80. Reserved.

ARTICLE IV. NOISE*

***State law reference**—Motor vehicle mufflers, MCL 257.707 et seq.

Sec. 22-81. Purpose.

The making and creation of loud, unnecessary or unusual noises within the limits of the city is a condition which has existed for some time and the extent and volume of such noises is increasing. The making, creation or maintenance of such loud, unnecessary, unnatural or unusual noises which are prolonged, unusual and unnatural in their time, place and use affect and are a detriment to public health, comfort, convenience, safety, welfare and prosperity of the residents of the city. The necessity and the public interest for the provisions and prohibitions contained and enacted in this article is declared as a matter of legislative determination and public policy, and such provisions are in pursuance of and for the purpose of securing and promoting the public health, comfort, convenience, safety, welfare and prosperity and the peace and quiet of the city and its inhabitants.

(Code 2006, § 12-91; Ord. No. 145, § 55.1, 11-8-1993)

Sec. 22-82. Prohibited noise.

(a) It is unlawful for any person to create, assist in creating, permit, continue, or permit the continuance of any excessive, unnecessary, or unusually loud noise, or any noise which either annoys or disturbs a reasonable person of normal sensitivities or injuries, or endangers the comfort, repose, health, peace or safety of others within the city.

(b) The following acts, among others, are declared to be loud, disturbing, injurious and unnecessary and unlawful noises in violation of this section, but this enumeration shall not be deemed to be exclusive. Each such act which either continues or is repeated more than one-half hour beyond its inception shall be considered and may be prosecuted as a separate violation of this article.

(1) *Horns and signal devices*. The sounding of and horn or signal device on any automobile, motorcycle, bus, train, or other vehicle while not in motion, except as a danger signal or to give warning of intent to get into motion, or, if in motion, only as a danger signal after or as brakes are being applied and decelerating of the vehicle has begun; the creation by means of such signal devices of any unreasonably loud or harsh sounds; and the sounding of any signal device for any unreasonable or unnecessary period of time, not to exceed 15 minutes.

(2) *Radios, phonographs, and musical instruments*. The playing of any radio, phonograph, television set, amplified or unamplified musical instrument, loudspeaker, tape recorder, compact disc player, or other such electronic sound-producing devices, in such a manner or with volume at any time or place so as to annoy or disturb the quiet, comfort or repose of persons in any office or in any dwelling, hotel, hospital, or other type of residence, or of any persons in the vicinity. The operation of any such musical instrument or electronic sound-producing device in such a manner as to be plainly audible at a distance of 50 feet from the vehicle in which it is located shall be prima facie evidence of a violation of this section.

(3) *Shouting and whistling*. Yelling, shouting, hooting, whistling, singing, or the making of any loud noises on the public streets, between the hours of 11:00 p.m. and 7:00 a.m., or the making of any such noise at any time or place so as to annoy or disturb the quiet, comfort, or repose of persons in any dwelling, hotel, hospital, or other type of residence, or in any office, or of any persons in the vicinity, unless warning of imminent danger.

(4) *Hawking*. The hawking of goods, merchandise, or services in a loud or disturbing manner.

(5) *Animal and bird noises*. The keeping of any animal or bird which, by causing frequent or long continued noise, shall disturb the comfort or repose of any person. Such noise may not exceed 15 minutes.

(6) *Whistles or sirens*. The blowing of any whistles or sirens, except to give notice of the time to begin or stop work or as a warning of fire or danger.

(7) *Engine exhaust*. The discharge into the open air of the exhaust of any steam engine, or stationary internal combustion engine, except through a muffler or other device which effectively prevents loud or explosive noises therefrom.

(8) *Construction noises*. The erection (including excavation therefor), demolition, alteration, or repair of any building, and the excavation of streets and highways on Sundays, and other days, except between the hours of 7:00 a.m. and 8:00 p.m., unless a permit or authorization is first obtained from the city manager.

(9) *Devices to attract attention*. The use of any drum, loudspeaker, amplifier, or other instrument or device for the purpose of attracting attention for any purpose.

(Code 2006, § 12-92; Ord. No. 145, § 55.2, 11-8-1993; Ord. No. 13-238, 7-18-2013; Ord. No. 2016-242, § 14, 10-20-2016; Ord. No. 2016-243, § 14, 11-17-2016)

Sec. 22-83. Exceptions.

None of the terms or prohibitions of this article shall apply to or be enforced against:

(1) Any city-owned vehicles engaged in business of the city.

(2) Excavations or repairs of bridges, streets or highways by or on behalf of the city or the state, during the night season, when the public welfare and convenience renders it impossible to perform such work during the day.

(3) Special events, such as musical or theatric performances, where the council or city manager has given written permission.

(Code 2006, § 12-93; Ord. No. 145, § 55.3, 11-8-1993; Ord. No. 2016-242, § 15, 10-20-2016; Ord. No. 2016-243, § 15, 11-17-2016)

Sec. 22-84. Abatement of nuisances.

Whenever any nuisance caused by unlawful noise prohibited in this article shall be found on any premises or in any streets, or elsewhere in the city, contrary to this article, the mayor and police chief or police officers are each hereby respectively authorized in their reasonable discretion to cause the same to be summarily abated in such reasonable manner as they may think best, acting personally or through their duly authorized representatives.

(Code 2006, § 12-94; Ord. No. 145, § 55.4, 11-8-1993)

Chapter 23

RESERVED

Chapter 24

OFFENSES*

***State law reference**—Michigan penal code, MCL 750.1 et seq.

ARTICLE I. IN GENERAL

Sec. 24-1. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Public place means any street, alley, park, or public building, any place of business or assembly open to or frequented by the public, and any other place which is open to the public view, or to which the public has access.

(Code 1972, § 81.1; Code 2006, § 20-1; Ord. No. 03-210, § 81.1, 10-13-2003)

Sec. 24-2. Penalty.

Violation of the provisions of this chapter shall be deemed a misdemeanor.

(Code 1972, § 81.3; Code 2006, § 20-2; Ord. No. 03-210, § 81.3, 10-13-2003)

Secs. 24-3--24-22. Reserved.

ARTICLE II. OFFENSES AFFECTING GOVERNMENTAL FUNCTIONS

Sec. 24-23. Assaulting or obstructing police officer or firefighter.

It is unlawful for any person to assault, obstruct, resist, hinder, or oppose any member of the police force, any police officer, or any firefighter in the discharge of his duties as such.

(Code 1972, § 81.2(19); Code 2006, § 20-31; Ord. No. 03-210, § 81.2(19), 10-13-2003)

State law reference—Obstruction of police or government officers, MCL 750.479; assault, MCL 750.81 et seq.; disobedience to firefighter at fire, MCL 750.241.

Sec. 24-24. Summoning police department, fire department or ambulance service without cause.

It is unlawful for any person to summon, as a joke or prank or otherwise without good reason therefor, by telephone or otherwise, the police or the fire department or any public or private ambulance to go to any address where the service called for is not needed.

(Code 1972, § 81.2(22); Code 2006, § 20-32; Ord. No. 03-210, § 81.2(22), 10-13-2003)

State law reference—False report of crime, MCL 750.411a; false fire alarms, MCL 750.240.

Sec. 24-25. Making false report causing evacuation or closing of public building.

It is unlawful for any person to make a false report, by telephone or otherwise, to any public official which may be reasonably expected to cause the evacuation or closing of a building or place open to the public.

(Code 1972, § 81.2(27); Code 2006, § 20-33; Ord. No. 03-210, § 81.2(27), 10-13-2003)

State law reference—False police reports, MCL 750.411a.

Sec. 24-26. Impersonating public officer.

It is unlawful for any person to falsely impersonate a police officer, firefighter or housing, building or zoning code enforcer for the purpose of gaining entry to private property, or access to private records or access to public records which would not otherwise be subject to public disclosure under the law.

(Code 1972, § 81.2(28); Code 2006, § 20-34; Ord. No. 03-210, § 81.2(28), 10-13-2003)

State law reference—Falsely impersonating public officers, MCL 750.215.

Secs. 24-27--24-55. Reserved.

ARTICLE III. OFFENSES AGAINST THE PERSON

Sec. 24-56. Window peeping.

No person shall be found looking into the windows or doors of any house, apartment or other residence in the city in such a manner as would be likely to interfere with the occupant's reasonable expectation of privacy and without the occupant's express or implied consent.

(Code 1972, § 81.2(4); Code 2006, § 20-61; Ord. No. 03-210, § 81.2(4), 10-13-2003)

State law reference—Window peeper deemed a disorderly person, MCL 750.167(1)(c).

Sec. 24-57. Accosting, molesting others.

It is unlawful for any person to accost, molest, or otherwise assault either by touching or by word of mouth, or by sign or motion, any person in any public place with intent to interfere with or abuse that person.

(Code 1972, § 81.2(8); Code 2006, § 20-62; Ord. No. 03-210, § 81.2(8), 10-13-2003; Ord. No. 2016-242, § 19, 10-20-2016; Ord. No. 2016-243, § 19, 11-17-2016)

State law reference—Assaults, MCL 750.81.

Sec. 24-58. Jostling or crowding others; obstructing passage.

It is unlawful for any person to jostle or roughly crowd persons in any street, alley, park, or public building, or conduct oneself in any public place so as to obstruct the free and uninterrupted passage of the public.

(Code 1972, § 81.2(12); Code 2006, § 20-63; Ord. No. 03-210, § 81.2(12), 10-13-2003)

State law reference—Similar provisions, MCL 750.167(1)(l).

Sec. 24-59. Failure to support family.

It is unlawful for any person to refuse or neglect to support his family, if he shall have sufficient ability to do so.

(Code 1972, § 81.2(25); Code 2006, § 20-64; Ord. No. 03-210, § 81.2(25), 10-13-2003)

State law reference—Relief and support of poor persons, MCL 401.1 et seq.; person refusing or neglecting to support family deemed a disorderly person, MCL 750.167(1)(a).

Sec. 24-60. Malicious use of service provided by telecommunications service provider.

(a) It is unlawful to maliciously use any service provided by a telecommunications service provider with intent to terrorize, frighten, intimidate, threaten, harass, molest, or annoy another person, or to disturb the peace and quiet of another person by any of the following:

(1) Threatening physical harm or damage to any person or property in the course of a conversation or message through the use of a telecommunications service or device.

(2) Falsely and deliberately reporting by message through the use of a telecommunications service or device that a person has been injured, has suddenly taken ill, has suffered death, or has been the victim of a crime or an accident.

(3) Deliberately refusing or failing to disengage a connection between a telecommunications device and another telecommunications device or between a telecommunications device and other equipment provided for the transmission of messages through the use of a telecommunications service or device.

(4) Using vulgar, indecent, obscene, or offensive language or suggesting any lewd or lascivious act in the course of a conversation or message through the use of a telecommunications service or device.

(5) Repeatedly initiating a telephone call and, without speaking, deliberately hanging up or breaking the telephone connection as or after the telephone call is answered.

(6) Making an unsolicited commercial telephone call that is received between the hours of 9:00 p.m. and 9:00 a.m. For the purpose of this subsection, the term "an unsolicited commercial telephone call" means

a call made by a person or recording device, on behalf of a person, soliciting business or contributions.

(7) Deliberately engaging or causing to be engaged the use of a telecommunications service or device of another person in a repetitive manner that causes interruption in telecommunications service or prevents the person from utilizing his telecommunications service or device.

(b) As used in this section, the terms "telecommunications," "telecommunications service," and "telecommunications device" mean those terms as defined in MCL 750.540c.

(Code 1972, § 81.2(26); Code 2006, § 20-65; Ord. No. 03-210, § 81.2(26), 10-13-2003)

State law reference—Similar provisions, MCL 750.540e.

Secs. 24-61--24-78. Reserved.

ARTICLE IV. OFFENSES AGAINST PROPERTY

Sec. 24-79. Damaging or removing property.

It is unlawful for any person to willfully destroy or damage or in any manner deface, destroy, or injure any property not his own, or any publicly owned building, bridge, fire hydrant, alarm box, streetlight, street sign, or shade tree, or mark or post handbills on or in any manner mar the walls of any public building or any fence, tree, or pole within the city, or take or meddle with any property belonging to the city or remove such property from the building or place where it may be kept, placed, standing, or stored, without authority from the city manager or other official custodian of such property.

(Code 1972, § 81.2(7); Code 2006, § 20-91; Ord. No. 03-210, § 81.2(7), 10-13-2003)

State law reference—Malicious mischief generally, MCL 750.377a et seq.

Sec. 24-80. Urinating, defecating or spitting on public or private property.

It is unlawful for any person to urinate, defecate, or spit on any street, sidewalk, alley, park, parkway, parking lot or structure, or public carrier, or upon any public building or place of public assemblage or upon any other public or private property of another open to public view, or upon any private property of another without the consent of the owner, except where an approved sanitary facility is provided and used.

(Code 1972, § 81.2(9); Code 2006, § 20-92; Ord. No. 03-210, § 81.2(9), 10-13-2003)

Sec. 24-81. Trespassing in garden or orchard.

It is unlawful for any person to enter any enclosed or unenclosed vegetable garden or orchard located within the city without the consent of the owner or tenant, or his agent, and there cut down, injure, damage, destroy, eat or carry away any portion of such garden, including any growing thing, crop, tree, timber, grass, seed, soil, fertilizer, water supply, tool, implement, fence or any other protective device or any other thing used for the development, cultivation, maintenance and use of such gardens or orchards.

(Code 1972, § 81.2(20); Code 2006, § 20-93; Ord. No. 03-210, § 81.2(20), 10-13-2003)

State law reference—Mischief generally, MCL 750.377 et seq.; trespass, MCL 750.552.

Sec. 24-82. Prowling.

It is unlawful for any person to prowl about any alley or the private premises of any other person, without authority or the permission of the owner of such premises.

(Code 1972, § 81.2(21); Code 2006, § 20-94; Ord. No. 03-210, § 81.2(21), 10-13-2003; Ord. No. 2016-242, § 20, 10-20-2016; Ord. No. 2016-243, § 20, 11-17-2016)

Secs. 24-83--24-107. Reserved.

ARTICLE V. OFFENSES AGAINST PUBLIC PEACE*

***State law reference**—Riots and unlawful assemblies, MCL 752.541 et seq.; jostling or roughly crowding, MCL 750.167(1)(l); disturbing public places, MCL 750.170; disorderly intoxication, MCL 750.167(1)(c).

Sec. 24-108. Intoxication in public place.

It is unlawful for any person to be intoxicated in a public place and to directly endanger the safety of another person or property.

(Code 1972, § 81.2(1); Code 2006, § 20-121; Ord. No. 03-210, § 81.2(1), 10-13-2003)

State law reference—Similar provisions, MCL 750.167(1)(e).

Sec. 24-109. Begging or soliciting alms.

(a) *Definitions*. The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Accosting means approaching or speaking to someone in such a manner as would cause a reasonable person to fear imminent bodily harm or the commission of a criminal act upon the person, or upon property in his immediate possession.

Ask, beg and *solicit* mean and include the spoken, written or printed word or such other acts as are conducted in furtherance of the purpose of obtaining alms.

Forcing oneself upon the company of another means continuing to request, beg or solicit alms from a person after that person has made a negative response, blocking the passage of the individual addressed or otherwise engaging in conduct which could reasonably be construed as intended to compel or force a person to accede to demands.

(b) *Lawful begging or soliciting*. Except when performed in the manner and locations set forth in subsections (c) and (d) of this section, it is lawful to ask, beg or solicit money or other things of value within the city.

(c) *Prohibited locations*. It is unlawful for any person to solicit money or other things of value:

(1) On private property if the owner, tenant, or lawful occupant has asked the person not to solicit on the property or has posted a sign clearly indicating that solicitations are not welcome on the property;

(2) Within 15 feet of the entrance to or exit from any public toilet facility;

(3) Within 15 feet of an automatic teller machine, provided 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 automated teller machine facility;

(4) From any operator of a motor vehicle that is in traffic on a public street; provided, however, that this subsection shall not apply to services rendered in connection with emergency repairs requested by the owner or passengers of such vehicle;

(5) From any person who is waiting in line for entry to any building, public or private, including any residence, business, or athletic facility; or

(6) Within 15 feet of the entrance to or exit from a building, public or private, including any residence, business, or athletic facility.

(d) *Soliciting in prohibited manner*. It is unlawful for any person to solicit money or other things of value by accosting another or forcing oneself upon the company of another.

(Code 1972, § 81.2(5); Code 2006, § 20-122; Ord. No. 03-210, § 81.2(5), 10-13-2003; Ord. No. 2016-242, § 21, 10-20-2016; Ord. No. 2016-243, § 21, 11-17-2016)

State law reference—Begging, MCL 750.167(1)(h).

Sec. 24-110. Disturbing the peace; allowing premises to be used so as to disturb public peace.

It is unlawful for any person to disturb the public peace and quiet by loud or boisterous conduct or by engaging in any disturbance, fight, brawl or quarrel in any public place. It is also unlawful for any person to knowingly permit or suffer any place occupied or controlled by him to be used so as to disturb the public peace.

(Code 1972, §§ 81.2(10), 81.2(18); Code 2006, §§ 20-123, 20-126; Ord. No. 03-210, §§ 81.2(10). 81.2(18), 10-13-2003)

State law reference—Disturbing lawful meetings, MCL 750.170.

Sec. 24-111. Unlawful assemblies.

It is unlawful for any person to assemble or act in concert with four or more other persons for the purpose of engaging in conduct constituting the crime of riot, or to be present at an assembly that either has or develops such a purpose and to remain thereat with the intent to advance such purpose.

(Code 1972, § 81.2(11); Code 2006, § 20-124; Ord. No. 03-210, § 81.2(11), 10-13-2003)

State law reference—Similar provision, MCL 752.543; riots and unlawful assemblies, MCL 750.541 et seq.

Sec. 24-112. Loitering.

It is unlawful for any person to loiter, remain or wander in or about a place without apparent reason and under circumstances which warrant alarm for the safety of persons or property and, upon the appearance of a peace officer, take flight, manifestly endeavor to conceal himself, or, upon inquiry by a police officer, refuse to identify himself or give a reasonable, credible account of his conduct and purposes.

(Code 1972, § 81.2(13); Code 2006, § 20-125; Ord. No. 03-210, § 81.2(13), 10-13-2003)

Secs. 24-113--24-137. Reserved.

ARTICLE VI. OFFENSES AGAINST PUBLIC MORALS*

***State law reference**—Indecent or obscene conduct, MCL 750.167(1)(f); prostitution, MCL 750.448 et seq.; gambling, MCL 750.301 et seq.; controlled substances, MCL 333.7101 et seq.

Sec. 24-138. Public nudity.

(a) As used in this section, the term "public nudity" means knowingly or intentionally displaying in a public place, or for payment or promise of payment by any person, including, but not limited to, payment or promise of payment of an admission fee, any individual's genitals or anus with less than a fully opaque covering or a female individual's breast with less than a fully opaque covering of the nipple and areola. The term "public nudity" does not include any of the following:

(1) A woman's breastfeeding of a baby, whether or not the nipple or areola is exposed during or incidental to the feeding.

(2) Material as defined in ~~section 2 of Public Act No. 343 of 1984~~ MCL 752.362.

(3) Sexually explicit visual material as defined in ~~section 3 of Public Act No. 33 of 1978~~ MCL 722.673.

(b) Any person displaying public nudity is guilty of a misdemeanor.

(Code 2006, § 20-151)

State law reference—Similar provisions, MCL 117.4i(e); ordinances regulating or prohibited public nudity, MCL 117.5h.

Sec. 24-139. Indecent exposure.

It is unlawful for any person to knowingly engage in any indecent or obscene conduct in any public place, or knowingly make any immoral exhibition or indecent exposure of his person.

(Code 1972, § 81.2(2); Code 2006, § 20-152; Ord. No. 03-210, § 81.2(2), 10-13-2003)

State law reference—Similar provisions, MCL 750.335a.

Sec. 24-140. Nude swimming.

It is unlawful for any person to swim or bathe in the nude in any public place.

(Code 1972, § 81.2(6); Code 2006, § 20-153; Ord. No. 03-210, § 81.2(6), 10-13-2003)

Sec. 24-141. Prostitution.

(a) It is unlawful for any person, male or female, 16 ~~17~~ years of age or older, to accost, solicit or invite another in any public place, or in or from any building or vehicle, by word, gesture or any other means, to commit prostitution or to do any other lewd or immoral act.

(b) It is unlawful for any person to engage or offer to engage the services of another person for the purpose

of prostitution, lewdness or assignation, by payment in money or other form of consideration.

(c) It is unlawful for any person to keep, maintain or operate, or aid and abet in keeping, maintaining or operating, a house of ill fame, bawdy house or any house or place resorted to for the purpose of prostitution or lewdness.

(d) It is unlawful for any person to knowingly loiter in a house of ill fame or prostitution or a place where prostitution or lewdness is practiced, encouraged or allowed.

(Code 1972, § 81.2(15); Code 2006, § 20-154; Ord. No. 03-210, § 81.2(15), 10-13-2003; Ord. No. 2016-242, § 22, 10-20-2016; Ord. No. 2016-243, § 22, 11-17-2016)

State law reference—Loitering for purposes of prostitution, etc., MCL 750.167(1)(i); soliciting and accosting, MCL 750.448; offering to engage in prostitution, etc., MCL 750.449a; keeping or maintaining house of prostitution, etc., MCL 750.452.

Sec. 24-142. Operating or frequenting place where illegal business is conducted.

It is unlawful for any person to knowingly attend, frequent, operate or loiter in or about any place where prostitution, gambling, the illegal sale of alcoholic liquor or controlled substances, or any other illegal business or occupation is permitted or conducted.

(Code 1972, § 81.2(14); Code 2006, § 20-155; Ord. No. 03-210, § 81.2(14), 10-13-2003)

State law reference—Prostitution generally, MCL 750.448 et seq.; gambling generally, MCL 750.301 et seq.; loitering in a house of ill fame, MCL 750.167(1)(i); loitering in place of illegal occupation, MCL 750.167(1)(j); Michigan Liquor Control Code of 1998, MCL 436.1101 et seq.

Sec. 24-143. Transporting person to place where prostitution or gambling is practiced.

It is unlawful for any person to knowingly transport any person to a place where prostitution or gambling is practiced, encouraged, or allowed for the purpose of enabling such person to engage in such acts.

(Code 1972, § 81.2(16); Code 2006, § 20-156; Ord. No. 03-210, § 81.2(16), 10-13-2003)

Sec. 24-144. Gambling; gaming rooms.

It is unlawful for any person to keep or maintain a gaming room, gaming table, or any policy or pool tickets, used for gaming; knowingly suffer a gaming room, gaming tables or any policy or pool tickets to be kept, maintained, played or sold on any premises occupied or controlled by him except as permitted by law; conduct or attend any cockfight or dogfight; or place, receive, or transmit any bet on the outcome of any race, contest, or game of any kind whatsoever.

(Code 1972, § 81.2(17); Code 2006, § 20-157; Ord. No. 03-210, § 81.2(17), 10-13-2003)

State law reference—Gambling, MCL 750.301 et seq.

Secs. 24-145--24-171. Reserved.

ARTICLE VII. OFFENSES AGAINST PUBLIC SAFETY*

***State law reference**—Discharge of firearms, MCL 750.234 et seq.; license required to purchase, carry or transport a pistol, MCL 750.224 et seq.; concealed weapons, MCL 750.227.

DIVISION 1. GENERALLY

Sec. 24-172. Possession or discharge of firearm, airgun or slingshot in public place.

It is unlawful for any person to use, operate, or discharge any firearm, BB gun, air rifle, air rifle which projects projectiles, slingshot, bow and arrow, catapult, or any other toy shooting apparatus, gun, or implement that might result in damage or destruction of life or property within the limits of the city other than at a duly established range. For purposes of this section, the term "firearm" means any weapon from which a dangerous projectile may be propelled by using explosives, gas, or air as a means of propulsion

(Code 1972, § 81.2(3); Code 2006, § 20-181; Ord. No. 03-210, § 81.2(3), 10-13-2003)

State law reference—Authority to prohibit the discharge of firearms within city jurisdiction, MCL 123.1104.

Sec. 24-173. Throwing missile from moving automobile.

It is unlawful for any person to wrongfully throw or propel any snowball, missile or object from any moving automobile.

(Code 1972, § 81.2(23); Code 2006, § 20-182; Ord. No. 03-210, § 81.2(23), 10-13-2003)

Sec. 24-174. Throwing missile toward person or automobile.

It is unlawful for any person to wrongfully throw or propel any snowball, missile or object toward any person or automobile.

(Code 1972, § 81.2(24); Code 2006, § 20-183; Ord. No. 03-210, § 81.2(24), 10-13-2003)

Sec. 24-175. Carrying weapons; exceptions.

(a) It is unlawful for any person to carry a dagger, a dirk, a stiletto, a double-edged non-folding stabbing instrument of any length, or other dangerous weapon except hunting knives adapted and carried as such, concealed on or about his person, or whether concealed or otherwise in any vehicle operated or occupied by such person, except in his dwelling house or place of business or on other land possessed by such person.

(b) A dagger, dirk, stiletto, double-edged non-folding stabbing instrument of any length, metallic knuckles, blackjacks, saps, switchblades, and similar articles designed for the purpose of bodily assault or defense shall be dangerous weapons per se.

(c) Bludgeons, billys, karate sticks and similar articles which are commonly used for the purpose of bodily assault or defense, but which also may have a lawful and proper purpose under appropriate circumstances, are dangerous weapons only if used or carried for the purpose of assault or defense, unless such articles either have no lawful and proper purpose or have been modified so as to be either no longer useful for their intended lawful and proper purpose or have as their apparent purpose an instrument of bodily assault or defense, in which case they are presumed to be dangerous weapons.

(d) Pocket knives with blades three inches or less, razors, hammers, hatchets, wrenches, cutting tools, ball bats and similar articles generally used for peaceful and proper purposes are dangerous weapons only if used or carried for the purpose of assault or defense, unless such articles have been modified so as to be either no longer useful for their intended purpose or have as their apparent purpose an instrument of bodily assault or defense, in which case they are presumed to be dangerous weapons.

(e) The term "weapons" as used in this section does not include weapons, ammunition and weapons components as listed in MCL 123.1102.

(Code 1972, § 81.2(30); Code 2006, § 20-184; Ord. No. 03-210, § 81.2(30), 10-13-2003)

State law reference—Dangerous weapons, MCL 750.422 et seq.; limitation of regulation of pistols, other firearms, or pneumatic guns by local government, MCL 123.1102.

Secs. 24-176--24-203. Reserved.

DIVISION 2. DRUG PARAPHERNALIA*

***State law reference**—Drug paraphernalia, MCL 333.7451 et seq.

Sec. 24-204. Defined; factors used in determining.

(a) *Defined*. The term "drug paraphernalia" means all equipment, products or materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body a controlled substance in violation of state or local law. The term "drug paraphernalia" includes, but is not limited to:

(1) Kits used, intended for use or designed for use in planting, propagating, cultivating, growing or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived.

(2) Kits used, intended for use, or designed for use in manufacturing, compounding, converting, producing,

processing or preparing controlled substances.

(3) Isomerization devices used, intended for use or designed for use in increasing the potency of any species of plant which is a controlled substance.

(4) Testing equipment used, intended for use or designed for use in identifying or in analyzing the strength, effectiveness or purity of controlled substances.

(5) Scales or balances used, intended for use or designed for use in weighing or measuring controlled substances.

(6) Diluents and adulterants, such as quinine hydrochloride mannitol, mannite, dextrose and lactose, used, intended for use or designed for use in cutting controlled substances.

(7) Separation gins and sifters used, intended for use or designed for use in removing twigs and seeds from or in otherwise cleaning or refining marijuana.

(8) Blenders, bowls, containers, spoons and mixing devices used, intended for use or designed for use in compounding controlled substances.

(9) Capsules, balloons, envelopes and other containers used, intended for use or designed for use in packaging small quantities or controlled substances.

(10) Containers and other objects used, intended for use or designed for use in storing or concealing controlled substances.

(11) Hypodermic syringes, needles and other objects used, intended for use or designated for injecting controlled substances into the human body.

(12) Objects used, intended for use or designed for use in ingesting, inhaling or otherwise introducing marijuana, cocaine, hashish or methamphetamine into the human body, such as:

a. Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads or puncture metal bowls.

b. Water pipes.

c. Smoking carburization masks.

d. Roach clips, meaning objects used to hold burning materials, such as a marijuana cigarette, that has become too small or too short to be held in the hand.

e. Miniature cocaine spoons and cocaine vials.

f. Chamber pipes.

g. Carburetor pipes.

(b) *Determination*. In determining whether an object is drug paraphernalia, a court or other authority should consider, in addition to all other logically relevant factors, the following:

(1) Statements by an owner or by anyone in control of the objects concerning its use;

(2) Prior convictions, if any, of an owner, or of anyone in control of the object, under any state or federal law relating to any controlled substances;

(3) The proximity of the object, in time and space, to a direct violation of the state law;

(4) The proximity of the object to controlled substances;

(5) The existence of any residue of controlled substances on the object;

(6) Direct circumstantial evidence of the intent of an owner, or anyone in control of the object, to deliver it to persons whom he knows, or should reasonably know, intend to use the object to facilitate a violation of state or local law ~~or of this act~~; the innocence of an owner, or of anyone in control of the object, as to a direct violation of state, local law ~~or this act,~~ shall not prevent a finding that the object is intended for use or designed for use as drug paraphernalia;

(7) Instructions, oral or written, provided with the object concerning its use;

(8) Descriptive materials accompanying the object which explain or depict its use;

(9) National and local advertising concerning its use;

(10) The manner in which the object is displayed for sale;

(11) Whether the owner, or anyone in control of the object, is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer or tobacco products;

(12) Direct or circumstantial evidence of the ratio of sales of the object to the total sales of the business enterprise;

(13) The existence and scope of legitimate uses for the object in the community; and

(14) Expert testimony concerning its use.

(Ord. No. 13-237, § 20-185, 7-18-2013)

State law reference—Drug paraphernalia defined, MCL 333.7451.

Sec. 24-205. Possession prohibited.

It is unlawful for any person to use, or to possess with intent to use, drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance in violation of state or local law.

(Ord. No. 13-237, § 20-186, 7-18-2013)

Sec. 24-206. Manufacture, delivery or sale prohibited.

It is unlawful for any reason to deliver, sell, possess with intent to deliver or sell, or manufacture with intent to deliver or sell drug paraphernalia, knowing that it will be used to plant, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance in violation of state or local law.

(Ord. No. 13-237, § 20-187, 7-18-2013)

State law reference—Sale or offering for sale for specific use prohibited, MCL 333.7453.

Sec. 24-207. Advertisement prohibited.

It is unlawful for any person to place in any newspaper, magazine, handbill, sign, poster or other publication any advertisement, knowing that the purpose of the advertisement, in whole or in part, is to promote the sale of objects designed or intended for use as drug paraphernalia.

((Ord. No. 13-237, § 20-188, 7-18-2013)

Sec. 24-208. Exceptions.

This division shall not apply to manufacturers, wholesalers, licensed medical technicians, technologists, nurses, hospitals, research teaching institutions, clinical laboratories, medical doctors, osteopathic physicians, dentists, chiropodists, veterinarians, pharmacists and embalmers in the normal legal course of their respective business or profession, nor to persons suffering from diabetes, asthma or any other medical condition requiring self-injection.

((Ord. No. 13-237, § 20-189, 7-18-2013)

Sec. 24-209. Civil forfeiture.

Any drug paraphernalia used, sold, possessed with intent to use or sell, or manufactured with intent to sell in violation of this division shall be seized and forfeited to the city.

((Ord. No. 13-237, § 20-190, 7-18-2013)

Sec. 24-210. Penalty for violation.

Any person who is convicted of violation of any of the provisions of this division shall be deemed guilty of a misdemeanor and shall be punished by a fine not to exceed $500.00 or by imprisonment not to exceed 90 days, or both, at the discretion of the court. Each day a violation continues shall be considered a separate offense and may be punished accordingly.

(Ord. No. 13-237, § 20-191, 7-18-2013)

Secs. 24-211--24-228. Reserved.

ARTICLE VIII. MINORS

Sec. 24-229. Enticing minor to enter motor vehicle or private property.

It is unlawful for any person to invite, entice, coax, persuade, or induce by threat any minor child under the age of 16 ~~17~~ years to enter any motor vehicle, or conveyance, or private property or place, except where the parent or guardian of such child has given that person his express prior consent. This section shall not prohibit school personnel, peace officers, or public health or social welfare personnel from carrying out the normal duties of their employment.

(Code 1972, § 81.2(29); Code 2006, § 20-211; Ord. No. 03-210, § 81.2(29), 10-13-2003)

State law reference—Accosting, enticing or soliciting child for immoral purposes, MCL 750.145a.

Sec. 24-230. Curfew for minors.

(a) *Under 12 years of age.* No minor under the age of 12 years shall loiter, idle, congregate or be in or on any public street, highway, alley, park or public place between the hours of 9:00 p.m. and 6:00 a.m., unless the minor is accompanied by a parent or guardian or some adult delegated by the parent or guardian to accompany the minor.

(b) *Under 18 years of age.* Subject to the provisions in subsection (a) of this section, no minor under the age of 18 shall loiter, idle, congregate or be in or on any public street, highway, alley, park or public place between the hours of 10:00 p.m. and 6:00 a.m. except when the minor is accompanied by a parent or guardian or some adult delegated by the parent or guardian to accompany the minor, or where the minor is upon an errand or other legitimate business directed by his parent or guardian.

(c) *Aiding or abetting violation.* Any person who assists, aids, abets, allows or permits or encourages any minor to violate the provisions of the curfew restrictions of this section shall be guilty of a misdemeanor.

(d) *Exceptions.* The provisions of this section do not apply to:

(1) A minor going to or returning from work; provided that the minor's hours of employment do not violate state law; and provided further that such minor shall be exempt from the requirements of this section for not more than one hour before the minor's work day begins and not more than one hour after the minor's work day ends.

(2) A minor going to or returning from school or a school-sponsored activity; provided that such minor shall be exempt from the requirements of this section for not more than one hour before the minor's class begins or school sponsored activity ends at such school, and for not more than one hour after the minor's class ends or school sponsored activity ends at such school.

(3) A minor engaged in interstate travel with the consent of his parent or guardian.

(4) When the minor is upon an emergency errand directed by such minor's parent or guardian or other adult person having the lawful care and custody of such minor.

(5) A minor attending or traveling directly to or from an activity involving the exercise of first amendment rights of free speech, freedom of assembly or free exercise of religion.

(Ord. No. 08-216, §§ 1—4, 9-25-2008)

State law reference—Similar provisions, MCL 722.751—722.753.

Chapter 25

RESERVED

Chapter 26

PARKS AND RECREATION*

***State law reference**—Authority to operate recreation facilities and playgrounds, MCL 123.51 et seq.; Playground Equipment Safety Act, MCL 408.681 et seq.

ARTICLE I. IN GENERAL

Sec. 26-1. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Park means areas of land, with or without water, developed and used for public recreational purposes.

(Code 2006, § 22-31; Ord. No. 113, § 2)

Sec. 26-2. Penalties; eviction from park.

Any person violating any provision of the rules set forth in this chapter, except provisions of the state vehicle code incorporated in this chapter, shall be deemed guilty of a municipal civil infraction. Any person violating the provisions of the state vehicle code shall be subject to the fines and penalties set forth in that code. Persons violating any of the provisions of this chapter may also be evicted from the park or park land on the day of the offense.

(Code 2006, § 22-32; Ord. No. 154, § 85-20, 8-14-1995)

Secs. 26-3--26-22. Reserved.

~~**Sec. 22-33. Authority to establish rules, regulations and fees.**~~

~~The city council shall, by resolution, establish such reasonable rules, regulations and fees for the care and preservation of parks, for the maintenance of good order, for the protection of property and for the welfare of parks as shall from time to time be deemed necessary or expedient by the city council.~~

~~(Code 2006, § 22-33; Ord. No. 113, § 3)~~

~~**Sec. 22-34. Violations.**~~

~~No person shall violate the rules and regulations promulgated by the city council pursuant to this article.~~

~~(Code 2006, § 22-34; Ord. No. 113, § 4)~~

ARTICLE II. USE RESTRICTIONS

Sec. 26-23. Park hours.

(a) No person or vehicle shall remain upon public park property between dusk ~~the posted closing times~~ and sunrise except at designated fishing sites ~~camp areas~~ and other special use areas; provided, however, that such hours may be extended by permit. It is unlawful for any person to enter any portion of park lands or waters which have been designated as closed to public use or entry.

(b) Any park or park lands, or portions thereof, may be closed entirely or closed to certain uses, including, but not limited to, the use or possession of alcoholic beverages, for such period of time as may be determined by the city council or its designated representative.

(Code 2006, § 22-35; Ord. No. 154, § 85-8, 8-14-1995; Ord. No. 03-209, § 83.4, 10-13-2003)

Sec. 26-24. Preservation of property.

No person shall willfully disturb, destroy, alter, change, or remove any part of any park or any facility, building, sign, structure, equipment, utility, or other property found therein.

(Code 2006, § 22-36; Ord. No. 154, § 85-9.1, 8-14-1995)

Sec. 26-25. Preservation of natural resources and plant life.

(a) No person shall remove, or cause to be removed, any sod, earth, humus, peat, boulder, gravel, or sand found within any park without the written permission of the city council or its designated representative.

(b) No person shall cut, remove, dig, injure, pick, damage, deface or destroy any tree, flower, shrub or plant, whether alive or dead, found within any park without written permission of the city council or its designated representative.

(Code 2006, § 22-37; Ord. No. 154, § 85-9.2, 8-14-1995)

Sec. 26-26. Preservation of wildlife.

No person shall hunt, trap, bait, pursue, injure, kill or in any manner disturb any bird or animal on any land or waters under the jurisdiction of the city council. Fishing will be permitted in accordance with the state department of natural resources' laws and regulations.

(Code 2006, § 22-38; Ord. No. 154, § 85-9.3, 8-14-1995)

Sec. 26-27. Fires.

No person shall build a fire within any park except in grills or fire rings provided for such purpose. Fires on docks or beach areas are expressly forbidden. Firewood may be collected to be used within the parks only if dead and down (not standing).

(Code 2006, § 22-39; Ord. No. 154, § 85-9.4, 8-14-1995)

Sec. 26-28. Use of waste containers.

(a) No person shall place or deposit any garbage, glass, tin cans, paper or miscellaneous waste in any park or playground except in containers provided for that purpose.

(b) No person shall deposit any garbage, glass, tin cans, paper or miscellaneous waste in any trash containers within the park unless the garbage, glass, tin cans, paper and other waste arose and were generated as a result of activities by the person using the park.

(Code 2006, § 22-40; Ord. No. 154, § 85-9.5, 8-14-1995; Ord. No. 03-209, § 83.5, 10-13-2003)

Sec. 26-29. Weapons and explosives.

No person shall have in his possession or control any ~~firearm, shotgun, pistol or other fire- arm,~~ slingshot, ~~pellet gun, air rifle,~~ fireworks or explosives within any park, ~~; provided that this rule shall not apply to any law enforcement officer or private citizen lawfully possessing a concealed pistol license (CPL)~~ and no person shall have in his possession or control any bow or arrow within any park except by prior written permission by the city council.

(Code 2006, § 22-41; Ord. No. 154, § 85-9.6, 8-14-1995; Ord. No. 2016-242, § 23, 10-20-2016; Ord. No. 2016-243, § 23, 11-17-2016)

Sec. 26-30. Alcoholic beverages.

No person shall have in his possession within park boundaries any alcoholic beverages except beer or wine which may be brought into the park only in the original, non-glass containers that do not exceed 67.6 fluid ounces (two liters) in capacity. No glass containers shall be allowed or permitted within the park limits.

(Code 2006, § 22-42; Ord. No. 154, § 85-9.7, 8-14-1995; Ord. No. 2016-242, § 24, 10-20-2016; Ord. No. 2016-243, § 24, 11-17-2016)

Sec. 26-31. Disorderly conduct.

(a) No person shall be intoxicated or shall engage in any violent, abusive, loud, boisterous, vulgar, obscene or otherwise disorderly conduct tending to create a breach of the peace, or to disturb or annoy others.

(b) No person shall interfere with any park employee in the discharge of his duties or fail or refuse to obey any lawful command issued by a park employee.

(c) No person shall smoke any tobacco product within a city park while the park is hosting a youth event.

(Code 2006, § 22-43; Ord. No. 154, § 85-9.7, 8-14-1995; Ord. No. 2016-242, § 25, 10-20-2016)

Sec. 26-32. Audio devices.

No person shall use or operate any radio receiving set, musical instrument, phonograph, television or other machine or device that produces or reproduces sound in such a manner that produces excessive noise. The use of such a machine or device such that the sound produced therefrom is audible in any direction at a distance in excess of 100 feet shall be deemed a prima facie violation of this section unless written permission has been obtained from the city council or its designated representative.

(Code 2006, § 22-44; Ord. No. 154, § 85-9.8, 8-14-1995)

Sec. 26-33. Swimming, bathing and wading.

No person shall swim, bathe, or wade except within those areas so designated, and swimming is prohibited within those designated areas when so posted. Alcoholic beverages, glass containers, and pets are not allowed within the posted limits of the beach area. Scuba diving by certified divers may be permitted with prior written approval of the city council or its designated representative.

(Code 2006, § 22-45; Ord. No. 154, § 85-10, 8-14-1995)

Sec. 26-34. Dogs and other pets.

(a) Dogs or other pets are permitted in all city parks, unless otherwise posted, except within the designated bathing beaches, park buildings and shelters. Pets must be kept on a leash no greater than 12 feet in length under the immediate control of a responsible person and shall not be allowed to disturb or annoy park visitors. Guide, leader, hearing, and service dogs are permitted in all areas.

(b) The person who owns or is in charge of any dog shall immediately remove all droppings deposited by such dog by any sanitary method. The person who owns or is in charge of a guide, leader, hearing, or service dog is exempt from disposing of droppings deposited by such dog.

(Code 2006, § 22-46; Ord. No. 154, § 85-11, 8-14-1995)

Sec. 26-35. Horses.

It is unlawful for a person to ride, lead, or allow a horse to be upon any property not designated as a horse trail which is administered by or under the jurisdiction of the city council unless prior written permission has been obtained from the city council or its designated representative. This section does not apply to horses ridden by law enforcement personnel.

(Code 2006, § 22-47; Ord. No. 154, § 85-12, 8-14-1995)

Sec. 26-36. Bicycles.

No person shall operate a bicycle upon any foot trail or nature trail. No person shall ride a bicycle on any sidewalk which is posted against such use. This section does not apply to bicycles driven by law enforcement personnel.

(Code 2006, § 22-48; Ord. No. 154, § 85-13, 8-14-1995)

Sec. 26-37. Use of natural areas and nature trails.

Nature trails shall be for pedestrian traffic only. Picnicking and fires are prohibited within any nature trail area, unless written permission has been granted by the city council or its designated representative. Bicycles and horses are also prohibited within such areas.

(Code 2006, § 22-49; Ord. No. 154, § 85-14, 8-14-1995)

Sec. 26-38. Operation of motor vehicles.

(a) It is unlawful for any person within a city park to:

(1) Operate a motor-driven vehicle in excess of 15 miles per hour.

(2) Operate any motor-driven vehicle of any kind except on designated public roads.

(3) Operate a motor-driven vehicle in violation of posted traffic control signs or devices.

(4) Operate an unlicensed motor vehicle upon any park road or parking area.

(5) Operate an off-road vehicle (ORV) on any park property.

(6) Operate any motor vehicle where the operation is off the normal travelled portion of the roadways or designated parking areas, including, but not limited to, fields, nature trails, ballfields, or the frozen surface of any body of water.

(b) This section does not apply to vehicles driven by law enforcement personnel or public works employees.

(c) All motor-driven vehicles operated on park roadways or parking lots shall be subject to the state vehicle code, MCL 257.1 et seq.

(Code 2006, § 22-50; Ord. No. 154, §§ 85-15.1, 85-15.2, 8-14-1995)

Sec. 26-39. Gasoline-powered boats.

It is unlawful for anyone to operate a gasoline-powered boat motor on the waters of Lake Alliance.

(Code 2006, § 22-51; Ord. No. 154, § 85-15.3, 8-14-1995)

Sec. 26-40. Parking; prohibited activities in parking areas.

(a) It is unlawful for any person to park any motor vehicle within any area not designated as a parking area or space or to stop, stand or park any motor vehicle at any place where prohibited by official signs.

(b) It is unlawful for the operator of any vehicle to stop, stand, or park such vehicle upon any roadway or in any parking area in such a manner as to form an obstruction to traffic.

(c) When any police officer finds a vehicle unattended upon a roadway or in a parking area and where such vehicle constitutes an obstruction to traffic, such officer is hereby authorized to provide for the removal of such vehicle to the nearest garage or other place of safety. The necessary costs for such removal shall become a lien upon such vehicle and the person in whose custody the vehicle is given may retain it until all expenses involved have been paid.

(d) Prohibited activities in parking areas. The designated parking lots on park properties are only for the express use of the parking of vehicles, and entry and exit from the parked vehicles. All park activities, except traversing to and from parking lots or parking of vehicles in case of emergencies, are prohibited. No park land usage, including, but not limited to, picnicking, Frisbee throwing, games or other activities, shall be permitted in the parking lots of the city parks.

(Code 2006, § 22-52; Ord. No. 154, § 85-16, 8-14-1995)

Sec. 26-41. Commercial activities and advertising.

No person shall advertise, vend, sell, post, or distribute any service, food, beverage, merchandise, leaflet, or poster within any park except by prior written permit from the city council or its designated representative.

(Code 2006, § 22-53; Ord. No. 154, § 85-17, 8-14-1995)

Sec. 26-42. Camping prohibited.

No person shall camp within any city park~~ except in those areas or buildings designated for that purpose, provided always that written permission of the city council or its designated representative shall be acquired before any person may camp~~.

(Code 2006, § 22-54; Ord. No. 154, § 85-18, 8-14-1995)

Sec. 26-43. Using facilities without paying fee; using facilities when permit has been granted to another.

(a) It is unlawful for any person to use any facility, building, land area or equipment for which a fee or charge has been established by the city council, without payment of such fee or charge.

(b) It is unlawful for any person, group, or organization to occupy, use, or fail to vacate any facility, building, land area or equipment for which a permit has been granted to another person, group or organization.

(Code 2006, § 22-55; Ord. No. 154, § 85-19, 8-14-1995)

Chapter 27

RESERVED

Chapter 28

SOLID WASTE*

***State law reference**—Garbage Disposal Act, MCL 123.361 et seq.; solid waste facilities, MCL 324.4301 et seq.; Hazardous Waste Management Act, MCL 324.11101 et seq.; Hazardous Materials Transportation Act, MCL 29.417 et seq.; Solid Waste Management Act, MCL 324.11501 et seq.; Waste Reduction Assistance Act, MCL 324.14501 et seq.; Clean Michigan Fund Act, MCL 324.19101 et seq.; Low-Level Radioactive Waste Authority Act, MCL 333.26201 et seq.; litter control, MCL 324.8901 et seq.

(RESERVED)

Chapter 29

RESERVED

Chapter 30

STREETS, SIDEWALKS AND OTHER PUBLIC PLACES*

***State law reference**—City control of highways, Mich. Const. art. VII, § 29; obstructions and encroachments on public highways, MCL 247.171 et seq.; driveways, banners, events and parades, MCL 247.321 et seq.; liability of local government for injury the result of not keeping highway in reasonable repair, MCL 691.1402.

ARTICLE I. IN GENERAL

Sec. 30-1. Telecommunications within rights-of-way.

(a) *Purpose and intent.* The purpose of this section is to bring the city into conformity with ~~Public Act No. 48 of 2002, commonly known as~~ the Metropolitan Extension Telecommunications Rights-of-Way Oversight Act, MCL 484.3101 et seq., ~~It is the intention of the city to bring its policies and practices into conformance with the requirements of the act~~ so as to encourage the development of telecommunication services within the city and to improve the opportunities for the delivery of telecommunication services to the citizens of the city.

(b) *City opts into state Act.* The city has opted into the procedure set forth in the Metropolitan Extension Telecommunications Rights-of-Way Oversight Act, MCL 484.3101 et seq. ~~shall, and hereby does, opt in under the procedures set forth in Public Act No. 48 of 2002. A copy of the ordinance codified in this article shall be filed with the authority as established by such act.~~

(c) *Permit for use of right-of-way.* A provider shall make application with the city for access to and the ongoing use of all public rights-of-way located within the city as follows:

(1) The application shall be made using such forms as are approved by resolution of the city council. The city shall require an application fee as set by resolution of the city council from time to time.

(2) The city shall approve or deny access within 45 days from the date a provider files an application for a permit for access to a public right-of-way. The city may require as a condition of the permit that a bond be posted by the provider, which shall not exceed the reasonable cost to ensure that the public right-of-way is returned to its original condition during and after the provider's access and use.

(3) A provider undertaking an excavation, constructing or installing facilities within a public right-of-way or temporarily obstructing a public right-of-way shall promptly repair all damage done to the street surface and all installations on, over, below or within the public right-of-way and shall properly restore the public right-of-way to its preexisting condition.

~~Effective October 31, 2002, all ordinances, resolutions, provisions of this Code, local regulations or policies applicable to telecommunication providers that are inconsistent with Public Act No. 48 of 2002 (MCL 484.3101 et seq.), or that assess fees or require other consideration for access to or use of the public rights-of-way that are in addition to the fees required under such act, are hereby repealed, and shall be no longer subject to enforcement by the city.~~

(Code 2006, §§ 34-31—34-34; Ord. No. 195, §§ 86.1—86.4, 10-14-2002)

State law reference—Metropolitan Extension Telecommunications Rights-of-Way Oversight Act, MCL 484.3101 et seq.

Secs. 30-2--30-20. Reserved.

ARTICLE II. SIDEWALKS

Sec. 30-21. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Sidewalk means the paved portion of the street right-of-way designed for pedestrian travel.

(Code 2006, § 32-31; Ord. No. 160, § 34.1, 5-13-1996)

Sec. 30-22. Location; width; materials.

All sidewalks in the city shall be laid so that the inner edge of each sidewalk shall be a distance of two feet from the nearest parallel right-of-way line~~, or such distance as the department shall prescribe,~~ and shall be of such width and of such materials as approved by the city council from time to time.~~as the regulations of the department shall specify.~~

(Code 2006, § 32-32; Ord. No. 160, § 34.2, 5-13-1996)

Sec. 30-23. Duties of abutting property owners.

It is the duty of the owner of every lot or parcel of land in the city to build sidewalks in front of or adjoining his premises when so ordered by the council, and to maintain such walks in good repair and to keep them free from all obstructions.

(Code 2006, § 32-33; Ord. No. 160, § 34.3, 5-13-1996)

Sec. 30-24. Order to build.

If an owner shall fail or neglect to construct any sidewalk adjoining his lot or parcel of land within such time as the council shall by resolution determine, which time shall not be less than 20 days after the same shall have been ordered by the council, or shall fail to keep the sidewalk in good repair, the council may, without further notice, cause the same to be done, and the cost of such construction or repair may be paid out of the contingent fund of the city and the council may assess such expense as a special assessment against such lot or parcel of land in the next general assessment roll of the city. Such special assessment shall be collected and enforced in the same manner as general city taxes and special assessments.

(Code 2006, § 32-34; Ord. No. 160, § 34.4, 5-13-1996)

Sec. 30-25. Construction.

(a) *Permit required.* Whenever the owner of any land in the city shall desire to construct a sidewalk in front of or adjoining his premises, he shall obtain a permit for such construction from the building official, which permit, when granted, shall contain full specifications as to the kind of material, width, and manner of construction of the walk, and it shall be the duty of the superintendent of public works to establish the grade line of such sidewalk.

(b) *Work to be supervised by public works superintendent.* It is the duty of the public works superintendent to supervise the construction and repair of all sidewalks in the city and see that they are constructed and repaired with the materials and in the manner specified.

(Code 2006, §§ 32-35, 32-36; Ord. No. 160, § 34.5, 34.6, 5-13-1996)

Sec. 30-26. Removal of snow and rubbish from sidewalks.

(a) No person having the care, either as owner or occupant, of any house, building, or lot shall permit any snow, ~~ice,~~ rubbish, including broken bottles and glass, filth, or other nuisance to remain upon any portion of the entire width of the sidewalks in front of the house, building, or lot for longer than 24 hours. Ice shall be removed from sidewalks in accordance with section 30-27.

(b) If snow, rubbish, filth, or other nuisance is not cleared from the sidewalk within 24 hours following occurrence, a citation or fine shall be issued by the city in the manner stipulated in section 20-41. Seasonally, any first infraction under this section shall incur a $50.00 fine; subsequent infractions shall be fined pursuant to section 1-12.

(c) Each citation or notice shall clearly reference the date and time at which the violation occurred. If the violation has not been resolved at the time of issuance of the citation or notice, the city may cause removal of the matter in question and will bill the property owner for the corresponding additional costs.

(Code 2006, § 32-37; Ord. No. 160, § 34.7, 5-13-1996; Ord. No. 2016-242, § 27, 10-20-2016; Ord. No. 2016-243, § 27, 11-17-2016)

Sec. 30-27. Removal of ice from sidewalks.

(a) When ice is formed on any sidewalk, the owner or occupant of the abutting premises shall, within 12

hours after the ice has formed, cause the ice to be removed or cause salt, saw dust, sand, ice melt or other abrasive to be strewn thereon.

(b) If ice is not cleared within 12 hours following formation, a citation or fine shall be issued by the city. Seasonally, any first infraction under this section shall incur a $50.00 fine; subsequent infractions shall be fined pursuant to section 1-12. Each citation or notice shall clearly reference the date and time at which the violation occurred. If the violation has not been resolved at the time of issuing the citation or notice, the city may cause removal of the matter in question and will bill the property owner for additional labor costs.

(c) For enforcement purposes, where ice is formed after sunset, the 12-hour removal period shall not commence until after the following sunrise.

~~Regarding wintertime nuisances, the city shall, at the beginning of October, publish a reminder of Section 32-37, in no less than three two public forms of notification.~~

(Code 2006, § 32-37; Ord. No. 160, § 34.7, 5-13-1996; Ord. No. 2016-242, § 27, 10-20-2016; Ord. No. 2016-243, § 27, 11-17-2016)

Sec. 30-28. Sidewalk replacement program.

The city council may, from time to time, authorize the replacement of sidewalks in certain areas of the city, with the cost allocated between the city and the individual property owner as the city council deems just and appropriate. The cost of the individual landowner shall be assessed as provided for in section 30-24.

(Code 2006, § 32-38; Ord. No. 160, § 34.8, 5-13-1996)

Chapter 31

RESERVED

Chapter 32

SUBDIVISIONS AND OTHER LAND DIVISION*

***State law reference**—Michigan Planning Enabling Act, MCL 125.3801 et seq.; ~~municipal planning, MCL 125.31 et seq.;~~ Land Division Act, MCL 560.101 et seq.

ARTICLE I. IN GENERAL

Secs. 32-1--32-18. Reserved.

ARTICLE II. LAND DIVISIONS

Sec. 32-19. Purpose.

The purpose of this article is to carry out the provisions of the state Land Division Act, ~~Public Act No. 288 of 1967~~ MCL ~~650.101~~ 560.101 et seq.~~formerly known as the subdivision control act~~, to prevent the creation of parcels of property which do not comply with applicable ordinances and such Act, to minimize potential boundary disputes, to maintain orderly development of the community, and to otherwise provide for the health, safety and welfare of the residents and property owners of the city by establishing reasonable standards for prior review and approval of land divisions within the city.

(Code 2006, § 16-31; Ord. No. 168, § 24-2, 8-11-1997)

Sec. 32-20. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Applicant means a natural person, firm, association, partnership, corporation, or combination of any of them that holds an ownership interest in land, whether recorded or not.

Divide and *division* mean the partitioning or splitting of a parcel or tract of land by the proprietor thereof or by his heirs, executors, administrators, legal representatives, successors or assigns, for the purpose of sale or lease of more than one year, or of building development, that results in one or more parcels of less than 40 acres or the equivalent, and that satisfies the requirements of ~~sections 108 and 109 of the state Land Division Act, MCL 560.101 et seq.~~ MCL 560.108 and MCL 560.109. The terms "divide" and "division" do not include a property transfer between two or more adjacent parcels if the property taken from one parcel is added to an adjacent parcel, and any resulting parcel shall not be considered a building site unless the parcel conforms to the requirements of the state Land Division Act, MCL 560.101 et seq., this article, and other applicable ordinances.

Exempt split and *exempt division* mean the partitioning or splitting of a parcel or tract of land by the proprietor thereof, or by his heirs, executors, administrators, legal representatives, successors or assigns, that does not result in one or more parcels of less than 40 acres or the equivalent; provided all resulting parcels are accessible for vehicular travel and utilities from existing public roads through existing adequate roads or easements, or through areas owned by the owner of the parcel that can provide such access.

Forty acres or the equivalent means either 40 acres, a quarter-quarter section containing not less than 30 acres, or a government lot containing not less than 30 acres.

(Code 2006, § 16-32; Ord. No. 168, § 24-3, 8-11-1997)

Sec. 32-21. Prior approval required; exemptions.

Land in the city shall not be divided without the prior review and approval of the city assessor or zoning administrator ~~other official designated by the city council~~ in accordance with this article and the state Land Division Act, MCL 560.101 et seq.; provided that the following shall be exempted from this requirement:

(1) A parcel proposed for subdivision through a recorded plat pursuant to the Act.

(2) A lot in a recorded plat proposed to be divided in accordance with the Act.

(3) An exempt split as defined in this article.

(Code 2006, § 16-33; Ord. No. 168, § 24-4, 8-11-1997)

Sec. 32-22. Application requirements.

An applicant shall file all of the following with the city assessor or zoning administrator ~~other official designated by the city council~~ for review and approval of a proposed land division before making any division either by deed, land contract, or lease for more than one year, or for building development:

(1) A completed application form on such form as may be approved by the city council.

(2) Proof of fee ownership of the land proposed to be divided.

(3) A survey map of the land proposed to be divided, provided that the map shall be prepared pursuant to the survey map requirements of ~~Public Act No. 132 of 1970~~ MCL 54.213 ~~54.211~~ by a land surveyor licensed by the state, and showing the dimensions and legal descriptions of the existing parcel and the parcels proposed to be created by the division, the location of all existing structures and other land improvements, and the accessibility of the parcels for vehicular traffic and utilities from existing public roads.

~~In lieu of such survey map, at the applicant's option, the applicant may waive the 30-day statutory requirement for a decision on the application until such survey map and legal description are filed with the council, and submit a preliminary parcel map drawn to a scale of not less than 200 feet to the inch including an accurate legal description of each proposed division, and showing the boundary lines, dimensions, and the accessibility of each division from existing or proposed public roads for automobile traffic and public utilities, for preliminary review, approval, or denial by the assessor or other official designated by the city council prior to a final application under this section.~~

~~The assessor or other official designated by the city council may waive the survey map requirement where the foregoing preliminary parcel map is deemed to contain adequate information to approve a proposed land division considering the size, simple nature of the divisions, and the undeveloped character of the territory within which the proposed divisions are located. An accurate legal description of all the proposed divisions, however, shall be required.~~

(4) Proof that all standards of the state Land Division Act, MCL 560.101 et seq., and this article have been met.

(5) The history and specifications of the land proposed to be divided sufficient to establish that the proposed division complies with ~~section 108 of the state Land Division Act,~~ MCL 560.108.

(6) Proof that all due and payable taxes or installments of special assessments pertaining to the land proposed to be divided are paid in full.

(7) If a transfer of division rights is proposed in the land transfer, detailed information about the terms and availability of the proposed division rights transfer.

~~Unless a division creates a parcel which is acknowledged and declared to be "not a development site" under section 16-37, All divisions shall result in "buildable" parcels with sufficient area to comply with all required setback provisions, minimum floor areas, off-street parking spaces, approved on-site sewage disposal and water well locations (where public water and sewer service is not available), access to existing public utilities and public roads, and maximum allowed area coverage of buildings and structures on the site, as required by the city zoning code.~~

(8) The fee as may from time to time be established by resolution of the city council for land division reviews pursuant to this article to cover the costs of review of the application and administration of this article and the state Land Division Act, MCL 560.101 et seq.

(Code 2006, § 16-34; Ord. No. 168, § 24-5, 8-11-1997)

Sec. 32-23. Review of application; decision; recording of survey.

(a) The assessor or zoning administrator ~~other designee~~ shall approve with reasonable conditions to ensure

compliance with applicable ordinances and the protection of public health, safety and general welfare, or disapprove the land division applied for within 45 ~~30~~ days ~~(unless waived under section 32-22(3))~~ after receipt of the application package conforming to the requirements of this article, and shall promptly notify the applicant of the decision and the reasons for any denial. If the application package does not conform to the requirements of this article and the state Land Division Act, MCL 560.101 et seq., the assessor or other designee shall return the application to the applicant for completion and refiling in accordance with this article and the state Land Division Act, MCL 560.101 et seq.

(b) Any person aggrieved by the decision of the assessor or zoning administrator ~~designee~~ may, within 30 days of such decision, appeal the decision to the city council ~~or such other body or person designated by the city council,~~ which shall consider and resolve such appeal by a majority vote of the council ~~or by the designee~~ at its next regular meeting. ~~or session affording sufficient time for a 20-day written notice to the applicant (and the appellant where other than the applicant) of the time and date of the meeting and appellate hearing.~~

(c) A decision approving a land division is effective for 90 days, after which it shall be considered revoked unless within such period a survey and deeds for proposed properties are recorded with the county register of deeds office and filed with the assessor or zoning administrator as appropriate. ~~city clerk or other designated official accomplishing the approved land division or transfer.~~

(d) The assessor or zoning administrator ~~designee~~ shall maintain an official record of all approved and accomplished land divisions or transfers.

(Code 2006, § 16-35; Ord. No. 168, § 24-6, 8-11-1997)

Sec. 32-24. Standards for approval.

A proposed land division shall be approved if the following criteria are met:

(1) All the parcels to be created by the proposed land division fully comply with the applicable lot (parcel), yard and area requirements of the zoning ordinance, including, but not limited to, minimum lot (parcel) frontage/width, minimum road frontage, minimum lot (parcel) area, and maximum lot (parcel) coverage and minimum setbacks for existing buildings/structures, or have received a variance from such requirements from the appropriate zoning board of appeals.

(2) The proposed land division complies with all requirements of the state Land Division Act, MCL 560.101 et seq., and this article.

(3) All parcels created and remaining have existing adequate accessibility, or an area available therefor, to a public road for public utilities and emergency and other vehicles not less than the requirements of all applicable ordinances.

(4) The ratio of depth to width of any parcel created by the division does not exceed a four-to-one ratio exclusive of access roads or easements. The depth of a parcel created by a land division shall be measured within the boundaries of each parcel from the abutting road right-of-way to the most remote boundary line point of the parcel from the point of commencement of the measurement. The width of a parcel shall be measured at the abutting road or right-of-way line, or as otherwise provided in any applicable ordinances.

(Code 2006, § 16-36; Ord. No. 168, § 24-7, 8-11-1997)

~~**Sec. 16-37. Approval of nonbuildable parcels.**~~

~~Notwithstanding the provisions of section 16-36, a division which creates a parcel that satisfies all of the requirements of section 16-36 except that it does not satisfy one or more of the standards of section 16-36(1) and (4) shall be approved if the applicant executes and records an affidavit or deed restriction with the county register of deeds clearly designating the parcel as not a development site, as defined under the state Land Division Act, MCL 560.101 et seq." Any parcel so designated shall not thereafter be used as a development site as defined under the state Land Division Act, MCL 560.101 et seq.~~

~~(Code 2006, § 16-37; Ord. No. 168, § 24-8, 8-11-1997)~~

Sec. 32-25. Violations; noncomplying parcels.

Any parcel created in noncompliance with this article shall not be eligible for any building permits, or zoning approvals, such as conditional land use approval or site plan approval, and shall not be recognized as a separate parcel on the assessment roll. In addition, violation of this article shall subject the violator to the penalties and enforcement actions set forth in section 32-26 and as may otherwise be provided by law.

(Code 2006, § 16-38; Ord. No. 168, § 24-9, 8-11-1997)

Sec. 32-26. Penalty; enforcement.

Any person who violates any of the provisions of this article shall be deemed responsible for a municipal civil infraction. Any person who violates any of the provisions of this article shall also be subject to a civil action seeking invalidation of the land division and appropriate injunctive or other relief.

(Code 2006, § 16-39; Ord. No. 168, § 24-10, 8-11-1997)

Secs. 32-27--32-55. Reserved.

ARTICLE III. SUBDIVISIONS

DIVISION 1. GENERALLY

Sec. 32-56. Purpose.

The purpose of this article is to regulate and control the subdivision of land within the city in order to promote the safety, public health and general welfare of the community. These regulations are specifically designed to:

(1) Provide for orderly growth and harmonious development of the community, consistent with orderly growth policies.

(2) Secure adequate traffic circulation through coordinated street systems with proper relation to major thoroughfares, adjoining subdivisions, and public facilities.

(3) Achieve individual property lots of maximum utility and liability.

(4) Ensure adequate provisions for water, drainage and sanitary sewer facilities, and other health requirements.

(5) Plan for the provision of adequate recreational area school sites and other public facilities.

(Code 2006, § 16-61; Ord. No. 108-S, § 1.2, 12-8-1980)

Sec. 32-57. Statutory authority.

This article is enacted pursuant to the statutory authority granted by the Land Division Act, ~~Public Act No. 288 of 1967~~ MCL 560.101 et seq., Municipal Planning Enabling Act, MCL 125.3801 et seq., ~~Public Act No. 285 of 1931 (MCL 125.31 et seq.)~~ and ~~Public Act No. 222 of 1943~~ MCL 125.51 et seq.

(Code 2006, § 16-62; Ord. No. 108-S, § 1.3, 12-8-1980)

Sec. 32-58. Scope.

This article shall not apply to any lot forming a part of a subdivision created and recorded prior to the effective date of the ordinance from which this article is derived, except for further dividing of existing lots, nor is it intended by this article to repeal, abrogate, annul, or in any way impair or interfere with existing provisions of other laws, ordinances or regulations, or with private restrictions placed upon property by deed, covenant, or other private agreements or with restrictive covenants running with the land to which the city is a party. Where this article imposes a greater restriction upon land than is imposed or required by such existing provision of any other ordinance, the provisions of this article shall control.

(Code 2006, § 16-63; Ord. No. 108-S, § 1.4, 12-8-1980)

Sec. 32-59. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them

in this section, except where the context clearly indicates a different meaning. Any word or term not interpreted or defined by this article shall be used with a meaning of common or standard utilization.

Alley means a public or private right-of-way shown on a plat which provides secondary access to a lot, block or parcel of land.

As-built plans means revised construction plans in accordance with all approved field changes.

Block means an area of land within a subdivision that is entirely bounded by streets, highways, or ways except alleys, the exterior boundaries of the subdivision, streams or rivers, railroad rights-of-way, or a combination thereof.

Building line and *setback line* mean a line parallel to a street right-of-way line, shore of a lake, edge of a stream or river bank, established on a parcel of land or on a lot for the purpose of prohibiting construction of a building between such line and a right-of-way, other public area or the shore of a lake, or the edge of a stream or river bank.

Caption means the name by which the plat is legally and commonly known.

Commercial development means a planned commercial center providing building areas, parking areas, service areas, screen planting and widening, turning movement and safety lane roadway improvements.

Comprehensive development plan and *master plan* mean a unified document of text, charts, graphics or maps, or any combination, designed to portray general, long-range proposals for the arrangement of land uses and which is intended primarily to guide government policy toward achieving orderly and coordinated development of the entire community, including any unit, part or amendment to such plan.

Crosswalkway (pedestrian walkway) means a right-of-way dedicated to public use, which crosses a block to facilitate pedestrian access to adjacent streets and properties.

Dedication means the intentional appropriation of land by the owners to public use.

Floodplain means the area of land adjoining the channel of a river, stream, watercourse, lake or other similar body of water which will be inundated by a flood which can reasonably be expected for that region.

Greenbelt and *buffer park* mean a strip or parcel of land, privately restricted or publicly dedicated as open space, located between incompatible uses for the purpose of protecting and enhancing the residential environment.

Improvement means any structure incident to servicing or furnishing facilities for a subdivision such as grading, street surfacing, curb and gutter, driveway approaches, sidewalks, crosswalks, water mains and lines, sanitary sewers, culverts, bridges, utilities, lagoons, slips, waterways, lakes, bays, canals and other appropriate items, with appurtenant construction.

Industrial development means a planned industrial area designed specifically for industrial use providing screened buffers, wider streets and turning movement and safety lane roadway improvements, where necessary.

Land Division Act means ~~Public Act No. 288 of 1967~~ the state Land Division Act, MCL 560.101 et seq.

Lot means a measured portion of a parcel or tract of land, which is described and fixed in a recorded plat.

Lot depth means the horizontal distance between the front and rear lot lines, measured along the median between the side lot lines.

Lot width means the horizontal distance between the side lot lines measured at the setback line and at right angles to the lot depth.

Outlot, when included within the boundary of a recorded plat, means a lot set aside for purposes other than a building site, park or other land dedicated to public use or reserved to private use.

Parcel means a continuous area or acreage of land which can be described as provided for in the state Land Division Act, MCL 560.101 et seq.

Planned unit development means a land area which has both individual building sites and common property, such as a park, and which is designed and developed under one owner or organized group as a separate neighborhood or community unit.

Planning commission means the planning commission of the city as established under the Municipal Planning Enabling Act, MCL 125.3801 et seq. ~~Public Act No. 285 of 1931 (MCL 125.31 et seq.).~~

Plat means a map or chart of a subdivision of land.

Final plat means a map of a subdivision of land made up in final form ready for approval and recording.

Preliminary plat means a map showing the salient features of a proposed subdivision of land submitted to an approving authority for purposes of preliminary consideration.

Pre-preliminary plat means an informal plan or sketch drawn to scale and in pencil, if desired, showing the existing features of a site and its surroundings and the general layout of a proposed subdivision.

Public open space means land dedicated or reserved for use by the general public. The term "public open space" includes parks, parkways, recreation areas, school sites, community or public building sites, streets and highways and public parking spaces.

Public utility means all persons, firms, corporations, copartnerships, or municipal or other public authorities providing gas, electricity, water, steam, telephone, telegraph, storm sewers, sanitary sewers, transportation, or other services of a similar nature.

Replat means the process of changing, or the map or plat which changes, the boundaries of a recorded subdivision plat or part thereof. The legal dividing of an outlot within a recorded subdivision plat without changing the exterior boundaries of the outlot is not a replat.

Right-of-way means land reserved, used, or to be used for a street, alley, walkway, or other public purposes.

Sight distance means the minimum extent of unobstructed vision on a horizontal plane along a street from a point five feet above the centerline of a street.

Sketch plan means a pre-preliminary plat.

Street means a right-of-way which provides for vehicular and pedestrian access to abutting properties.

Arterial street means those streets of considerable continuity which are used or may be used primarily for fast or heavy traffic.

Collector street means those streets used to carry traffic from minor streets to arterial streets, including principal entrance streets to large residential developments.

Cul-de-sac means a minor street of short length having one end terminated by a vehicular turnaround.

Expressway means those streets designed for high speed, high volume traffic, with full or partially controlled access, some grade crossings but no driveway connections.

Freeway means those streets designed for high speed, high volume traffic, with completely controlled access, no grade crossings and no private driveway connections.

Marginal access street means a minor street which is parallel and adjacent to arterial streets and which provides access to abutting properties and protection from through traffic and not carrying through traffic.

Minor street means a street which is intended primarily for access to abutting properties.

Parkway means a street designed for noncommercial, pleasure-oriented traffic moving at moderate speeds, between and through scenic areas and parks.

Street width means the shortest distance between the lines delineating the right-of-way of streets.

Subdivide and *subdivision* mean the partitioning or splitting of a parcel or tract of land by the proprietor thereof or by his heirs, executors, administrators, legal representatives, successors, or assigns for the purpose of sale, or lease of more than one year, or of building development that results in one or more parcels of less than 40 acres or the equivalent, and that is not exempted from the platting requirements of ~~sections 108 and 109 of the land division act~~ MCL 560.108 and MCL 560.109. The terms "subdivide" and "subdivision" do not include a property transfer between two or more adjacent parcels, if the property taken from one parcel is added to an adjacent parcel; and any resulting parcel shall not be considered a building site unless the parcel conforms to the requirements of the Land Division Act or the requirements of this article.

Subdivider, proprietor and *developer* mean an individual, firm, association, partnership, corporation or combination of any of them which may hold any recorded or unrecorded ownership interest in land. The proprietor

is also commonly referred to as the owner.

Surveyor means either a land surveyor who is registered in the state as a registered land surveyor or a civil engineer who is registered in the state as a registered professional engineer.

Topographical map means a map showing existing physical characteristics, with contour lines at sufficient intervals to permit determination of proposed grades and drainage.

Tract means two or more parcels that share a common property line and are under the same ownership.

(Code 2006, § 16-64; Ord. No. 108-S, §§ 2.1, 2.2, 12-8-1980)

Sec. 32-60. Administration.

This article shall be administered by the zoning administrator ~~city council~~ in accordance with the Land Division Act, MCL 560.101 et seq. ~~Public Act No. 288 of 1967~~, and the city planning commission in accordance with the Municipal Planning Enabling Act, MCL 125.3801 et seq., ~~Public Act No. 285 of 1931 (MCL 125.31 et seq.)~~ and ~~Public Act No. 222 of 1943~~ MCL 135.51 et seq.

(Code 2006, § 16-65; Ord. No. 108-S, § 1.5, 12-8-1980)

Sec. 32-61. Fees.

The city council shall periodically review and set, by resolution, a schedule of fees for those activities outlined in this section. The city clerk shall maintain that schedule for public use.

(1) *Tentative approval of preliminary plats*. The subdivider shall pay a city filing fee plus a fee per lot when a preliminary plat is submitted for tentative approval pursuant to section 32-86(c)(5).

(2) *Final approval of preliminary plats*. The subdivider shall pay a city filing fee plus a fee per lot when a preliminary plat is submitted for final approval pursuant to section 32-86(c)(6).

(3) *Approval of final plats*. The subdivider shall pay the established fees for the following activities when a final plat is submitted for approval pursuant to section 32-87:

   a. *City filing and review fee*. A city filing and review fee plus a fee per lot shall be paid.

   b. *Recording fee*. A recording fee, as established by the city council, shall be paid, which the city clerk shall forward to the county plat board upon city council approval of the final plat.

   c. *Inspection charges*. All charges for city inspection of public improvements shall be paid by the subdivider prior to final plat approval.

(Code 2006, § 16-66; Ord. No. 108-S, § 1.6, 12-8-1980)

Sec. 32-62. Compliance; enforcement.

No subdivision plat required by this article or the Land Division Act shall be admitted to the public land records of the county or received or recorded by the county register of deeds until such subdivision plat has received final approval by the city council. No public board, agency, commission, official or other authority shall proceed with the construction of or authorize the construction of any of the public improvements required by this article, unless such public improvement shall have already been accepted, opened or otherwise received the legal status of a public improvement prior to the effective date of the ordinance from which this article is derived, unless such public improvement shall correspond in its location to the requirements of this article and to the other requirements of this article.

(Code 2006, § 16-67; Ord. No. 108-S, § 7.1, 12-8-1980)

Sec. 32-63. Penalty; additional remedies.

Failure to comply with the provisions of this article shall be a municipal civil infraction. Each day such violation continues shall be considered a separate offense. The landowner, tenant, subdivider, builder, public official or any other person who commits, participates in, assists in, or maintains such violation may each be found guilty of a separate offense and suffer the penalties provided in this section. Nothing contained in this section shall prevent the city council or any other public official or private citizen from taking such lawful action as is necessary to restrain or prevent any violation of this article or of the Land Division Act.

(Code 2006, § 16-68; Ord. No. 108-S, § 7.2, 12-8-1980)

Secs. 32-64--32-84. Reserved.

DIVISION 2. PLATTING PROCEDURES

Sec. 32-85. Preapplication contact and sketch plan.

(a) *Purpose*. The purpose of the preapplication stage is to provide the subdivider with guidelines concerning the development policies of the city and to acquaint him with the platting procedures of the planning commission and city council thereby saving the subdivider time and money and improving the quality of development in the city. Nothing in this section shall be construed to require a preapplication contract. Any subdivider may elect to begin the subdivision process by submitting a preliminary plat in accordance with section 32-86.

(b) *Data requirements*. The subdivider applying for approval of a pre-preliminary plat or sketch plan shall provide the following information to the city as required in subsection (c) of this section:

(1) Pre-preliminary plat or sketch plan showing the entire development proposal in schematic form, including the area for immediate development. The pre-preliminary plat or sketch plan shall be drawn to scale, and shall show existing conditions and characteristics of the parcel and adjacent land, the general layout of streets, blocks and lots, and any general area set aside for schools, parks and other community facilities.

(2) Surveyor's letter concerning the general feasibility of the parcel for subdividing.

(3) Proof of ownership of the land proposed to be subdivided.

(c) *Procedure*. The following process shall be followed in obtaining tentative approval of a pre-preliminary plat or sketch plan:

(1) *Subdivider's submittal*. The subdivider shall submit two copies of the pre-preliminary plat, surveyor's letter and proof of ownership to the city clerk at least ten days prior to a regular meeting of the planning commission.

(2) *City clerk's transmittal*. The city clerk shall promptly transmit the two copies of the pre-preliminary plat, surveyor's letter and proof of ownership to the planning commission.

(3) *Planning commission review and recommendation*. The planning commission or a committee of the commission shall review the plan with the subdivider or his agent. The commission may require that copies of the pre-preliminary plat be submitted to other affected public agencies for review. The planning commission shall inform the subdivider or his agent of the city's development policies and make appropriate comments and suggestions concerning the proposed development scheme. The planning commission shall recommend to the city council either approval or rejection of the pre-preliminary plat based upon the results of its review. The planning commission shall also communicate its recommendation to public agencies to which the pre-preliminary plat was submitted for review.

(4) *Approval by city council*. After it receives the planning commission recommendation, the city council shall approve or reject the pre-preliminary plat. Such approval shall confer to the subdivider, for a period of one year, approval of lot sizes, lot orientation and street layout. Approval of the pre-preliminary plat does not ensure approval of a preliminary plat.

(Code 2006, § 16-91; Ord. No. 108-S, § 3.1, 12-8-1980)

Sec. 32-86. Preliminary plat.

(a) *Purpose*. This section is intended to implement ~~sections 111 through 119 of the land division act~~ MCL 560.111—560.119, part of the Land Division Act, MCL 560.101 et seq.

(b) *Data requirements*. The subdivider applying for approval of a preliminary plat shall provide the specified information to the city as required in subsection (c) of this section. The preliminary plat shall be at a scale of 200 feet to one inch, or larger, on a standard size sheet of paper or cloth, 24 inches by 36 inches. The following information shall be shown on the preliminary plat or may be submitted with it:

(1) The name of the proposed subdivision.

(2) Names, addresses and telephone numbers of the owner, subdivider, surveyor, or engineer preparing the plat.

(3) Location of the subdivision, giving the numbers of section, township and range, and the name of the city, county, and state.

(4) The names of abutting subdivisions.

(5) Statement of intended use of the proposed plat, such as residential single-family, two-family and multiple-family housing, commercial, industrial, recreational, or agricultural; also, proposed sites, if any, for multifamily dwellings, shopping centers, churches, industry, and other nonpublic uses exclusive of single-family dwellings; also, any sites proposed for parks, playgrounds, schools, or other public uses.

(6) A map of the entire area scheduled for development, if the proposed plat is a portion of a larger holding intended for subsequent development.

(7) The location of existing facilities and structures, such as buildings, sewage systems, high tension towers, utility easements of record or in use, excavations, bridges and culverts.

(8) A location map showing the relationship of the proposed plat to the surrounding area.

(9) A map showing the land use and existing zoning of the proposed subdivision and the adjacent tracts.

(10) The drawing shall indicate existing and proposed contour at intervals not to exceed five feet. In the case of waterfront property or where the high groundwater elevation is within six feet of the existing or proposed finished ground surface, the drawing shall show existing and proposed two-foot contour intervals. The planning commission may require two-foot contour intervals when the lots in the subdivision exceed one acre. When extensive cutting or filling of land is anticipated that will affect building sites and sewage disposal facilities, the areas involved shall be indicated. The source, if known, and the type of fill material to be used, when filling is anticipated, shall be specified.

(11) Statement as to whether the high groundwater level is less than or greater than six feet from either the existing or proposed finished ground surface. In those cases where the groundwater is less than six feet, the groundwater level shall be specified. A statement as to how and when the high groundwater level was established shall be included.

(12) Location of floodplain areas, rivers, streams, creeks, lakes, county drains, lagoons, slips, waterways, bays, canals and artificial impoundments, either existing or proposed, within or adjacent to the area to be platted.

(13) Location and results of all percolation tests and soil borings performed on the site when the subdivision will not be served by a public sewer system. Percolation tests should be provided on the basis of at least one per acre or one per lot if lots exceed one acre in size. The county health department may modify this requirement based on local conditions. As an example, a soil survey map prepared by a competent soil scientist, with an indication of approximate percolation rates for certain categories of soils which have been determined to exist in the proposed plat area, may be used to reduce the number of required percolation tests.

(14) Statement of the availability of water of good quality for domestic use on the land proposed to be subdivided, if public water service will not be provided to the development. If questionable, the county health department may require an estimate as to the availability of quality water prepared by and based upon a study by a registered civil engineer or hydrogeologist competent in the field of water supply.

(15) A report of soil limitations based on site inspection carried out by a soil specialist qualified in the area of soil classification and mapping, including soils information as may be obtained from a modern soil map which meets the standards of the National Cooperative Soil Survey. The source of information shall be specified.

(16) Streets, street names, rights-of-way and roadway widths.

(17) Lot lines and the total number of lots by block.

(18) A statement of the type of water and sewage system to be provided, including drawings of appropriate existing and proposed storm and sanitary sewers, water mains and their respective profiles.

(19) Copies, as required, of proposed protective convents and deed restrictions.

(20) Other right-of-way easements, showing location, width and purpose as available.

(21) Preliminary engineering plans for streets, water, sanitary and storm sewers, sidewalks and other required public improvements required in division 4 of this article. The engineering plans shall contain enough information and detail to enable the planning commission to make a preliminary determination as to conformance of the proposed improvements to applicable city regulations and standards.

(22) A legend indicating the total acreage contained in the plat, the absolute and percentage breakdown of the total acreage into lots, road allowances, parks and other uses, the date, north arrow and scale.

(c) *Procedure*. Before making or submitting a final plat for approval, the subdivider shall make a preliminary plat and submit copies to authorities as provided in ~~sections 111 through 119 of the land division act~~ MCL 560.111—560.119, part of the Land Division Act, MCL 560.101 et seq.

(1) *Subdivider's submittal*. The subdivider shall submit copies of the preliminary plat and other data as follows:

a. Seven copies to the city clerk. At least one of the copies shall be reproducible.

b. Two copies to the city school board for informational purposes.

c. Two copies to the city fire board for informational purposes.

d. One copy to the tri-county regional planning commission for verification that street names do not duplicate or conflict with existing street names.

(2) *City clerk's transmittal*. The city clerk shall promptly transmit two copies of the preliminary plat and other data to the planning commission, two copies to the city council, two copies to the city engineer and one copy to the city assessor.

(3) *Planning commission public hearing*. The planning commission shall hold a public hearing on the preliminary plat.

a. The city clerk shall give notice of the public hearing by publishing such notice at least once in a newspaper of general circulation in the city at least 15 days prior to the hearing date. The notice shall state the date, time and place of the public hearing, the substance of the proposed preliminary plat and the location where additional information may be obtained.

b. The city clerk shall provide notice of the hearing containing the same information as the published notice to each public utility and railroad affected by the proposed preliminary plat at least 15 days prior to the hearing date. The notice shall be given by registered United States mail.

c. The city clerk shall provide a notice of the hearing containing the same information as the published notice to each owner of property within 300 feet of the subject parcel or tract, as found in the city tax assessor's records, at least 15 days prior to the hearing date. The notice shall be given by registered United States mail.

d. The parcel or tract covered by the proposed preliminary plat shall be posted by the subdivider for at least 15 days prior to the hearing date. The city clerk shall provide the posted notices, which shall include the same information as the published notice.

(4) *Planning commission action*. The planning commission shall approve, modify or reject the preliminary plat within 60 days of its submittal to the city clerk, but after the public hearing. Failure to act within the 60-day time period shall be deemed approval, and a certificate to that effect shall be issued by the commission upon the subdivider's request. The subdivider may waive the deadline by consenting to an extension in writing. Any extension granted to the planning commission by the subdivider shall not reduce the time allowed for the city council's consideration of the preliminary plat.

(5) *Tentative approval by city council*.

a. The city council, within 30 days of the planning commission action, shall reject or grant tentative approval to the preliminary plat, provided that a preliminary plat which has been rejected by the planning commission shall not be approved. The city council shall return to the subdivider a copy of the preliminary plat with tentative approval duly noted, or a written notice of rejection and requirements for tentative approval.

b. Tentative approval of a preliminary plat shall confer upon the subdivider, for a period of one year from the date of action, approval of lot sizes, lot orientation and street layout.

c. Tentative approval may be extended by the city council if applied for in writing by the subdivider.

(6) *Final approval*.

a. After tentative approval of the preliminary plat by the city council, the subdivider shall:

1. Submit copies of the preliminary plat to all public agencies as required by ~~sections 111 through 119 of the land division act~~ MCL 560.111—560.119, part of the Land Division Act, MCL 560.101 et seq.;

2. Submit a list of all such authorities to the city clerk, certifying that the list shows all authorities as required by ~~sections 111 through 119 of the land division act~~ MCL 560.111—560.119, part of the Land Division Act, MCL 560.101 et seq.; and

3. Submit all approved copies from such authorities to the city clerk.

b. The planning commission shall promptly review the submitted preliminary plat to verify that all conditions and requirements imposed upon the plat at the time of tentative approval are complied with, and shall report the results of the review to the city council.

c. The city council, after receipt of the necessary approved copies of the preliminary plat and the planning commission's report, shall consider and review the preliminary plat at its next regular scheduled meeting or within 30 days of submission of all necessary data by the subdivider. The city council shall approve the preliminary plat if the subdivider has met all specified conditions. The city clerk shall promptly notify the subdivider in writing of the council's approval or rejection with reasons for rejection specified in the notice. The city council approval of a preliminary plat shall be valid for a two-year period from the date of approval. The council may extend the period if applied for in writing by the subdivider.

(Code 2006, § 16-92; Ord. No. 108-S, § 3.2, 12-8-1980)

Sec. 32-87. Final plat.

(a) *Purpose*. This section is intended to implement ~~sections 120 of the land division act~~ MCL 560.120, part of the Land Division Act, MCL 560.101 et seq.

(b) *Data requirements*. The subdivider applying for approval of a final plat shall provide the following information to the city as required in subsection (c) of this section:

(1) *Final plat*. A final plat shall be prepared in accordance with the Land Division Act and applicable rules, regulations and guidelines established pursuant to such Act.

(2) *Final engineering plans*. Final engineering plans, profiles, cross sections and specifications for improvements required to be installed by this article, including landscaping plans, shall meet the specifications established by the city engineer or the specifications of the respective approving authorities as required by law. Such final engineering plans shall accompany the final plat. When construction has been completed at the time of filing of the final plat, one complete copy of as-built engineering plans of each required public improvement, prepared at the subdivider's expense, shall be filed with the city clerk with the final plat application.

(3) *Proof of ownership*. The subdivider shall submit proof of ownership of the land included in the final plat in the form of an abstract of title certified to the date of the proprietor's certificate, or a policy of title insurance currently in force.

(c) *Procedure*. The final plat shall conform substantially to the approved preliminary plat and shall conform to the provisions of the Land Division Act and this article.

(1) *Subdivider's application*. After having received the final plat approval of the county drain commissioner, county road commission and county health department, if necessary, the subdivider shall file a written application for approval of the final plat with the city clerk at least ten days prior to a regular planning commission meeting. With the application, the subdivider shall submit five true copies of the final plat, one copy of the final engineering plans shown on linen or Mylar, and two copies of any landscaping plans for street trees, street islands and boulevards.

(2) *City council review and approval*. The city council shall review the final plat at its next regular meeting following the planning commission's action, or within 20 days of such action. If approved, the city clerk shall sign all copies of the final plat for the council, and the final plat shall then follow the procedures set forth in the Land Division Act. If disapproved, the city council shall notify the subdivider in writing of its action and requirements for approval and shall rebate the recording fee.

(d) *Performance contract for public improvements*.

(1) *Financial security arrangement*. The city council, before giving approval of the final plat, shall require that a contract with the subdivider be drawn up, approved, and signed, to ensure performance of the conditions which will lead to the completion of all required public improvements deemed to be necessary. To ensure performance of such contract, the council shall require financial security in one or a combination of the following arrangements, whichever the subdivider elects:

a. A performance or surety bond to cover the costs of the contemplated improvements as estimated by the city or its agents shall be filed with the city treasurer. Such bonds shall specify the time period in which the improvements are to be completed and shall be with an acceptable bonding company authorized to do business in the state.

b. A cash deposit, or deposit by certified check, sufficient to cover the cost of the contemplated improvements as estimated by the city or its authorized agents shall be deposited with the city treasurer. The escrow deposit shall be for the estimated time period necessary to complete the required improvements.

c. An irrevocable letter of credit issued by a bank authorized to do business in the state in an amount to cover the cost of the contemplated improvements as estimated.

(2) *Rebate or lease to proprietor*. The city council shall rebate or release to the proprietor, as the work progresses, amounts equal to the ratio of the completed and accepted work to the entire project.

(3) *Improvements prior to final plat approval*. The subdivider may elect to install or cause to be installed, prior to the approval of the final plat, all or a part of the required public improvements. In such case the subdivider shall, at the time of final plat approval, provide financial security for any remaining public improvement obligations.

(4) *City inspection of improvements*. Any improvements made to the property by the subdivider shall be inspected by the city for conformance to municipal standards, and the cost of the inspections shall be charged against the subdivider. These charges shall be paid in full prior to final plat approval.

(5) *Failure of subdivider to complete improvements*. In case the subdivider shall fail to complete the required public improvements work within such time period as required by the conditions or guarantees as outlined in this section, the city council may proceed to have such work completed and reimburse itself for the cost thereof by appropriating the cash deposit, certified check, or surety bond or by drawing upon the letter of credit, or shall take the necessary steps to require performance by the bonding company.

(Code 2006, § 16-93; Ord. No. 108-S, § 3.3, 12-8-1980; Ord. No. 178, 5-10-1999)

Secs. 32-88--32-117. Reserved.

DIVISION 3. DESIGN STANDARDS

Sec. 32-118. Conformance to comprehensive development plan.

The proposed subdivision and its ultimate use shall be in conformance with the city comprehensive development plan as adopted by the planning commission.

(Code 2006, § 16-111; Ord. No. 108-S, § 4.1, 12-8-1980)

Sec. 32-119. Uninhabitable areas.

Land which the planning commission has determined to be unsuitable for subdivision development due to flooding, poor drainage, soil conditions or other features which are likely to be harmful to the health, safety and welfare of future residents shall not be subdivided unless satisfactory methods of protection are formulated by the subdivider and approved by the planning commission. In the absence of appropriate protection measures, such land shall be set aside for parks and other open space uses.

(Code 2006, § 16-112; Ord. No. 108-S, § 4.2, 12-8-1980)

Sec. 32-120. Preservation of natural features.

Existing natural features such as trees, woodlots, watercourses, historic spots and similar irreplaceable assets which add value to residential development and enhance the attractiveness of the community shall be preserved in the design of the subdivision, insofar as possible. No structure shall be located in a floodplain except in accordance with the city zoning ordinance and the rules of ~~the state department of environmental quality~~ the state Environment, Great Lakes and Energy Department (EGLE) or successor agency. Alteration of a floodplain shall only be allowed based upon a plan approved by the planning commission and ~~the state department of environmental quality~~ the state Environment, Great Lakes and Energy Department (EGLE) or successor agency, and only as long as the floodplain's original discharge capacity is preserved and the revised stream flow does not affect the riparian rights of other owners.

(Code 2006, § 16-113; Ord. No. 108-S, § 4.3, 12-8-1980)

Sec. 32-121. Streets and roads.

(a) *Generally*. The standards set forth in this section shall be the minimum standards for streets, roads, and intersections. The arrangement, character, extent, width, grade and location of all streets shall conform to the comprehensive plan as adopted by the planning commission, and shall be considered in their relation to existing and planned streets, to topographic conditions, and to public convenience and safety, and in their appropriate relation to proposed uses of the land to be served. Generally, all streets shall be dedicated to public use, and arterial streets, in all cases, shall be dedicated to public use.

(b) *Rights-of-way*.

(1) *Minimum standards*. Public rights-of-way shall not be less than the following:

Right-of-way	*Feet*
Freeway	300
Expressway	200—300
Parkway	Variable, minimum 120
Arterial	100—175
Collector	86—100

Minor, including cul-de-sac	66
Alley	20

(2) *Inadequate existing right-of-way*. Where a subdivision abuts or contains an existing street of inadequate right-of-way, additional width for the existing street may be required to obtain conformance with the minimum standards.

(3) *Additional right-of-way in dense areas*. Additional right-of-way may be required to ensure adequate access, circulation and parking in high density residential, commercial or industrial areas of subdivisions.

(c) *Location and arrangement*.

(1) *Local or minor streets*. Local or minor streets shall be so arranged as to discourage their use by through traffic.

(2) *Street continuation and extension*. The arrangements of streets shall provide for the continuation of existing streets from adjoining areas into new subdivisions, unless otherwise approved by the planning commission.

(3) *Stub streets.* Where adjoining areas are not subdivided, the arrangement of streets in new subdivisions shall be extended to the boundary line of the tract to make provision for the future projection of streets into adjacent areas.

(4) *Relation to topography*. Streets shall be arranged in proper relation to topography so as to result in usable lots, safe streets, and reasonable gradients.

(5) *Alleys*. Alleys shall not be permitted in areas of detached single-family or two-family residences. Alleys shall be provided in multiple-dwelling or commercial subdivisions unless other provisions are made for service access, off-street loading, and parking. Dead-end alleys shall be prohibited.

(6) *Marginal access streets*. Where a subdivision abuts or contains an arterial street, the city may require:

a. Marginal access streets approximately parallel to and on each side of the right-of-way.

b. Such other treatment as it deems necessary for the adequate protection of residential properties and to afford separation of through and local traffic.

(7) *Cul-de-sac streets*. Culs-de-sac shall not be more than 600 feet in length. Special consideration shall be given to a longer cul-de-sac under certain topographic conditions or other unusual situations. Culs-de-sac shall terminate with an adequate turnaround with a minimum external diameter of 150 feet.

(8) *Half streets*. Half streets shall generally be prohibited, except where unusual circumstances make it essential to the reasonable development of a tract in conformance with this article and where satisfactory assurance for dedication of the remaining part of the street is provided. Whenever a tract to be subdivided borders on an existing half or partial street, the other part of the street shall be dedicated within such tract.

(9) *Private streets*. Private streets and roads shall generally be prohibited.

(d) *Gradients and alignments*.

(1) *Street gradients*.

a. *Maximum grades*. Street grades shall not exceed five percent on either local streets or collector streets.

b. *Minimum grades*. No street grade shall be less than 0.5 percent.

(2) *Street alignment*.

a. *Horizontal alignment*. When street lines deflect from each other by more than ten degrees in alignment, the centerlines shall be connected by a curve with a minimum radius of 500 feet for

arterial streets, 300 feet for collector streets and 150 feet for local or minor streets. Between reverse curves, on minor streets, there shall be a minimum tangent distance of 100 feet, and on collector and arterial streets, 200 feet.

b. *Vertical alignment*. Minimum sight distances shall be 200 feet for minor streets and 300 feet for collector streets.

(e) *Street names*.

(1) *Duplication*. Street names shall not duplicate any existing street in the city area, except where a new street is a continuation of an existing street. Street names that may be spelled differently but sound the same shall also be avoided. Duplications shall be avoided by checking new street names with the tri-county regional planning commission master listing.

(2) *Directional classifications*. All new streets shall be named as follows: Streets with a predominant north-south direction shall be named "Avenue" or "Road." Streets with a predominant east-west direction shall be named "Street" or "Highway." Meandering streets shall be named "Drive," "Lane," "Path," or "Trail." Culs-de-sac shall be named "Circle," "Court," "Way," or "Place."

(f) *Intersections*.

(1) *Angle of intersection*. Streets shall intersect at 90 degrees or as closely thereto as possible, and in no case at less than 80 degrees.

(2) *Sight triangles*. Minimum clear sight distance at all minor street intersections shall permit vehicles to be visible to the driver of another vehicle when each is 75 feet from the center of the intersection.

(3) *Number of streets*. No more than two streets shall cross at any one intersection.

(4) *"T" intersections*. Except on arterials and certain collectors, "T" type intersections shall be used where practical.

(5) *Centerline offsets*. Slight jogs at intersections shall be avoided. Where such jogs are unavoidable, street centerlines shall be offset by a distance of 125 feet or more.

(6) *Vertical alignment of intersection*. A nearly flat grade with appropriate drainage slopes is desirable within intersections. This flat section shall be carried back 50 to 100 feet each way from the intersection. An allowance of two percent intersection grade in rolling and four percent in hilly terrain will be permitted.

(Code 2006, § 16-114; Ord. No. 108-S, § 4.4, 12-8-1980)

Sec. 32-122. Pedestrian ways.

(a) *Crosswalks*. Right-of-way for pedestrian crosswalks in the middle of long blocks shall be required where necessary to obtain convenient pedestrian circulation to schools, parks or shopping areas. The right-of-way shall be at least ten feet wide and extend entirely through the block.

(b) *Sidewalks*. Sufficient right-of-way shall be provided so that sidewalks shall be installed on both sides of all streets.

(Code 2006, § 16-115; Ord. No. 108-S, § 4.5, 12-8-1980)

Sec. 32-123. Easements.

(a) *Utility easements*. Easements shall be provided along rear lot lines and also alongside lot lines when necessary for utilities. The total width shall not be less than six feet along each lot, or a total of 12 feet for adjoining lots.

(b) *Drainageways*. The subdivider shall provide drainageway easements as required by the rules of the drain commissioner or the city.

(Code 2006, § 16-116; Ord. No. 108-S, § 4.6, 12-8-1980)

Sec. 32-124. Blocks.

(a) *Arrangement*. A block shall be so designed as to provide two tiers of lots, except where lots back onto

an arterial street, a natural feature or a subdivision boundary.

(b) *Minimum length*. Blocks shall not be less than 500 feet long.

(c) *Maximum length*. The maximum length allowed for residential blocks shall be 1,320 feet long from center of street to center of street.

(Code 2006, § 16-117; Ord. No. 108-S, § 4.7, 12-8-1980)

Sec. 32-125. Lots.

(a) *Conformance to zoning requirements*. The lot width, depth, and area shall not be less than the particular district requirements of the zoning ordinance except where outlots are provided for some indicated and permitted purpose.

(b) *Lot lines*. Side lot lines shall be essentially at right angles to straight streets and radial to curved streets.

(c) *Width related to length*. Narrow deep lots shall be avoided. The depth of a lot generally shall not exceed 2 1/2 times the width as measured at the building line.

(d) *Corner lots*. Corner lots shall have extra width to permit appropriate building setback from both streets or orientation to both streets. Lots abutting pedestrian mid-block crosswalks shall be treated as corner lots.

(e) *Landscaped easement for certain lots; double frontage lots*. Lots shall back into such features as freeways, arterial streets, shopping centers, or industrial properties, except where there is a marginal access street or a secondary access is provided. Such lots shall contain a landscaped easement along the rear at least 20 feet wide in addition to the utility easement to restrict access to the arterial street, to minimize noise and to protect outdoor living areas. Lots extending through a block and having frontage on two local streets shall be prohibited.

(f) *Lot frontage*. All lots shall front upon a publicly dedicated street. Variances may be permitted in an approved planned unit development.

(g) *Future arrangements*. Where parcels of land are subdivided into unusually large lots (such as when large lots are required for septic tank operations, or for agricultural use) the parcels shall be divided, where feasible, so as to allow for resubdividing into smaller parcels in a logical fashion. Lot arrangements shall allow for the ultimate extension of adjacent streets through the middle of wide blocks or splitting of lots into smaller lots. Whenever such future resubdividing or lot splitting is contemplated, the plat thereof shall be approved by the planning commission prior to taking such action.

(h) *Lot division*. The division of a lot in a recorded plat is prohibited unless approved following application to the city council. The application shall be filed with the city clerk and shall state the reasons for the proposed division. No lot in a recorded plat shall be divided into more than four parts and the resulting lots shall be not less in area than permitted by the zoning ordinance. No building permit shall be issued, nor any building construction commenced, until the division has been approved by the city council and the suitability of the land for building sites has been approved by the county or district health department. The division of a lot resulting in a smaller area than prescribed in this article may be permitted, but only for the purpose of adding to the existing building site. The application shall so state and shall be in affidavit form.

(i) *Division of unplatted parcel*. The division of an unplatted parcel of land into two, three or four lots involving the dedication of a new street shall require the approval of the city council prior to taking such action. All such applications shall be made in writing and shall be accompanied by a drawing of the proposed division. No building or occupancy permit shall be issued in such cases until the city council has approved division of such lands.

(Code 2006, § 16-118; Ord. No. 108-S, § 4.8, 12-8-1980)

Sec. 32-126. Planting strips and reserve strips.

(a) *Planting strips*. Planting strips may be required to be placed next to incompatible features such as highways, railroads, commercial uses, or industrial uses to screen the view from residential properties. Such screens shall be a minimum of 20 feet wide and shall not be a part of the normal roadway right-of-way or utility easement.

(b) *Reserve strips*.

(1) *Private reserve strips*. Privately held reserve strips controlling access to streets shall be prohibited.

(2) *Public reserve strips*. A one-foot reserve may be required to be placed at the end of stub or dead-end streets which terminate at subdivision boundaries and between half streets. These reserves shall be deeded in fee simple to the city for future street purposes.

(Code 2006, § 16-119; Ord. No. 108-S, § 4.9, 12-8-1980)

Sec. 32-127. Public sites and open spaces.

Where a proposed park, playground, school, or other public use shown on the comprehensive development plan is located in whole or in part within a subdivision, a suitable area for this purpose may be dedicated to the public or reserved for public purchase. If, within two years of plat recording, the purchase is not agreed on, the reservation may be canceled or shall automatically cease to exist.

(Code 2006, § 16-120; Ord. No. 108-S, § 4.10, 12-8-1980)

Sec. 32-128. Large scale developments.

(a) *Modification of requirements*. This division may be modified in accordance with division 5 of this article in the case of a subdivision large enough to constitute a complete community or neighborhood, consistent with the comprehensive plan and with a building and development program which provides and dedicates adequate public open space and improvements for the circulation, recreation, education, light, air, and service needs of the tract when fully developed and populated.

(b) *Neighborhood characteristics*. A community or neighborhood under this section shall generally be consistent with the comprehensive plan and contain 500 living units or more, shall contain or be bounded by major streets or natural physical barriers as necessary, and shall contain reserved areas of sufficient size to serve its population, for schools, playgrounds, parks, and other public facilities. Such reserves may be dedicated.

(Code 2006, § 16-121; Ord. No. 108-S, § 4.11, 12-8-1980)

Sec. 32-129. Commercial and industrial developments.

The subdivision design standards in this division may be modified in accordance with division 5 of this article in the case of subdivisions specifically for commercial or industrial development, including shopping districts, wholesaling areas, and planned industrial districts. In all cases, however, adequate provision shall be made for off-street parking and loading areas as well as for traffic circulation.

(Code 2006, § 16-122; Ord. No. 108-S, § 4.12, 12-8-1980)

Secs. 32-130--32-156. Reserved.

DIVISION 4. PUBLIC IMPROVEMENTS

Sec. 32-157. Preparation and filing of plans.

It shall be the responsibility of the subdivider of every proposed subdivision to have prepared, by a registered engineer, a complete set of construction plans, including profiles, cross sections, specifications and other supporting data, for the public streets, utilities and other facilities required in this division. All construction plans shall be prepared in accordance with the public improvement standards or specifications in this division. Upon substantial completion and prior to the issuance of any building permits, one complete copy of as-built engineering plans of each required public improvement, prepared at the subdivider's expense, shall be filed with the city clerk.

(Code 2006, § 16-141; Ord. No. 108-S, § 5.1, 12-8-1980; Ord. No. 178, 5-10-1999)

Sec. 32-158. Monuments.

(a) *Location*. Permanent monuments shall be located in the ground at all angles in the boundaries of the plat; at the intersection lines of streets and at the intersection of the lines of streets with the boundaries of the plat and at the intersections of alleys with the boundaries of the plat; at all points of curvature, points of tangency, points of compound curvature, points of reverse curvature and angle points in the side lines of streets and alleys; and at all angles of an intermediate traverse line.

(b) *Material*. All monuments shall be made of solid iron or steel bars at least one-half inch in diameter and 36 inches long and completely encased in concrete.

(c) *Corner lots*. All lot corners shall be marked in the field by iron or steel bars or iron pipe at least 18 inches long and one-half inch in diameter.

(d) *Postponement of placement*. The subdivider may elect to postpone the placement of monuments and lot corner markers for a period not to exceed one year, provided that the subdivider deposits with the city treasurer cash, a certified check or an irrevocable letter of credit, whichever the proprietor selects, in an amount to cover the established fee per monument and lot corner marker, and the total fee shall not be less than a total amount established by the council. Those fees shall be set by council resolution.

(Code 2006, § 16-142; Ord. No. 108-S, § 5.2, 12-8-1980)

Sec. 32-159. Trafficways.

(a) *Streets and alleys*.

(1) *Construction*. All subdivisions shall have full street improvements, including adequate subgrade preparation, hard surfacing, and curb and gutter, in conformance with the city's construction standards. All manholes, catchbasins and other appurtenances shall be maintained at grade with the surface of the street during each phase of construction and shall not protrude above the current street surface.

(2) *Street surface*. The finished roadway surface shall be either bituminous aggregate or Portland cement concrete, installed in conformance with the specifications of the city.

(3) *Street surface width*. Widths shall be as follows:

Width	*Feet*
Freeway	48—72
Expressway	48—96
Parkway	48
Arterial	48—60
Collector	44—48
Minor	31
Alley	20

(4) *Curb and gutter*. Concrete curb and gutter of a type approved by the city shall be provided for all culs-de-sac, local streets, collector streets, minor or major arterials and parkways within each subdivision and along all streets that border on the subdivision.

(5) *Landscaping of boulevard streets and street islands*. Where the subdivider proposes boulevard streets or street islands in his street pattern, the subdivider shall have suitable plans made for landscaping these areas. All such landscape plans shall be approved as to height, size and type of plant material by the planning commission before construction. The city will accept responsibility for living materials only after one year of growth.

(6) *Street signs*. Street signs shall be installed identifying the names of all streets at every intersection of a type approved by the planning commission. If the subdivider desires to erect a more ornate or other type of sign than the city uses as its standard, he may do so with the consent of the planning commission.

(7) *Street trees*. Street trees may be required in each subdivision of a type, size and location as specified by

the planning commission.

(b) *Sidewalks and crosswalks*. Concrete sidewalks shall be installed by the subdivider along each side of all streets within the subdivision and along the side of all streets that border on the subdivision in accordance with the specifications of the city. Crosswalks, where required, shall have a five-foot paving width centered within the required ten-foot right-of-way.

(c) *Alleys*. Where permitted, alleys shall be paved to their full width with concrete or other bituminous materials in accordance with the specifications approved by the city.

(d) *Driveways*. All driveway openings in curbs shall be subject to approval of the planning commission and shall conform to the requirements of the zoning ordinance.

(Code 2006, § 16-143; Ord. No. 108-S, § 5.3, 12-8-1980; Ord. No. 151, 1-9-1995; Ord. No. 179, 5-10-1999)

Sec. 32-160. Water supply system.

(a) *Requirements when city service available*. When a proposed subdivision is to be serviced by a public water supply system, fire hydrants and other required water system appurtenances shall be provided by the subdivider.

(b) *Subdivision system*. If there is no existing adequate or accessible public water supply system, the subdivider shall be required to install a water supply system for the common use of the lots within the subdivision in accordance with the requirements of ~~Part 41 of Public Act No. 451 of 1994~~ MCL 324.4101—324.4113. The system provided shall be turned over to the city for operation and maintenance.

(c) *Construction specifications*. The sizes of water mains, the location and type of valves and hydrants, the amount of soil cover over the pipes, and other features of the installation shall conform to the requirements of ~~Part 41 of Public Act No. 451 of 1994~~ MCL 324.4101—324.4113. A construction permit is required from ~~the state department of environmental quality~~ the state Environment, Great Lakes and Energy Department (EGLE) or successor agency prior to the start of the project. When determined to be in the best interest of the city, the city may require larger water mains, in which case the city may pay the cost difference of the oversizing; the basis of the cost difference of oversizing is to be determined by agreement with the subdivider prior to construction. The city shall only pay the cost difference for materials.

(Code 2006, § 16-144; Ord. No. 108-S, § 5.4, 12-8-1980; Ord. No. 179, 5-10-1999)

Sec. 32-161. Sanitary sewer system.

(a) *Requirements when city service available*. When a proposed subdivision is to be serviced by a public sanitary sewer system, sanitary sewers and other required appurtenances thereto shall be provided by the subdivider. Sewer systems shall comply with the requirements of ~~Part 41 of Public Act No. 451 of 1994~~ MCL 324.4101—324.4113. When determined to be in the best interest of the city, the city may require larger sewer lines or adjusted elevations, in which case the city may pay the cost difference of the oversizing or elevation adjustments; the basis of the cost difference is to be determined by agreement with the subdivider prior to construction. All manholes and other appurtenances shall be maintained at grade with the surface of the street during each phase of construction and shall not protrude above the current street surface.

(b) *Subdivision system*. If there is no existing adequate or accessible public sewer system, a sewer system for the common use of the lot owners shall be required to be provided by the subdivider, if feasible in the judgment of the planning commission, with the advice of an engineer representing the city and county or district health department, and shall comply with the requirements of ~~Part 41 of Public Act No. 451 of 1994~~ MCL 324.4101—324.4113. When determined to be in the best interest of the city, the city may require larger sewer lines or adjusted elevations, in which case the city may pay the cost difference of the oversizing or elevation adjustments; the basis of the cost difference is to be determined by agreement with the subdivider prior to construction. The system provided shall be turned over to the city for operation and maintenance. All manholes and other appurtenances shall be maintained at grade with the surface of the street during each phase of construction and shall not protrude above the current street surface.

(c) *Private septic systems*. Where it is determined in the judgment of the planning commission, with the advice of the city engineer and the county health department, that a subdivision cannot be economically connected

with an existing public sewer system or that a public sewer system cannot be provided for the subdivision itself, then approved septic tanks and disposal fields may be approved, which shall comply with the requirements of the county health department, provided such decision is allowed under the zoning ordinance. However, where studies by the planning commission or the city engineer indicate that construction or extension of sanitary trunk sewers to serve the property being subdivided appears probable within a reasonably short time (up to five years), sanitary sewer mains and house connections shall be installed and capped.

(Code 2006, § 16-145; Ord. No. 108-S, § 5.5, 12-8-1980; Ord. No. 179, 5-10-1999)

Sec. 32-162. Storm sewers.

(a) *Generally*. A storm drainage system including necessary storm sewers, drain inlets, manholes, culverts and other necessary appurtenances shall be required and constructed in conformance with requirements of the city. When determined to be in the best interest of the city, the city may require larger storm sewer lines or adjusted elevations, in which case the city may pay the cost difference of the oversizing or elevation adjustments; the basis of the cost difference is to be determined by agreement with the subdivider prior to construction. All manholes, catchbasins and other appurtenances shall be maintained at grade with the surface of the street during each phase of construction and shall not protrude above the current street surface.

(b) *Preservation of natural water drainageways*. All natural water drainageways shall be preserved at their natural gradient unless otherwise determined by the public service department.

(c) *Grading*. All lots shall be finished graded so that all stormwater shall drain therefrom.

(Code 2006, § 16-146; Ord. No. 108-S, § 5.6, 12-8-1980; Ord. No. 179, 5-10-1999)

Sec. 32-163. Underground wiring.

Underground electrical and communication distribution systems operating at 15,000 volts or less to ground, exclusive of main supply and perimeter feed lines, for residential subdivisions shall be constructed in conformance with the requirements of the Consumers Power Company and Michigan Bell Telephone Company. Conduits or cables shall be placed entirely underground within private easements or within public ways or other public and quasi-public utility rights-of-way. These communication and electric facilities placed in public ways or other public and quasi-public utility rights-of-way shall be planned so as not to conflict with other underground utilities.

(Code 2006, § 16-147; Ord. No. 108-S, § 5.7, 12-8-1980)

Sec. 32-164. Optional public improvements.

(a) *Streetlights*. It shall be the option of the subdivider to install boulevard standard streetlights providing the street lighting plans and specifications have been approved by the planning commission. If the subdivider elects not to install boulevard streetlights, the subdivider shall be required to install and finance overhead streetlights comparable to those currently in use by the city to maintain minimum standards of public safety.

(b) *Landscaping*. Landscape plantings, louvered fences for screening or other suitable landscape treatment may be made by the subdivider within required greenbelts, buffer parks or other open spaces where he desires to protect his development from the detrimental effects of adjacent expressways, major streets, railroads, or other land uses. Such landscape plans should be indicated on the subdivider's improvement plans and shall be approved by the planning commission.

(c) *Recreational facilities*. Where a school site, neighborhood park, recreation area, or public access to water frontage, as previously delineated or specified by official action of the planning commission, is located in whole or part in the proposed subdivision, the city council may request the reservation of such open space for school, park and recreation or public access purposes. All such areas shall either be reserved for the school district in the case of school sites or for the city in all other cases. Voluntary dedication of these land areas will be accepted.

(d) *Greenbelts*. It is desirable for the protection of residential properties to have greenbelts or landscaped screen plantings located between a residential development and adjacent major arterial streets and railroad rights-of-way. Where a subdivider desires to protect his development in this respect or where the planning commission deems necessary for the public health, safety and welfare, a proposed subdivision plat shall show the location of such greenbelts.

(Code 2006, § 16-148; Ord. No. 108-S, § 5.8, 12-8-1980)

Sec. 32-165. Guarantee of completion of public improvements.

To ensure completion of all necessary public improvements, the city council shall make arrangements for financial guarantees with the subdivider prior to final plat approval as provided in section 32-87(d)(3).

(Code 2006, § 16-149; Ord. No. 108-S, § 5.9, 12-8-1980)

Secs. 32-166--32-183. Reserved.

DIVISION 5. VARIANCES

Sec. 32-184. Generally.

(a) The planning commission may recommend to the city council a variance from the provisions of this article on a finding that undue hardship may result from strict compliance with specific provisions or requirements of this article or that application of such provision or requirement is impractical. The planning commission shall only recommend variances that it deems necessary to or desirable for the public interest. In making its findings, as required in this section, the planning commission shall take into account the nature of the proposed use of land and the existing use of land in the vicinity, the number of persons to reside or work in the proposed subdivision, and the probable effect of the proposed subdivision upon traffic conditions in the vicinity. No variance shall be recommended unless the planning commission finds after a public hearing the following:

(1) That there are such special circumstances or conditions affecting the property that the strict application of the provisions of this article would clearly be impractical or unreasonable. In such cases the subdivider shall first state his reasons in writing and submit them to the planning commission.

(2) That the granting of the specified variance will not be detrimental to the public welfare or injurious to other property in the area in which the property is situated.

(3) That such variance will not violate the provisions of the state Land Division Act, MCL 560.101 et seq.

(4) That such variance will not have the effect of nullifying the intent and purpose of this article and the comprehensive development plan of the city.

(b) The planning commission shall include its findings and the specific reasons therefor in its report of recommendations to the city council and shall also record its reasons and actions in its minutes.

(Code 2006, § 16-171; Ord. No. 108-S, § 6.1, 12-8-1980)

Sec. 32-185. Topographical or physical limitation variance.

Where, in the case of a particular proposed subdivision, it can be shown that strict compliance with the requirements of this article would result in extraordinary hardship to the subdivider because of unusual topography, other physical conditions, or such other conditions which are not self-inflicted, or that these conditions would result in inhibiting the achievement of the objectives of this article, the planning commission may recommend to the city council that variance modification or a waiver of these requirements be granted.

(Code 2006, § 16-172; Ord. No. 108-S, § 6.2, 12-8-1980)

Sec. 32-186. Planned unit development variance.

The developer may request a variance from specified portions of this article in the case of a planned unit development. If in the judgment of the planning commission such a plan provides adequate public spaces and includes provisions for efficient circulation, light and air and other needs, it shall make findings, as required in this section. The planning commission shall take into account the nature of the proposed use of land and existing use of land in the vicinity, the number of persons to reside or work in the proposed subdivision, and the probable effect of the proposed subdivision upon traffic conditions in the vicinity. The planning commission shall report to the city council whether:

(1) The proposed project will constitute a desirable and stable community development.

(2) The proposed project will be in harmony with adjacent areas.

(Code 2006, § 16-173; Ord. No. 108-S, § 6.3, 12-8-1980)

Sec. 32-187. Variance relating to required public improvements or utilities.

The planning commission may recommend to the city council that waivers be granted for the installation of a public sanitary sewer system, and public water system, or any or all of them, when in its best judgment such installations shall be impracticable; provided, however, that the average width of the lot in the proposed subdivision, as measured at the street frontage line or the building setback line, is more than 150 feet and where the average area of parcels or lots resulting from the subdivision of land exceeds one acre. The planning commission may also recommend that waivers be granted for the installation of gas mains or service connections, stubs, communications, and electrical conduits, when in its best judgment such installation shall be impracticable.

(Code 2006, § 16-174; Ord. No. 108-S, § 6.4, 12-8-1980)

Sec. 32-188. Application.

(a) *Required improvement variance or topographical variance*. Application for any such variance shall be submitted in writing by the subdivider at the time when the preliminary plat is filed for the consideration of the planning commission. The petition shall state fully the grounds for the application and all the facts relied upon by the petitioner.

(b) *Planned unit development variance*. Application for any such variance shall be made in writing by the subdivider at the time when the preliminary plat is filed for the consideration of the planning commission, stating fully and clearly all facts relied upon by the petitioner, and shall be supplemented with maps, plans, or other additional data which may aid the planning commission in the analysis of the proposed project. The plans for such development shall include such covenants, restrictions, or other legal provisions necessary to guarantee the full achievement of the plan.

(Code 2006, § 16-175; Ord. No. 108-S, § 6.5, 12-8-1980)

Sec. 32-189. Public hearing.

The public hearing required by the planning commission prior to making a recommendation to the city council on a preliminary plat shall also serve as the required public hearing on a requested variance. See section 32-86(c)(3) for notification requirements.

(Code 2006, § 16-176; Ord. No. 108-S, § 6.6, 12-8-1980)

Secs. 32-190--32-216. Reserved.

ARTICLE IV. PRECISE PLAT NO. 001—POTTERVILLE NORTHWEST*

***State law reference**—Certification of city plats, MCL 125.5 et seq.

Sec. 32-217. Legal description; connections with existing or future streets.

(a) The legal description of the outside limits of "Precise Plat No. 001—Potterville Northwest" shall be:

Located in the Northeast 1/4 of Section 23, Town 3 North, Range 4 West, Benton Township, Eaton County, Michigan, and being a centerline of a 66-foot-wide precise plat right-of-way more particularly described as follows: commencing at the center 1/4 corner of the section, lying south 01°35′18″ west 2,628.84 feet from the north 1/4 corner thereof; thence along the north-south 1/4 line, north 01°35′18″ east 305.52 feet to the intersection of the 1/4 line and the centerline of the right-of-way of Sunset Drive and the point of beginning of the precise plat right-of-way described herein; thence south 88°29′23″ east 41.15 feet to a point of curve to the right with a radius of 300.00 feet, an arc distance of 208.84 feet and a long chord of south 68°33′00″ east 204.65 feet; thence south 48°36′16″ east 1,096.16 feet to a point of curve to the left with a radius of 300.00 feet, an arc distance of 413.06 feet and a long chord of south 88°03′00″ east 381.20 feet; thence north 52°30′22″ east 356.76 feet to a point of curve to the left with a radius of 300.00 feet, an arc distance of 83.75 feet and a long chord of north 44°30′00″ east 83.48 feet; thence north 36°30′37″ east 601.57 feet to a point of curve to the right with a radius of 300.00 feet, an arc distance of 87.60 feet and a long chord of north 44°53′00″ east 87.29 feet; thence north 53°14′29″ east 228.74 feet to a point of curve to the right with a radius of 300.00 feet, an arc distance of 200.37 feet

and a long chord of north 72°23′00″ east 196.67; thence south 88°29′23″ east 63.37 feet to the east line of the Section 23 and the point of ending. Containing 5.123 acres, more or less.

(b) The proposed future outside lines of the precise plat connecting with existing and future streets shall be as detailed in the document entitled "Exhibit A—Precise Plat Map of Potterville Northwest," on file in the office of the city clerk; provided, however, that showing such lines on the precise plat shall not, in itself, constitute or be deemed to constitute the opening or establishment of any portion of the precise plat or the taking or acceptance of land for any portion of the precise plat.

(Code 2006, § 16-201; Ord. No. 171, art. II, 4-13-1998)

Sec. 32-218. Certification; land acquisitions.

(a) The city planning commission shall certify the "Precise Plat No. 001—Potterville Northwest" to the city council.

(b) The planning commission shall declare that the land acquisitions for public use indicated in "Precise Plat No. 001—Potterville Northwest" shall be completed concurrent with the development of the land on which the precise plat is located. However, the city, at its discretion, may construct the precise plat prior to such development.

(Code 2006, § 16-202; Ord. No. 171, art. III, 4-13-1998)

Sec. 32-219. Procedures.

(a) Adoption. Procedures for adoption of an ordinance adopting a precise plat are as follows:

(1) Notice of the time and place of the public hearing when and where it shall be considered for final passage shall be sent by first class mail to each owner of record of land located within or abutting the land area encompassed by the precise plat.

(2) Any modification of the precise plat as certified by the planning commission, or amendment of such ordinance, shall be first submitted to the planning commission for approval, approval with conditions, or disapproval. The decision of the planning commission shall be in the form of a recommendation to the city council.

(3) The city council shall have the power to overrule the recommendation of the planning commission by a two-thirds vote of its membership.

(4) Adoption of such ordinance shall be in accordance with the procedures and requirements of ~~Public Act No. 222 of 1943~~ MCL 125.51 et seq.)

(b) Any modification of the precise plat as certified by the planning commission, or amendment of this article, may be made and certified by the planning commission in order to conform with adopted changes in the city's master plan, provided the same procedures and limitations are followed as detailed in subsections (a)(1) through (3) of this section.

(Code 2006, § 16-203; Ord. No. 171, art. IV, 4-13-1998)

Sec. 32-220. Construction restrictions; appeals.

(a) *Granting of permits*.

(1) No permit shall be issued for and no building or structure or part thereof shall be erected on any land located within the proposed future outside lines of the precise plat as detailed in this article.

(2) The city zoning board of appeals shall have the power of appeal filed with it by the owner of such land to authorize the granting of a permit for improvements within the precise plat if the board finds that:

a. The entire property of the applicant located in whole or in part within the lines of the precise plat cannot yield a reasonable return to the owner unless such permit is granted; and

b. Balancing the interest of the city in preserving the integrity of the adopted map, and the interest of the owner of the property in use and benefits of the property, the granting of such permit is required by considerations of justice and equity.

(b) *Notice of public hearing*. The city zoning board of appeals shall hold a public hearing thereon, at least

ten days' notice of the time and place of which shall be sent by first class mail to the applicant and each owner of record of land located within or abutting the land area encompassed by the precise plat.

(c) *Powers of zoning board of appeals*. In the event of the authorization of a variance, the zoning board of appeals shall have the power to specify the exact location, ground area, height, and other details and conditions of size, character and construction, and duration of any building, structure or part thereof permitted within the proposed future outside lines of the precise plat, as detailed in this article.

(d) *Fee for appeal*. The fee for each application filed to the zoning board of appeals shall be an amount as established by the fee schedule adopted by the city council.

(Code 2006, § 16-204; Ord. No. 171, art. V, 4-13-1998)

Chapter 33

RESERVED

Chapter 34

TAXATION

ARTICLE I. IN GENERAL

Secs. 34-1--34-18. Reserved.

ARTICLE II. SPECIAL ASSESSMENTS*

***State law reference**—Notices and hearings, MCL 211.741 et seq.; deferment of special assessment for homesteads, MCL 211.761 et seq.

Sec. 34-19. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Cost, when referring to the cost of any public improvement, means the cost of services, plans, condemnation, spreading of rolls, notices, advertising, financing, construction, and legal fees and all other costs incident to the making of such improvement, the special assessments therefor and the financing thereof.

Public improvement means any improvement upon public property which results in special benefit to the real property in the vicinity of such improvement.

(Code 1972, § 31-2; Code 2006, § 30-1)

Sec. 34-20. Special assessments authorized.

The entire cost and expense or any part thereof of all public improvements may be defrayed by special assessment upon the lands specially benefited by the improvement in the manner provided in this article.

(Code 1972, § 31.3; Code 2006, § 30-2)

Sec. 34-21. Preliminary determinations.

(a) Proceedings for making public improvements and defraying the entire cost or any part thereof by special assessment shall be initiated by resolution of the council. For the purposes of determining whether a sufficient number of property owners are interested in a public improvement, the council may require petitions from the owners of property and defray the entire cost and expense thereof or any part thereof by special assessment. The council shall by resolution direct the city clerk to make an investigation of the proposed public improvement and report his findings to the council. The report shall include an analysis of the following:

(1) The estimated cost of the proposed public improvements; and

(2) Plans and specifications for the public improvement.

(b) There shall also be included recommendations as to the following:

(1) The portion of the cost to be borne by the special assessment district and the portion, if any, to be borne by the city at large;

(2) The extent of the improvement and boundaries of the district; and

(3) Any other facts or recommendations which will aid the council in determining whether the improvement shall be made and how the improvement shall be financed.

(Code 1972, § 31.4; Code 2006, § 30-3)

Sec. 34-22. Allocation of costs.

Upon receipt of the report of the city clerk pursuant to section 34-21, if the council shall determine to proceed with such improvement, it shall by resolution approve the report prepared by the city clerk and shall approve the plans and specifications and estimate of cost for the public improvement. In addition, by such resolution, the council shall:

(1) Determine whether to proceed with the public improvement, based on the necessity thereof, and set forth the nature thereof;

(2) Designate the limits of the special assessment district to be affected and describe the lands to be assessed;

(3) Determine the part of proportion of the cost of the public improvement to be paid by the lands specially benefitted thereby and the part or proportion, if any, to be paid by the city at large for benefit to the city at large (if the improvement is to be an improvement to the water supply system of the city, the portion representing benefit to the city at large shall be paid from funds of the water supply system, and if the improvement is to the sewage disposal system of the city, the portion representing benefit to the city at large shall be paid by the sewage disposal system);

(4) Determine the number of installments in which the special assessment may be paid, and the rate of interest, which shall be a reasonable rate in light of the prevailing market factors, to be charged if the payment of any balance is to be deferred, and by the terms of the resolution shall direct the city assessor to make a special assessment roll of the part or proportion of the cost to be borne by the lands specially benefited according to the benefits received and to report the same to the council.

(Code 1972, § 31.5; Code 2006, § 30-4; Ord. No. 135, 4-8-1991)

Sec. 34-23. Filing of roll; notice of public hearing.

(a) When the special assessment roll shall have been reported to the council, it shall order the roll filed in the office of the city clerk for public examination along with the report of the city clerk required to be made pursuant to section 34-21 and shall fix a date, time and place when the council shall meet and review the special assessment roll. The city clerk shall give notice of the meeting of the council to review the special assessment roll by publication at least once in a newspaper circulated in the city at least ten days prior to the time of such meeting, and shall further cause notice of the meeting to be mailed by first class mail to each property owner or party in interest in the special assessment district at the address as shown by the current assessment rolls of the city at least ten days prior to the time of the hearing, such notice to be mailed to the addresses shown on the current assessment rolls of the city.

(b) The notice of hearing shall include a statement that appearance and protest at the hearing in the special assessment proceedings is required in order to appeal the amount of the special assessment to the state tax tribunal and shall describe the manner in which a protest shall be made.

(c) An owner or party in interest, or his agent, may appear in person at the hearing to protest the special assessment, or shall be permitted to file his appearance or protest by letter and his personal appearance shall not be required.

(d) The city council shall maintain a record of parties who appear to protest at the hearing. If a hearing is terminated or adjourned for the day before a party is provided the opportunity to be heard, a party whose appearance is recorded is considered to have protested the special assessment in person.

(Code 1972, § 31-6; Code 2006, § 30-5)

Sec. 34-24. Approval of assessments.

The council shall meet and review the special assessment roll at the time and place appointed or at an adjourned meeting thereof and shall consider any objections thereto. The council may correct the roll as to any assessment or description of any lot or parcel of land or other errors appearing therein. Any changes made in such roll shall be noted in the council's minutes. After such hearing and review the council may confirm such special assessment roll with such corrections as it may have made, if any, or may refer it back to the city assessor for revision, or may annul it or any proceedings in connection therewith. The city clerk shall endorse the date of confirmation upon each special assessment roll.

(Code 1972, § 31.7; Code 2006, § 30-6)

Sec. 34-25. Objections by property owners.

No special assessment roll shall be finally confirmed except by the affirmative vote of five-sevenths of the councilmembers-elect if at or prior to the hearing written objections to the proposed improvement have been filed with the city clerk by more than 50 percent of the number of owners of privately owned real property to be assessed

for the improvement, or, in the case of paving or similar improvements, more than 50 percent of the number of owners of frontage to be assessed for any such improvement, provided that this section shall not apply to sidewalk construction.

(Code 1972, § 31-8; Code 2006, § 30-7)

Sec. 34-26. Confirmation is conclusive.

The special assessment roll shall be, upon confirmation, final and conclusive.

(Code 1972, § 31.9; Code 2006, § 30-8)

Sec. 34-27. Contesting suits.

No suit or action of any kind shall be instituted or maintained for the purpose of contesting or enjoining the collection of any special assessment unless the following prerequisites are observed:

(1) Within 30 days after confirmation of the special assessment roll written notice shall be given to the council by filing same with the city clerk of intention to file such suit or action stating the grounds on which it is claimed such assessment is illegal; and

(2) Such action shall be commenced within 60 days after confirmation of the roll.

(Code 1972, § 31.10; Code 2006, § 30-9)

Sec. 34-28. Assessments to constitute lien; payment; due dates.

All special assessments contained in any special assessment roll, including any part thereof to be paid in installments, shall from the date of confirmation of such roll constitute a lien upon the respective lots or parcels of land assessed and until paid shall be a charge against the respective owners of the several lots and parcels of land and a debt to the city from the persons to whom they are assessed. Such liens shall be of the same character and effect as the lien created by general law for the state and county taxes and by the Charter for taxes and shall include accrued interest and fees. No judgment or decree or act of the council vacating a special assessment as may be equitably charged against the same or as by regular mode of proceeding might be lawfully assessed thereon. All special assessments shall become due upon confirmation of the special assessment roll or in annual installments, not to exceed 30 in number, as the council may determine at the time of confirmation, and, if in annual installments, the council shall determine the first installment to be due upon confirmation and the second installment to be due on July 1 of the next succeeding calendar year, and subsequent installments to be due on each succeeding July 1 until paid in full.

(Code 1972, § 31.11; Code 2006, § 30-10)

Sec. 34-29. Interest rate; delinquency.

(a) Should the council determine the assessment is to be paid in installments as specified in section 34-28, interest shall be charged at a rate not to exceed six percent per annum, commencing on confirmation and payable on the due date of each installment. The full amount of all or any deferred installments, with interest accrued thereon to the date of payment, may be paid in advance of the due dates thereof. Each property owner shall have 30 days from the date of confirmation to pay the full amount of the assessment, or the full amount of any installment thereof, without interest or penalty. Following such 30-day period, the assessment or first installment thereof shall, if unpaid, be considered as delinquent, and the same penalties, collection fees and interest shall be levied on delinquent special assessments and upon delinquent installments of such special assessments as are provided by the Charter to be collected upon delinquent city taxes.

(b) In addition, in case any assessment or any part thereof shall remain unpaid on the first Monday of May following the date when the assessment or part thereof became delinquent, the assessment shall be reported unpaid by the treasurer to the council, and such delinquent assessments, together with all accrued interest, shall be transferred and reassessed on the next annual city tax roll in a column headed "Special Assessments" with a penalty of four percent upon such total amount added thereto, and when so transferred and reassessed upon the tax roll shall be collected in all respects as provided for the collection of city taxes.

(Code 1972, § 31.12; Code 2006, § 30-11)

Sec. 34-30. Statements.

Whenever any special assessment roll shall be confirmed and be payable, the council shall direct the city clerk to transmit the assessment roll to the city treasurer for collection. The city treasurer shall mail statements of the several assessments to the respective owners of the several lots and parcels of land assessed, as indicated by the records of the city assessor, stating the amount of the assessment and the manner in which it may be paid; provided, however, that failure to mail any such statement shall not invalidate the assessment or entitle the owner to an extension of time within which to pay the assessment.

(Code 1972, § 31.13; Code 2006, § 30-12)

Sec. 34-31. Collection.

Each special assessment shall be collected by the city treasurer with the same rights and remedies as provided in the Charter for the collection of taxes. Except as otherwise provided in this article, all collection fees and penalties shall belong to the city and be collectible in the same manner as the collection fee for city taxes.

(Code 1972, § 31.14; Code 2006, § 30-13)

Sec. 34-32. Payment of installments.

After the expiration of the period provided in section 34-29 for payment without interest or fees any installment may be discharged by paying the face amount thereof together with fees and interest thereon from the date of confirmation to the date or payment; provided, however, that if the public improvement has been financed by the sale of noncallable bonds or other evidences of indebtedness which are not prepayable, then the interest shall be computed from the date of confirmation to the date upon which such installment would have fallen due had it not been prepaid.

(Code 1972, § 31.15; Code 2006, § 30-14)

Sec. 34-33. Quarterly payment option.

The council may, by resolution, upon confirmation of the assessment roll on or before the first meeting in January of any year, direct that the owners may pay any installment due and payable during that year or any succeeding year in quarterly portions, such portions to fall due as the council may direct, and, in such case, the city treasurer shall, not later than 20 days after such direction, notify each owner of the option to pay such installment in the manner provided. The failure to mail any such notice shall not invalidate the assessment or any installment thereof. Interest on such installments shall be computed as if the entire amount were paid annually.

(Code 1972, § 31.16; Code 2006, § 30-15)

Sec. 34-34. Final accounting.

Upon completion of the improvement, the financing thereof and the payments of the cost thereof, the city clerk shall certify to the council the total cost of the improvement together with the amount of the original roll for the improvement.

(Code 1972, § 31.17; Code 2006, § 30-16)

Sec. 34-35. Additional assessments.

Should the assessments in any special assessment roll, including the amount assessed to the city at large, prove insufficient for any reason to pay the cost of the improvement for which they were made, then the council may make additional assessments to supply the deficiency against the city and the several lots and parcels of land in the same ratio as the original assessments, but the total amount assessed against any lot or parcel of land shall not exceed the value of the benefits received from the improvement.

(Code 1972, § 31.18; Code 2006, § 30-17)

Sec. 34-36. Disposition of surplus revenue; refunds.

The excess by which any special assessment proves larger than the actual cost of the improvement and expenses incidental thereto may be placed in the general fund of the city if such excess is five percent or less of the assessment, but should the assessment prove larger than necessary by more than five percent the entire excess shall

be refunded on a pro-rata basis to the owners of the property assessed as shown on the last tax roll. Such refund shall be made by credit against future unpaid installments to the extent such installments then exist and the balance of such refund shall be in cash. No refunds may be made which contravene the provisions of any outstanding evidence of indebtedness secured in whole or in part by such special assessment.

(Code 1972, § 31.19; Code 2006, § 30-18)

Sec. 34-37. Special assessment accounts.

Moneys raised by special assessments to pay the cost of any local public improvement shall be held in a special fund to pay such cost or to repay any money borrowed therefor. Each special assessment account must be used only for the improvement project for which the assessment was levied, except as otherwise provided in this article.

(Code 1972, § 31.20; Code 2006, § 30-19)

Sec. 34-38. Division of affected land.

Should any lots or lands be divided after a special assessment thereon has been confirmed and divided into installments, the city assessor shall apportion the uncollected amounts upon the several lots and lands so divided, and shall enter the several amounts as amendments upon the special assessment roll. The city treasurer shall, within ten days after such apportionment, send notice of such action to the person concerned at his last known address by first class mail. Such apportionment shall be final and conclusive on all parties unless protest in writing is received by the city treasurer within 20 days of the mailing of the aforethe notice.

(Code 1972, § 31.21; Code 2006, § 30-20)

Sec. 34-39. Invalid assessments.

Whenever any special assessment shall, in the opinion of the council, be invalid by reason of irregularity or informality in the proceedings, or if any court of competent jurisdiction shall adjudge such assessment to be illegal, the council shall, whether the improvement has been made or not, or whether any part of the assessments have been paid or not, have the power to cause a new assessment to be made for the same purpose for which the former assessment was made. All proceedings on such reassessment and for collection thereof shall be conducted in the same manner as provided for the original assessment, and whenever any assessment or part thereof, levied upon any premises, has been set aside, if the same has been paid and not refunded, the payment so made shall be applied upon the reassessment on such premises, and the reassessment shall to that extent be deemed satisfied.

(Code 1972, § 31.22; Code 2006, § 30-21)

Sec. 34-40. Individual assessment adjustment.

If in any action it shall appear that by reason of any irregularities or informalities the assessment has not been properly made against the person assessed or upon the lot or premises sought to be charged, the court may nevertheless, on satisfactory proof that expense has been incurred by the city which is a proper charge against the person assessed or the lot or premises in question, render judgment for the amount properly chargeable against such person or upon such lot or premises.

(Code 1972, § 31.23; Code 2006, § 30-22)

Chapter 35

RESERVED

Chapter 36

TRAFFIC AND VEHICLES*

***State law reference**—Michigan Vehicle Code, MCL 257.1 et seq.; regulation by local authorities, MCL 257.605, 257.606, 257.610.

ARTICLE I. IN GENERAL

Sec. 36-1. State vehicle code and uniform traffic code adopted; penalties.

(a) *Vehicle code.* The city council has adopted the state vehicle code, ~~Public Act No. 300 of 1949~~ MCL 257.1 et seq., as traffic regulations for the city, together with all future amendments and revisions to such code when they are promulgated and effective. References in the Uniform Traffic Code to governmental unit shall mean the city. References in the adopted state code to governmental unit shall mean the city.

(b) *Penalties for violation of vehicle code.* The penalties provided by the state vehicle code are adopted by reference; provided, however, that the city may not enforce any provision of the state vehicle code for which the maximum period of imprisonment is greater than 93 days. Any contrary provision of the Charter or this Code notwithstanding, any violation of MCL 257.625(1)(c) shall be punishable by community service for not more than 360 hours, imprisonment for not more than 180 days, or a fine of not less than $200.00 nor more than $700.00 or any combination of such penalties plus applicable costs.

(c) *Uniform Traffic Code; penalties for violation.* The city council has adopted the Uniform Traffic Code for Cities, Townships, and Villages as promulgated by the director of the state department of state police pursuant to the Administrative Procedures Act of 1969, MCL 24.201 et seq. References in the Uniform Traffic Code to governmental unit shall mean the city. The penalties provided by the Uniform Traffic Code are adopted by reference unless provided otherwise by the city.

(Code 2006, §§ 36-1, 36-2; Ord. No. 198, §§ 71-1, 71-2, 73-1, 73-2, 11-11-2002)

State law reference—Authority to adopt the Michigan Vehicle Code by reference, MCL 177.3; authority to adopt uniform traffic code by reference, MCL 257.951.

Sec. 36-2. Operating motor vehicle on frozen lake, stream or pond.

(a) No person shall operate or drive any motor vehicle on a frozen public lake, stream or pond.

(b) Notices, large enough for a reasonably observant person to be able to read, shall be posted in prominent locations near any lake, pond or stream forbidding such activity.

(c) Such notices shall read as follows: "Motor vehicles shall not be driven or operated upon any frozen lake, pond or stream in the city."

(Code 2006, § 36-3; Ord. No. 143, §§ 83.2(b), 83.3, 3-8-1993)

Secs. 36-3--36-22. Reserved.

ARTICLE II. STOPPING, STANDING AND PARKING*

***State law reference—**Stopping, standing and parking, MCL 257.672 et seq.; authority to regulate the standing or parking of vehicles, MCL 257.606(1)(a).

Sec. 36-23. Overnight parking.

No person, except a physician on an emergency call, shall park a vehicle or permit a vehicle previously parked by him, other than an emergency vehicle in actual use as such, to remain parked on any street or alley between the hours of 2:00 a.m. and 6:00 a.m. of any day. A person who violates this section is responsible for a civil infraction.

(Code 2006, § 36-31; Ord. No. 185, § 72-7, 12-20-2000)

Sec. 36-24. Parking violations bureau.

(a) *Established.* Pursuant to ~~section 8395 of the revised judicature act, as added by Public Act No. 154 of~~

~~1968~~ MCL 600.8395, a parking violations bureau, for the purpose of handling alleged parking violations within the city, has been established by the city. The parking violations bureau is under the supervision and control of the city clerk.

(b) *Location; administration.* The city clerk shall, subject to the approval of the city council, establish a convenient location for the parking violations bureau, appoint qualified city employees to administer the bureau, and adopt rules and regulations for the operation thereof.

(c) *Disposition of scheduled violations.* Any violation scheduled in this article shall be disposed of by the parking violations bureau. The fact that a particular violation is scheduled shall not entitle the alleged violator to disposition of the violation at the bureau, and in any case the person in charge of such bureau may refuse to dispose of such violation, in which case any person having knowledge of the facts may make a sworn complaint before any court having jurisdiction of the offense as provided by law.

(d) *Procedure; rights of accused.* No violation may be settled at the parking violations bureau except at the specific request of the alleged violator. No penalty for any violation shall be accepted from any person who denies having committed the offense and in no case shall the person who is in charge of the bureau determine, or attempt to determine, the truth or falsity of any fact or matter relating to such alleged violation. No person shall be required to dispose of a parking violation at the parking violations bureau and all persons shall be entitled to have any such violation processed before a court having jurisdiction thereof if they so desire. The unwillingness of any person to dispose of any violation at the parking violations bureau shall not prejudice him or in any way diminish the rights, privileges and protection accorded to him by law.

(Code 1972, §§ 72-1—72-4; Code 2006, §§ 36-51—36-54)

State law reference—Parking violations bureaus, MCL 600.8395.

Sec. 36-25. Traffic tickets and notices of violation.

The issuance of a traffic ticket or notice of violation by a police officer of the city shall be deemed an allegation of a parking violation. Such traffic ticket or notice of violation shall indicate the length of time in which the person to whom the ticket was issued must respond before the parking violations bureau. It shall also indicate the address of the bureau, the hours during which the bureau is open, and the amount of the penalty scheduled for the offense for which the ticket was issued, and advise that a warrant for the arrest of the person to whom the ticket was issued will be sought if such person fails to respond within the time limited.

(Code 1972, § 72-5; Code 2006, § 36-55)

Sec. 36-26. Penalties for parking violations.

All penalties due in the amounts and for the causes established in this section shall be payable within 72 hours from the hour and date of issuance as noted upon the traffic citation. Saturdays and Sundays shall not be included within the 72-hour period. Penalties paid after the lapse of the 72-hour period shall be in the amounts established in the following table:

Offense	Penalty If Paid Within 72 Hours	Penalty After 72 Hours
Parking too far from the curb or edge of roadway	$15.00	$30.00
Angle parking violation	$15.00	$30.00
Failure to obtain permit for angle parking loading/unloading	$15.00	$30.00
Parking so as to obstruct traffic	$20.00	$40.00
Violation of lighting of parked car	$20.00	$40.00

Unlawful parking:			
	On a sidewalk	$20.00	$40.00
	In front of a public or private driveway	$20.00	$40.00
	Within an intersection	$20.00	$40.00
	Within 15 feet of a fire hydrant	$20.00	$40.00
	On a crosswalk	$20.00	$40.00
	Within 20 feet of crosswalk or within 15 feet of intersection of property lines at an intersection of highways	$20.00	$40.00
	Within 30 feet of the approach to a flashing beacon, stop sign, or traffic control signal located at the side of a highway	$20.00	$40.00
	Between a safety zone and the adjacent curb or within 30 feet of a point on the curb immediately opposite the end of a safety zone, unless a different length is indicated by an official sign or marking	$20.00	$40.00
	Within 50 feet of the nearest rail of a railroad crossing	$20.00	$40.00
	Within 20 feet of the driveway entrance to a fire station and on the side of a street opposite the entrance to a fire station within 75 feet of the entrance if properly marked by an official sign	$20.00	$40.00
	Alongside or opposite a street excavation or obstruction, if the stopping, standing, or parking would obstruct traffic	$20.00	$40.00
	On the roadway side of vehicle stopped or parked at edge or curb of a street	$20.00	$40.00
	Upon a bridge or other elevated highway structure or within a highway tunnel	$20.00	$40.00
	At a place where an official sign prohibits stopping or parking	$20.00	$40.00
	Within 200 feet of an accident at which a police officer is in attendance	$20.00	$40.00
	In front of a theater	$20.00	$40.00
	Blocking immediate egress from marked emergency exit of building	$20.00	$40.00

	Unlawful parking in space clearly identified as reserved for disabled persons on public property or private property available for public use. To park lawfully, the vehicle must display one of the following:	$100.00	$200.00
	A certificate of identification or windshield placard issues under MCL 257.675 to a disabled person		
	A special registration plate issued under UTC 28.1803, rule 803d, to a disabled person		
	A similar certificate of identification or windshield placard issued by another state to a disabled person		
	A similar special registration plate issued by another state to a disabled person		
	A special registration plate to which a tab for persons with disabilities is attached issued under state law		
	In clearly identified access aisle or access lane immediately adjacent to space designated for parking by disabled persons	$100.00	$200.00
	In a manner interfering with the use of a curb cut or ramp by persons with disabilities	$100.00	$200.00
	Within 200 feet of a fire at which fire apparatus is in attendance	$20.00	$40.00
	In violation of an official sign restricting the period of time for or manner of parking	$20.00	$40.00
	In a metered space if the time for parking has expired, unless the vehicle properly displays one or more of the items listed in MCL 257.675(8)	$20.00	$40.00
	Obstructing the delivery of mail to a rural mailbox by a carrier of the U.S. Postal Service	$20.00	$40.00
	Blocking the use of an alley	$20.00	$40.00
	Blocking access to space designated as a fire lane	$20.00	$40.00
In an alley		$20.00	$40.00
Between 2:00 a.m. and 6:00 a.m.		$20.00	$40.00
Parking for any of the following prohibited purposes:			

	Display of vehicle for sale	$15.00	$30.00
	Washing or repairing vehicle	$15.00	$30.00
	Displaying advertising	$15.00	$30.00
	Selling merchandise	$15.00	$30.00
	Storage for more than 48 continuous hours	$20.00	$40.00
Wrong side of boulevard roadway		$20.00	$40.00
Loading zone violation		$20.00	$40.00
Bus or taxi, parking at other than designated stop		$15.00	$30.00
Meter violations		$15.00	$30.00
Meter, not parked within space		$15.00	$30.00
Failure to set brakes		$20.00	$40.00
Parked on grade, wheels not turned to curb		$20.00	$40.00
Failure to remove ignition key or failure to turn offs		$20.00	$40.00

(Code 1972, § 72-6; Code 2006, § 36-56, Ord. No. 220-09, 5-28-2009)

Sec. 36-27. Waiver of parking restriction and penalty.

Upon written request made to the police chief or his designee and a showing of good cause, the chief may waive any penalty for unlawful parking to allow temporary parking that would otherwise violate this chapter. The request for waiver must be made to the chief before parking occurs in violation of this article. The requester must receive specific confirmation from the chief or his designee in order for the waiver to be considered valid.

(Ord. No. 220-09, § 4(36-57), 5-28-2009)

Chapter 37

RESERVED

Chapter 38

UTILITIES*

***State law reference**—Ownership and operation of water supply or sewage disposal facility by city, Mich. Const. art. VII, § 24; local authority to provide and regulate sewer and water service, MCL 324.4301 et seq.; water and sewer authorities, MCL 124.281 et seq.

ARTICLE I. IN GENERAL

Secs. 38-1--38-18. Reserved.

ARTICLE II. WATER

DIVISION 1. GENERALLY

Sec. 38-19. Fluoridation of city water supply rejected.

The city, in accordance with ~~section 12721 of Public Act No. 368 of 1978~~ MCL 333.12721 providing that the addition of fluoride to the public water supply may be rejected by an ordinance of the city council and in the interest of the health, safety and welfare of the inhabitants of the city and to avoid the increased cost inherent in regulating fluoridation of the city water supply, does hereby reject the addition of fluoride into the public water supply of the city.

(Code 2006, § 38-31; Ord. No. 92, 4-9-1973)

State law reference—Fluoridation of water supplies, MCL 333.12721.

Secs. 38-20--38-41. Reserved.

DIVISION 2. WATER SERVICE

Sec. 38-42. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Stub service means any service connection with the principal mains, and service pipes from the principal mains to approximately two feet within the curbline, including the stop or curb cock or valve and box for same.

Water main means all that part of the water distribution system which is located within the right-of-way lines of the several streets and alleys of the city or within easements on private property which is the property of the city or held and controlled by the city for the purpose of supplying water to the inhabitants thereof, or for the purpose of fighting fire within the city.

(Code 1972, § 33-2; Code 2006, § 38-51)

Sec. 38-43. Penalty.

Violation of any of the provisions in this division may be punished as a Class I misdemeanor; provided, however, that this section shall not be construed so as to interfere with the operation of any other provision of this division.

(Code 1972, § 33-14; Code 2006, § 38-52)

Sec. 38-44. Application for service; installation of service pipes.

(a) When the installation of service pipes is desired from the water distribution system, an application in writing, on the approved form, shall first be made to the city public works director. ~~city clerk~~Such application shall set forth the true legal description of the premises it is proposed to serve, the size of the service desired and such other pertinent data as may be required by the council. The applicant shall be required to answer truthfully all questions regarding such application which may be put to him by an officer or employee of the water superintendent. Each application shall be signed by the owner of the property or his legally authorized agent. Every person who

shall be supplied, or whose property shall be supplied, with water by the city shall be deemed to have accepted and approved the provisions of this division and all the rules of the city governing and regulating the supplying of water and the same shall constitute a part of the contract between such person and the city.

(b) Connections to the distribution mains must be inspected and approved by the city when completeinstalled only by the city and then only upon the prepayment of the fees established therefor by resolution of the council and the subsequent payment of the actual cost of the stub service.

(c) After the service pipes have been installed to the premises, such person may apply for and be granted the use of water; provided that such application is made in writing, on an approved form, at the office of the city public works director clerk; and provided further that the applicant agrees to be bound by all the legally established rules and regulations of the city regarding the waterworks.

Tenants of persons complying with the provisions of section 38-62(b) with respect to the execution of leases and filing of affidavits shall not be granted the use of water until they have paid the deposit established therefor by resolution of the council. Such deposit shall bear no interest and shall be retained by the city until service has been discontinued and all rates and charges paid and the meter returned in good condition. The council has the right to use such portion of that sum to repair any meter damaged by reason of the owner's or customer's negligence and to pay any unpaid rates or charges for which they may be liable, and the person making the deposit shall be required to pay such additional sums as shall be necessary to have on deposit at all times the amount of the original deposit.

(d) Whenever a customer shall have promptly paid his water bills for at least two years and shall have otherwise established satisfactory credit in the city, the council may refund his deposit.

(Code 1972, § 33-3; Code 2006, § 38-53)

Sec. 38-45. Connections.

(a) The council Only the city public works director may postpone the granting of permission to connect a service at such times as, in his its judgment, the making of connections will endanger the mains from freezing or other damage.

(b) Stub services shall be furnished and installed only by properly authorized agents employees of the city, acting under the orders and direction of the city public works directorwater superintendent, and at the expense of the consumer. The owner of the property served shall pay the actual cost of all labor and materials entering into such service connections, plus the fee established by resolution of the council to cover the cost of inspection of the owner's portion of the service, overhead, and maintenance of the roadway until restored to a condition equal to the existing roadbed before the excavation was made.

(c) No person shall make any connection with the stub service or extend the same to the building, or meter, located either at the curb or within the basement, except a regular employee of the city or a duly licensed plumber, having a special permit from the city public works director council showing that the service has been inspected and approved.

(d) 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 the premises, and in no sense as the agent of the city. The city will not be responsible for the acts of such plumber. The owner and plumber will each be held responsible for the trench opened by them.

(e) Every building or premises shall have a separate connection with the street main and shall be separately metered, except where the building is an accessory to the principal use, such as a garage or storage building.

(f) No person shall make any attachment to or connection with the water distribution system or make any repairs, additions to, or alterations of any fixtures connected with the system unless such connection, repairs, additions, extensions, or alterations are in accord with this article and the code approved by the state plumbing board, and with any additional rules and regulations regulating the installation of plumbing which the council may from time to time adopt. All work performed in making additions, connections, repairs, extensions or alterations of any fixture connected with the distribution system shall be subject to inspection by the water superintendent or his agent, who is hereby granted authority to order any part of such work disconnected or changed in order that the

work shall comply with the rules and regulations of the city.

(g) The curb cock or valve on any stub service shall not be opened or left open by the plumber or any other person after connecting the service at the curb, so that the water may be supplied to such premises by such service, unless and until the service pipe and installation has been inspected and approved by the city and the meter installation completed. In the case of building operations, special temporary permission may be given by the council under such conditions as it may prescribe.

(h) All right, title, and ownership to the stub service, including the corporation cock, the service box, the stopcock and the service pipe between them, shall be vested in the city.

(i) All service pipes between the main and the meter shall be of a minimum internal diameter of three-fourths inch. Such services shall be of seamless annealed type K copper tubing conforming to American wall thickness in three-fourths-inch, one-inch and 1 1/4 inch sizes. The minimum depth of cover for services shall be five feet below the surface of the ground or the established street grade. The service shall be brought to the required depth as soon as possible after leaving the tap. No service shall be laid along the outside wall or in any position where there is danger of freezing. Every service shall be furnished with a valve with waste on the influent side of the meter below the action of frost, and on two-inch and larger meters a valve shall also be placed on the effluent side of the meter. When such valve is placed under the floor, the rod operating the valve shall extend above the floor. ~~Service pipe laid in the same trench with sewers shall be at least 18 inches distant from the sewer horizontally, and if the sewer service shall be shelved into the bank to a solid bottom. In no case shall a service pipe be laid on a fill.~~ Service pipe may be laid in the same trench with sewers provided that:

(1) The bottom of the water service pipe shall be at least 18 inches from the top of the sewer line at all points; and

(2) The water service pipe shall be placed on a solid shelf excavated at one side of the common trench.

(j) Where trenches are opened for the laying of service pipes and such service pipes installed, such trenches, materials and workmanship shall be inspected and tested for leakage by the water superintendent that such trench and service are ready for inspection and test.

(k) Standpipes or other pipes for automatic suppression of fires in buildings, which fixtures are only intended for such use, may be permitted to be attached to the water supply system. Application for such permits, accompanied by a plan of the proposed pipe system, must be submitted to the council for approval. No additional fixtures, connections, or extensions shall be made in any fire system. The entire cost of installing the fire service shall be borne by the owner of the building supplied. Such services shall be subject to the maintenance provisions as given in section 38-46.

(Code 1972, § 33-4; Code 2006, § 38-54; Ord. No. 155, 3-28-2002)

Sec. 38-46. Maintenance of service pipes and fixtures.

The owner of property into which water is introduced by a service pipe will be required to install and maintain in perfect order, at his own expense, the service pipe from the curb cock and box to the meter on or for his premises, including all fixtures therein provided for delivering or supplying water for any purpose. The expense of such work, and all materials and labor required, shall be paid by the property owner.

(Code 1972, § 33-5; Code 2006, § 38-55)

Sec. 38-47. Meter required; installation of meters.

(a) All connections with the water mains, with the exception of fire hydrants and fire protection sprinkler systems, must be prepared for the use of water through a meter and no water shall be supplied to any inhabitant of the city unless such water shall be measured by a water meter of a design approved and installed by the council. The council will not furnish meters of a larger size than, in its judgment, appears to be necessary.

(b) Water for automatic sprinkling systems will be furnished for the rates established by the city council. No person shall use any water from a sprinkler system except in case of fire.

(c) All meters must be set in a clean, dry, sanitary place easily accessible. They will not be allowed in closets or compartments that are kept locked, in coal bins, in or under toilet room floors, in pits below basement floors,

under buildings having no basements, or under porches, show windows, snow boards or any other place where they are difficult to access. Where practical, meters shall be installed within the building served, but where this is impractical, meter pits shall be built in accordance with plans and specifications approved by the council. The cost of construction of meter pits shall be borne by the owner of the property.

(d) Actual placing of the meter shall be done by the water superintendent after the property owner has made application for same and provided a place in the system, with the approved service, at his own expense, for setting the meter. In case an application for water service has been filed and no provision made for the meter, the water superintendent will not be required to set the meter or supply service until the place to install the meter has been provided. The space occupied by the meter and the meter box shall be kept accessible and free from rubbish and obstructions of all kinds.

(e) Meters will be furnished by the city without cost to the customer, except for a nominal setting charge established by resolution of the council; all right, title and ownership of the meter shall be vested in the city.

(f) The city will maintain all meters and make all necessary replacements caused by wear through normal usage. The customer will be held responsible for care and protection of the meter from freezing or damage by hot water and from injury by any person. Any damage which may occur to any water meter due to the carelessness or neglect of the tenant, owner, or agent of the owner or tenant of any property on which the meter is placed shall be paid for by such person upon presentation of a statement of damages. Meters shall be repaired only by the water superintendent or his authorized agents.

(g) In case a meter reading does not appear to be consistent, or in case the meter has ceased to register, the amount of water charged for shall be the amount estimated by the water superintendent. In making such estimates, previous quantities of water used by the same premises shall be used as a basis for such estimates, but special conditions found, such as leaking fixtures or abnormal demand for water, may also be considered. When it appears that abnormal use of water has resulted from leakage or carelessness on the part of the consumer, no deduction shall be made therefor.

(h) All persons are forbidden to interfere with or remove a meter from any service connection. No person shall break, remove or tamper with, or shall cause or suffer to be broken, removed or tampered with, any seal which is placed on any meter or service box by an employee of the city. No person shall place or cause or suffer to be placed any device which will serve to allow any water to be used which does not pass through the meter.

(i) It shall be the duty of the water superintendent to read all meters periodically and to render statements for the amounts due as shown by the reading. Statements shall be payable as determined by this division, and in no event shall failure to receive a statement excuse any consumer for nonpayment thereof.

(Code 1972, § 33-6; Code 2006, § 38-56)

Sec. 38-48. Shutoff of service for nonpayment of fees.

(a) If any payment for the use of water or any fees as determined by this division or by resolution of the council remain unpaid for a period of 15 days after the due date, the city may cause the water supply to be turned off and the meter removed from premises until such time as payments and all applicable fees shall have been fully paid, including billed charges that are not yet due.

(b) Neither the water superintendent nor the city shall be liable for any damage which may result to any person or premises from shutting off the water from any mains or service, for any purpose whatever, even in cases where no notice is given.

(c) When the water supply to any building, structure or premises shall have been shut off or stopped, or an employee has been sent to the premises for the purpose of shutting off the water, under the direction of the city, in accordance with the provisions of subsection (a) of this section, the water shall not again be supplied to such building, structure or premises until the charges and penalties plus the service charge established by resolution of the council shall have been paid. If water service is not resumed by the consumer, any unpaid charges and penalties shall be deducted from the deposit made with the city or become a lien on the property served as provided in this division.

(Code 1972, § 33-7; Code 2006, § 38-57; Ord. No. 193, §§ 1, 2, 3-28-2002; Ord. No. 200, § 1, 12-9-2002)

Sec. 38-49. Access to meter and fixtures.

The water superintendent and his authorized representatives shall have access to the meter and all water piping and plumbing fixtures at any reasonable hour for the purpose of inspecting the meter or any of the plumbing used in connection with the water supply system, and no such meter or auxiliary equipment shall be covered or fenced in such a way as to be inaccessible.

(Code 1972, § 33-8; Code 2006, § 38-58)

Sec. 38-50. Use of public hydrants.

(a) No person shall, without written authority from the city clerk, draw water from any public hydrant or any other public connection with the water supply system except in emergency cases for the purpose of extinguishing fire or for fire practice by the regularly organized fire department. Permits to use hydrants shall be granted by the city clerk only for specific hydrants at specific times for specific work.

(b) Any person holding permission from the city clerk to use a fire hydrant shall keep his written permit at the place of use, and it shall be displayed to any member of the fire department or city official upon request.

(c) Any person desiring services from a fire hydrant shall place on deposit such sum of money as the city clerk shall designate, which sum shall be held until all charges incurred have been fully paid and all city equipment returned in good condition. The council shall have the right to use any portion or all of such deposited sum to repair or replace any equipment damaged through negligence of the person using the hydrant or by reason of such person's use thereof.

(d) Before the use of water from a hydrant is allowed, the discharge port shall first be fitted with a valve approved by the fire department, under the direction of the water superintendent. The main valve of the hydrant must be opened full at the beginning of work each day and remain open until the stoppage of work at night. The water supply shall be regulated by the independent valve. The hydrant shall be operated only by a proper hydrant wrench, which shall be obtained from the water superintendent.

(e) Water must not be allowed to run except when used. No leaking hose, pipe or joints shall be permitted. All persons using hydrants shall immediately obey any instructions or orders that may be issued by the water superintendent to regulate the use of the hydrants.

(f) If the use of water from a hydrant is to be continued over a number of days, the water superintendent, weather permitting, may require a meter to be applied to the connection made with the hydrant, at the expense of the party using the hydrant, and such party shall pay for all water by meter measurement, at the stipulated rates.

(Code 1972, § 33-9; Code 2006, § 38-59)

Sec. 38-51. Tampering with pipes or fixtures.

(a) It is unlawful for any person to disrupt, injure or disturb any water main, service pipe, meter or water fixture or facility of any kind. No person except members of the fire department or the water superintendent or his agent or representative shall unlock, unscrew or take off the cap or cover valve thereof or in any manner operate or use or attempt to operate or use any hydrant (except under special written permission issued by the city clerk).

(b) No person, except a duly authorized employee of the city, shall open, close or in any way interfere with any valve or gauge or any water main, conduit, or street pipe. This subsection applies also to curb cocks and stub services except as provided in this division.

(Code 1972, § 33-10; Code 2006, § 38-60)

Sec. 38-52. Deposits, rates, fees and charges.

(a) The deposits, rates, fees, and charges for water services furnished by the city shall be those provided by resolution of the council.

(b) All rates, fees and charges for water services furnished by the city, as provided by resolution of the council in accordance with subsection (a) of this section, shall be payable during such period and for such period as is established by resolution of the council. All bills for such services shall be due and payable within such period of time as is established by resolution of the council.

(c) A penalty of ten percent will be added to all bills not paid within the time period established by resolution of the council. All charges for water supplied during any billing period shall be paid within the succeeding billing period. The city shall have the right to turn off the water from any premises against which such charges shall not be paid within the period provided for in section 38-48(a), and the amount of the unpaid balance shall be deducted from any deposit, or, if a deposit does not cover the unpaid balance, such unpaid balance shall become a lien on the property served as provided in this division. When so turned off, the water shall not be turned on again until the charges and penalties have been paid, including billed charges that are not yet due.

(d) For building purposes only, where it is not advisable or practical to install a meter, the owner or contractor may be furnished water temporarily for construction at a fixed flat rate. In such instances, the owner or contractor shall make written application to the city clerk giving the estimated service required as to time and quantity, and make payment in advance of the amount of charges for water as determined by the council.

(Code 1972, § 33-11; Code 2006, § 38-61; Ord. No. 116; Ord. No. 200, § 2, 12-9-2002)

Sec. 38-53. Collection of delinquent bills.

(a) *Lien for unpaid charges*. In addition to other remedies possessed by the city for the collection of water rates, assessments, charges or rentals for the use or consumption of water supplied or made available to any house or building or any premises, lot or parcel of land in the city, the city shall have as security for the collection thereof a lien upon such house or other building and upon the premises or lot or parcel of land upon which such house or other building shall be situated or to which such water has been supplied. Such lien shall become effective immediately upon the distribution of water to the premises or property to which water is supplied, and the official records of the city shall constitute notice of the pendency of such lien. The lien shall have priority over all other liens except taxes and special assessments, whether or not such liens accrued or were recorded prior to the lien created pursuant to this section.

(b) *Leased property*. The provisions of this section shall not apply in any instance where a lease has been legally executed containing a provision that the lessor shall not be liable for payment of water bills accruing subsequent to the filing provided for in this subsection, provided that an affidavit with respect to the execution of such a lease or a true copy of the lease of the affected premises, if there is one, shall be filed with the city clerk along with a lease monitoring fee, due annually during the duration of the lease, which amount shall be set by resolution of council. The monitoring fee shall be due for each full or partial year of the lease. Upon filing of the lease and the fee, no such charge shall become a lien against the premises from and after the date of such notice. In the event of filing of such notice that the tenant is responsible, the city shall render no further service to such premises until a cash deposit is made as established by resolution of city council. Thirty days' notice shall be given the city clerk by the lessor of any cancellation, change in or termination of the lease. Failure to provide such notice, or failure to file the annual fee, shall render the premises liable for the payment of water bills and subject to the lien as provided in this section. Notwithstanding the foregoing, the city may discontinue water service to the premises if the responsible person fails to pay the rates, assessments, charges, or rentals for the water service. Such discontinuance shall not invalidate or diminish any of the other methods employed by the city to collect any delinquent amounts due.

(c) *Procedure*. All unpaid water charges which, upon May 1 of each year, have remained unpaid for three months or more shall be reported by the city clerk to the council at the first meeting thereof in the month of May. The council shall thereupon order the publication in a newspaper published at least weekly of notice to all owners of property within the city that all unpaid water rates, fees or charges which have remained unpaid for a period of three months or more, as of May 1, which have not been paid by the next May 30, will be transferred to the tax roll and assessed upon the city tax roll against the property to which the water for which the unpaid rates, fees or charges accrued to be collected in the same manner as the lien created by city taxes on the tax roll. All unpaid water rates, fees or charges which are reported by the city clerk to the council as having been unpaid for a period of three months or more on May 1 of each year which remain unpaid on the following May 30 shall be transferred to the city tax roll and assessed against the property to which the water was supplied or furnished, and the unpaid rates, fees or charges accrued shall be collected with and in the same manner as city taxes are collected; and if the same shall remain delinquent and unpaid after the expiration of the time limited in the warrant for the collection of taxes levied in such roll, such charges shall be returned to the county treasurer, to be collected in the same manner as the lien created by taxes on the delinquent tax roll of the city.

(Code 1972, § 33-12; Code 2006, § 38-62; Ord. No. 155, 3-28-2002)

Sec. 38-54. Right of city to shut off water or limit water use.

(a) The council reserves the right to limit the amount of water furnished to any customer should circumstances seem to warrant such action, although no limit may be stated in the application or permit for use, or the council 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.

(b) In the case of making or constructing new work in making repairs or leakage tests, the right is reserved to shut off the water to any consumer without notice for as long a period as may be necessary.

(c) In all places where steam boilers or hot water tanks are supplied with water from the city water supply, the owner or consumer must have placed a suitable safety valve, vacuum valve or other proper device to prevent damage from collapse or explosion when the water is shut off. There shall be placed on the effluent side of the meter a suitable check valve to prevent backflow of hot water or steam into the meter.

(d) Neither the water superintendent nor the city shall be liable for any damage or loss of any nature or kind to property or person which may arise from or be caused by any change, either increase or decrease, in the pressure of water supplied or for shutting off the water for any purpose whatever.

(Code 1972, § 33-13; Code 2006, § 38-63)

Secs. 38-55--38-81. Reserved.

~~DIVISION 3. CROSS CONNECTION CONTROL~~

~~Sec. 38-82. Penalty.~~

~~Any person found guilty of violating any of the provisions of this division or any written order of the city water utility in pursuance of this division shall be deemed guilty of a municipal civil infraction. Each day upon which a violation of the provisions of this division shall occur shall be deemed a separate and additional violation for the purpose of this division.~~

~~(Code 2006, § 38-91; Ord. No. 94, § 7, 6-10-1974)~~

~~Sec. 38-83. State rules adopted.~~

~~The city adopts by reference the water supply cross connection rules of the state department of environmental quality~~the state Environment, Great Lakes and Energy department (EGLE) or successor agency~~, being Mich. Adm. Code R 325.11401 to R 325.11407.~~

~~(Code 2006, § 38-92; Ord. No. 94, § 1, 6-10-1974)~~

~~Sec. 38-84. Inspections.~~

~~It shall be the duty of the superintendent of public works to cause inspections to be made of all properties served by the public water supply where cross connection with the public water supply is deemed possible. The frequency of inspections and reinspections based on potential health hazards involved shall be established by the city water utility and as approved by the state department of environmental quality~~the state Environment, Great Lakes and Energy department (EGLE) or successor agency~~.~~

~~(Code 2006, § 38-93; Ord. No. 94, § 2, 6-10-1974)~~

~~Sec. 38-85. Right of entry; duty to provide information on piping systems.~~

~~The superintendent of public works shall have the right to enter at any reasonable time any property served by a connection to the public water supply system of the city for the purpose of inspecting the piping system thereof for cross connections. On request, the owner, lessee or occupant of any property so served shall furnish to inspector any pertinent information regarding the piping systems on such property. The refusal of such information or refusal of access, when requested, shall be deemed evidence of the presence of cross connections.~~

~~(Code 2006, § 38-94; Ord. No. 94, § 3, 6-10-1974)~~

Sec. 38-86. Enforcement; right of city to discontinue water service.

The city water utility is hereby authorized and directed to discontinue water service after reasonable notice to any property wherein any connection in violation of this division exists, and to take such other precautionary measures deemed necessary to eliminate any danger of contamination of the public water supply system. Water service to such property shall not be restored until the cross connection has been eliminated in compliance with the provisions of this division.

(Code 2006, § 38-95; Ord. No. 94, § 4, 6-10-1974)

Sec. 38-87. Protection of potable water supply; labeling of outlets not supplied by potable system.

The potable water supply made available on the properties served by the public water supply shall be protected from possible contamination as specified by this division and by the state and city plumbing code. Any water outlet which could be used for potable or domestic purposes and which is not supplied by the potable system must be labeled in a conspicuous manner as follows: Water Unsafe for Drinking.

(Code 2006, § 38-96; Ord. No. 94, § 5, 6-10-1974)

Sec. 38-88. Applicability of plumbing regulations.

This division does not supersede the state plumbing code and any city plumbing ordinance but is supplementary to them.

(Code 2006, § 38-97; Ord. No. 94, § 6, 6-10-1974)

Secs. 38-89--38-119. Reserved.

DIVISION 4. CROSS CONNECTION CONTROL PROGRAM

Sec. 38-120. Generally; definitions.

In accordance with the requirements set forth by the state department of environmental qualitythe state Environment, Great Lakes and Energy department (EGLE) or successor agency, the city has officially adopted the state cross connection control rules to protect the city's public water supply system. For purposes of this division, the term "cross connection" is defined as a connection or arrangement of piping or appurtenances through which a backflow could occur. The term "backflow" means water of questionable quality, waste or other contaminants entering a public water supply system due to a reversal of flow. The cross connection control program will take effect immediately upon approval by the state department of environmental quality.

(Code 2006, § 38-121; Ord. No. 106, § I, 9-11-1978)

Sec. 38-122. Local authority.

The authority to carry out and enforce a local cross connection control program will be in accordance with division 3 of this article, a copy of which is included in the program.

(Code 2006, § 38-122; Ord. No. 106, § II, 9-11-1978)

Sec. 38-121. Inspectors.

The water superintendent or his designated agent shall be responsible for making the initial cross connection inspections and reinspections to check for the presence of cross connections with the municipal water supply system. Individuals responsible for carrying out the cross connection inspections and reinspections shall have obtained necessary training through any available manuals on cross connection prevention, including the Cross Connection Rules Manual as published by the state department of environmental qualitythe state Environment, Great Lakes and Energy department (EGLE) or successor agency, and attendance of any cross connection training sessions sponsored by the state department of environmental qualitythe state Environment, Great Lakes and Energy department (EGLE) or successor agency or other recognized agencies.

(Code 2006, § 38-123; Ord. No. 106, § III, 9-11-1978)

Sec. 38-122. Schedule for inspections.

(a) The schedule for inspections under this division shall be in accordance with the following general outline:

(1) Known or suspected secondary water supply cross connections shall be inspected first (surface water, class three wells, recirculated water, etc.).

(2) Known or suspected submerged inlet cross connections will be inspected.

(b) In general, Emphasis will be placed on making inspections initially of all industrial and commercial establishments or premises where cross connections are known or suspected to exist. A general area review will follow in a logical sequence as time permits. Emphasis will be placed on inspecting all industrial and commercial establishments within a period of six months following approval of the cross connection control program.

(Code 2006, § 38-124; Ord. No. 106, § IV, 9-11-1978)

Sec. 38-123. Reinspections.

In order to assure against the hazards of cross connections, it will be necessary to periodically and systematically reinspect for the presence of cross connections. The schedule for reinspections shall be in accordance with the schedule as noted on page 43 of the Cross Connection Rules Manual. Whenever it is suspected or known that modifications have taken place with piping systems serving a particular water customer, reinspections of the premises will be made.

(Code 2006, § 38-125; Ord. No. 106, § V, 9-11-1978)

Sec. 38-124. Protective devices.

The methods to protect against the hazards of cross connections as outlined on pages 37 and 39 of the Cross Connection Rules Manual will be incorporated into the city cross connection control program. Whenever any deviation from the recommended methods of protection is contemplated, approval from the state department of public health shall be first obtained.

(Code 2006, § 38-126; Ord. No. 106, § VI, 9-11-1978)

Sec. 38-125. Time limit for compliance.

The time allowed for correction or elimination of any cross connection found shall be as follows:

(1) Cross connections which pose an imminent and extreme hazard shall be disconnected immediately and so maintained until necessary protective devices or modifications are made.

(2) Cross connections which do not pose an extreme hazard to the water supply system but nevertheless constitute a cross connection should be corrected within a reasonable period of time. The length of time allowed for correction should be reasonable and may vary depending on the type of device necessary for protection. The water utility shall indicate, to each customer where a cross connection is found to exist, the time period allowed for compliance. Thirty to 60 days is usually sufficient time for small devices.

(Code 2006, § 38-127; Ord. No. 106, § VII, 9-11-1978)

Sec. 38-126. Annual reporting and recordkeeping.

Sufficient data to complete an annual report to the state department of public health and to monitor the cross connection control program adequately for city purposes will be maintained by the city water department and its responsible agents. An inspection form, as noted on page 21 of the Cross Connection Rules Manual, will be used during the initial inspection procedure. Reinspection forms, as noted in the appendix of the Cross Connection Rules Manual, will be used to monitor the status of the protective device as well as the test results reported by a qualified backflow preventer tester (and also for reinspection for cross connections).

(Code 2006, § 38-128; Ord. No. 106, § VIII, 9-11-1978)

~~**Secs. 38-127--38-150. Reserved.**~~

ARTICLE III. SEWERS

DIVISION 1. GENERALLY

Sec. 38-82. Purpose.

This article sets forth uniform requirements for the direct and indirect contributors into the wastewater collection and treatment system for the city and enables the city to comply with all applicable state and federal laws required by the Clean Water Act of 1977, 33 USC 1251 et seq., and the general pretreatment regulations of 40 CFR 403, as amended.

(Code 2006, § 38-181; Ord. No. 137, art. I, § 1, 3-9-1992)

Sec. 38-83. Objectives.

The objectives of this article are to:

(1) Prevent the introduction of pollutants into the municipal wastewater system which will interfere with the operation of the system or contaminate the resulting sludge;

(2) Prevent the introduction of pollutants into the municipal wastewater system which will pass through the system, inadequately treated, into receiving waters or the atmosphere or otherwise be incompatible with the system;

(3) Improve the opportunity to recycle and reclaim wastewater and sludge from the system; and

(4) Provide for equitable distribution of the cost of the municipal wastewater system.

(Code 2006, § 38-182; Ord. No. 137, art. I, § 2, 3-9-1992)

Sec. 38-84. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Act and *the Act* mean the Federal Water Pollution Control Act (PL 92-500), also known as the Clean Water Act (PL 95-217), as amended, 33 USC 1251 et seq.

Approval authority means the director in an NPDES state with an approved state pretreatment program and the administrator of the EPA in a non-NPDES state or an NPDES state without an approved state pretreatment program.

BOD (denoting biochemical oxygen demand) means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days at 20 degrees Celsius, expressed in milligrams per liter.

Building drain means 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, beginning five feet (1.5 meters) outside the inner face of the building wall.

Building sewer means the extension from the building drain to the public sewer or other place of disposal.

Categorized standards means the national categorical pretreatment standards or pretreatment standard.

Combined sewer means a sewer intended to serve as a sanitary sewer and a storm sewer, or as an industrial sewer and a storm sewer.

Compatible pollutant means a substance amenable to treatment in the city wastewater treatment plant, such as biochemical oxygen demand, suspended solids, pH, and fecal coliform bacteria, plus additional pollutants identified in the NPDES permit of the city wastewater treatment facility.

Cooling water means the water discharged from any use such as air conditioning, cooling, or refrigeration, or to which the only pollutant added is heat.

Delivery flow rate characteristics means information establishing rate of flow during daily or weekly intervals,

or portions of the day in unit time designation such as gallons per day and fluctuations.

Direct discharge means the discharge of treated or untreated wastewater directly to the waters of the state.

Discharge means spilling, leaking, seeping, pumping, pouring, emitting, emptying, dumping or depositing.

Domestic wastes means wastes normally emanating from residential living units and resulting from the day-to-day activities usually considered to be carried on in a domicile. Wastes emanating from other users which are to be considered domestic waste shall be of the same nature and strength and have the same flow rate characteristics.

Garbage means the wastes from the preparation, cooking and dispensing of food and from the handling, storage and sale of produce.

Grab sample means a sample which is taken from a waste stream on a one-time basis with no regard to the flow in the waste stream and without consideration of time.

Groundwater means the water beneath the surface of the ground, whether or not flowing through known or definite channels.

Holding tank waste means any waste from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks, and vacuum-pump tank trucks.

Impoundment means any lake, reservoir, pond or other containment of surface water occupying a bed or depression in the earth's surface and having a discernible shoreline.

Incompatible pollutants means all pollutants not defined as compatible.

Indirect discharge means the discharge or the introduction of nondomestic pollutants from any source regulated under section 307(b) or (c) of the Act (33 USC 1317) into the POTW (including holding tank waste discharged into the system).

Industrial cost recovery means recovery by the city from the industrial users of the sewer system of the federal grant amount allocable to the treatment of wastes from such users, pursuant to 40 CFR 35.928.

Industrial cost recovery period. The industrial cost recovery period shall be equal to 30 years from the date of completion of the facilities.

Industrial user means any nongovernmental, nonresidential user of the publicly owned treatment works which discharges more than the equivalent of 25,000 gallons per day of normal domestic sewage (excluding domestic wastes or discharges from sanitary conveniences) and which is identified under division A, B, D, E or I of the Standard Industrial Classification Manual, 1972, Office of Management and Budget. Also included in this definition is any nongovernmental user of the publicly owned treatment works which discharges wastewater to the treatment works which contains toxic pollutants or poisonous solids, liquids or gases in sufficient quantity, either singly or by interaction with other wastes, to contaminate the sludge of any municipal system or to injure or to interfere with any sewage treatment process or which constitutes a hazard to humans or animals, creates a public nuisance, or creates any hazard in or has an adverse effect on the waters receiving any discharge from the treatment works.

Industrial waste means any liquid, free-flowing waste, including cooling water, resulting from any industrial or manufacturing process or from the development, recovery or processing of natural resources, with or without suspended solids.

Industrial waste user means industrial user.

Letter of intent means notification from a significant industrial user to a municipality of that user's intent to utilize a publicly owned treatment facility for a given length of time.

Major contributing industry means an industry that has a flow of 50,000 gallons or more per average workday or has a flow greater than five percent of the flow carried by the municipal system receiving the waste.

Person means an individual, partnership, cooperative, association, private corporation, personal representative, receiver, trustee, assignee or any other legal entity. The term "person" does not include a governmental entity unless specifically provided.

pH means the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

Pollution means the placing of any noxious or deleterious substance in any waters of the city in quantities which are or may be potentially harmful or injurious to human health or welfare, animal or aquatic life, or property, or unreasonably interfere with the enjoyment of life or property, including outdoor recreation.

Pretreatment means treatment of wastewater from sources before introduction into the city sewerage system.

Private sewage disposal system means a system for the disposal of domestic sewage by means of a septic tank or mechanical treatment, designed for use apart from a public sewer.

Producer means any person who owns, operates, possesses or controls an establishment or plant, whether or not a permittee.

Properly shredded garbage means garbage that has been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half inch or 1 27/100 centimeters in any dimension.

Public sewer means a sewer that is owned and maintained by the city.

Regional administrator means an EPA regional administrators.

Reserve capacity means that unused portion of a treatment work's capacity that has formally been set aside for use by a specific industry and is so identified by a formal binding agreement. Factors such as strength, volume and delivery flow rate characteristics shall be considered and included when determining the reserve capacity to ensure a proportional distribution of the cost recovery obligation.

Salt means sodium chloride and calcium chloride or a combination thereof in solid or liquid form.

Sanitary sewer means a sewer intended to carry only sanitary or sanitary and industrial waste, or wastes from residences, commercial buildings, industrial plants and institutions.

Sewage (wastewater) means any liquid or water-carried waste from residences, business buildings, institutions, industrial, commercial and governmental establishments, watercraft or floating facilities, or other places, together with such groundwater infiltration, surface water and stormwater as may be present.

Sewer means a pipe or conduit for carrying sewage and devices or structures required for pumping, lifting or collecting such sewage.

Sewerage system (water pollution control facilities) means pipelines or conduits, pumping stations, and force mains and all other construction, devices, appurtenances and facilities used for collecting or conducting waterborne sewage, industrial waste or other wastes to a point of disposal or treatment and including the water pollution control plant, including all extensions and improvements thereto which may hereafter be acquired or constructed.

Sludge means any discharge of water, sewage or industrial waste which in concentration of any given constituent or in rate of flow exceeds for any period of duration longer than 15 minutes more than five times the average rate for a 24-hour period during normal operation.

Standard methods means the most recent edition of "Standard Methods for the Examination of Water and Waste Water," published by the American Public Health Association, the American Water Works Association, and the Water Environment Foundation, a copy of which is on file in the office of the director.

Storm sewer, otherwise referred to as storm drain, means a sewer intended to carry only stormwater, surface runoff, street wash water, subsoil drainage, and noncontact cooling water.

Stream means any river, creek, slough or natural watercourse in which water usually flows in a defined bed or channel. It is not essential that the flow be uniform or uninterrupted.

Superintendent means the person designated by the city to supervise the operation of the publicly owned treatment works and who is charged with certain duties and responsibilities by this article, or his duly authorized representative.

Surcharge means the additional charge which a user discharging wastewater of strength in excess of the limits for normal domestic sewage set by the city for transmission to and treatment with the sewerage system will be required to pay to meet the cost of treating the excessive strength wastewater.

Suspended solids means solids that either float on the surface of or are in suspension in water, sewage or other

liquids, and which are removable by laboratory filtering.

Tenant means a person who leases property from an owner.

Test methods (standard methods) shall be as specified in the latest edition of "Methods for Chemical Analysis of Water and Waste," U.S. EPA; "Standard Methods for the Examination of Water and Waste Water," APHA; "Annual Book of Standards, Part 23, Water Atmospheric Analysis," ASTM; and "Guidelines Establishing Text Procedures for Analysis of Pollutants" (October 13, 1973, Federal Register).

User means any person, establishment or owner who discharges any domestic sewage or industrial waste into the sanitary sewer system of the city or any system connected thereto.

User charge means a charge levied on users of the sewage works for operation, maintenance and replacement of such works.

Wastewater means any liquid or water-carried waste from residences, business buildings, institutions, industrial, commercial and governmental establishments, watercraft or floating facilities, or other places, together with such groundwater infiltration, surface water, and stormwater as may be present.

Watercourse means a channel in which a flow of water occurs, either continuously or intermittently.

Water pollution control facilities. See *Sewerage system*.

Water pollution control plant and *sewage treatment plant* mean any arrangement of devices and structures used for treating sewage.

(Code 2006, § 38-183; Ord. No. 137, art. II, § 1, 3-9-1992)

Sec. 38-85. Abbreviations.

The following abbreviations, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

BOD	Biochemical oxygen demand
CFR	Code of Federal Regulations
COD	Chemical oxygen demand
EPA	Environmental Protection Agency
l	Liter
mg	Milligrams
mg/L	Milligrams per liter
NPDES	National Pollutant Discharge Elimination System
POTW	Publicly owned treatment works
SIC	Standard Industrial Classification
SWDA	Solid Waste Disposal Act, 42 USC 6901 et seq.
USC	United States Code

TSS	Total suspended solids

(Code 2006, § 38-184; Ord. No. 137, art. II, § 2, 3-9-1992)

Sec. 38-86. Violations; penalties.

(a) A user who is found to have violated an order of the city council or who willfully or negligently fails to comply with any provision of this article, and the orders, schedules, regulations, and permits issued under this article, shall be guilty of a municipal civil infraction. Each day on which a violation shall occur or continue shall be deemed a separate and distinct offense.

(b) In addition to the penalties provided in this section, the city may recover reasonable attorneys' fees, court costs, court reporters' fees and other expenses of litigation against the person found to have violated this article or the orders, rules, regulations, and permits issued under this article.

(Code 2006, § 38-185; Ord. No. 137, art. XV, § 1, 3-9-1992)

Sec. 38-87. Falsifying information.

Any person who knowingly makes any false statement, representation or certification in any application, record, report, plan or other document filed or required to be maintained pursuant to this article, or a wastewater contribution permit, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this article, shall be guilty of a municipal civil infraction.

(Code 2006, § 38-186; Ord. No. 137, art. XV, § 3, 3-9-1992)

Secs. 38-88--38-110. Reserved.

DIVISION 2. USE OF PUBLIC SEWERS

Sec. 38-111. Unlawful discharge of waste.

It is unlawful for any person to place, discharge or permit to be discharged in any unsanitary manner on public or private property within the city, or in any area under the jurisdiction of the city, any human or animal excrement, garbage or other waste or wastewater.

(Code 2006, § 38-201; Ord. No. 137, art. III, § 1, 3-9-1992)

Sec. 38-112. Discharge of polluted water to natural outlet.

It is unlawful to discharge to any natural outlet within the city, or in any area under the jurisdiction of the city, any sewage or other polluted waters, except where suitable treatment has been provided in accordance with the provisions of this article and the standards of ~~the state department of environmental quality~~the state Environment, Great Lakes and Energy Department (EGLE) or successor agency.

(Code 2006, § 38-202; Ord. No. 137, art. III, § 2, 3-9-1992)

Sec. 38-113. Private wastewater disposal facilities.

Except as provided in this article, it is unlawful to construct or maintain any privy, privy vault, septic tank, cesspool or other facility intended or used for the disposal of wastewater.

(Code 2006, § 38-203; Ord. No. 137, art. III, § 3, 3-9-1992)

Sec. 38-114. Mandatory connection to public sewer.

The owners of all houses, buildings or properties used for human occupancy, employment, recreation or other purposes, situated within the city and abutting on any street, alley or right-of-way in which there is now located or may in the future be located a public sanitary or combined sewer of the city, are hereby required at the owner's expense to install suitable plumbing facilities, which shall include a meter for measuring water flow if not connected to the municipal water supply, therein in accordance with the plumbing code currently enforced by the county and to connect such facilities directly with the proper public sewer in accordance with the provisions of this article

within 90 days after the date of official notice to do so, provided that the public sewer is within 200 feet (61.0 meters) of the structure in which sewage originates and there is sufficient capacity in collection and treatment systems.

(Code 2006, § 38-204; Ord. No. 137, art. III, § 4, 3-9-1992)

Sec. 38-115. Unlawful use of sewers.

No person shall discharge any waste or other substance directly into a manhole, catchbasin or sewer inlet. All discharges to the sewer shall be through a sewer connection. Nothing in this provision shall restrict the use of catchbasins for stormwater in the storm sewer system.

(Code 2006, § 38-205; Ord. No. 137, art. III, § 5, 3-9-1992)

Sec. 38-116. Stormwater discharge permit.

A permit shall be required for all stormwater and uncontaminated wastewater connections to any natural outlet in the city or any area under the jurisdiction of the city. Adequate provisions shall be made for observing and testing at each such connection.

(Code 2006, § 38-206; Ord. No. 137, art. III, § 6, 3-9-1992)

Secs. 38-117--38-150. Reserved.

DIVISION 3. PRIVATE SEWAGE DISPOSAL FACILITIES

Sec. 38-151. Use.

It is unlawful to construct, install or use a private sewage disposal system within the city, or in any area under the jurisdiction of the city. Where a public sanitary or combined sewer is not available under the provisions of this article, the building sewer shall be connected to a private sewage disposal system in accordance with the provisions of this article and other ordinances of the city and the plumbing and health code currently administered by the county health department where applicable.

(Code 2006, § 38-221; Ord. No. 137, art. IV, § 1, 3-9-1992)

Sec. 38-152. Discharge to impoundment or watercourse prohibited.

No septic tank or cesspool shall be permitted to discharge into any impoundment, stream, surface water or other watercourse.

(Code 2006, § 38-222; Ord. No. 137, art. IV, § 2, 3-9-1992)

Secs. 38-153--38-192. Reserved.

DIVISION 4. BUILDING SEWERS AND CONNECTIONS

Sec. 38-193. Permit required.

It is unlawful for any person or owner to do any excavating, tap, or make connections with a sewer without first obtaining a permit from the director as provided in this article.

(Code 2006, § 38-241; Ord. No. 137, art. V, § 1, 3-9-1992)

Sec. 38-194. Standards for connections.

(a) All sewer connections shall be made with approved sewer pipe not less than four inches in diameter and at such locations in the public sewers where branches, wyes or tees were placed for that purpose, if any. Where there are no branches, wyes or tees, the sewer may, for the purpose of making connections, be tapped under the direction and supervision of the city inspector; the connection shall be made by a saddle device approved by the city. All work for the purpose of making sewer and water connections shall be done in compliance with the rules and regulations of the city and the plumbing code of the state.

(b) ~~Whenever any existing sewer connections have been made with pipe smaller than four inches internal diameter, then a stub constructed from the main to the property line to serve such premises.~~ When an existing sewer connection has been made with pipe smaller than four inches internal diameter, then a stub shall be constructed

from the main to the property line to serve such premises. However, the owner of any lot or parcel of land having a sewer connection of less than four inches in internal diameter will ~~both~~be required to connect to the new stub connection until such time as the existing connection is inadequate or requires repairing in public property. In no case shall the director issue a permit to repair an existing connection less than four inches in diameter under a pavement or gravel street where a four-inch stub line has been constructed, and if there is no four-inch stub line constructed, then the connection of less than four inches in diameter shall be replaced with a four-inch tile at the time when replacements or repairs become necessary.

(c) The materials of construction and construction methods must meet the requirements of the city.

(Code 2006, § 38-242; Ord. No. 137, art. V, § 2, 3-9-1992)

Sec. 38-195. Failure to connect.

If the owner of a parcel of land fails to connect within the time permitted by the state public health code, Public Act No. 368 of 1978, MCL 333.1101 et seq., the city shall proceed to take such action as is authorized to require the connection.

(Code 2006, § 38-243; Ord. No. 137, art. V, § 3, 3-9-1992)

Sec. 38-196. Connection and benefit charges.

(a) A person granted a connection permit for the purpose of connecting with any interception sewer shall pay a connection charge per unit for the first unit or fraction thereof and an additional benefit fee for each additional unit or fraction thereof based on the unit factors as follows. Rates shall be set by resolution of the city council and changed as necessary from time to time. A unit (residential equivalent unit (REU)) is considered to be 250 gallons per day.

Usage	*Residential equivalent unit (REU)*
Apartments, per apartment	0.50
Auto dealers, per 1,000 square feet	0.30
Auto/truck garage service and repair, per 1,000 square feet	0.40
Bakery, per 1,000 square feet	1.00
Banks, per 1,000 square feet	0.40
Barbershop, beauty shop, personal care shop, per chair or service area	0.25
Bar/lounge (serves alcoholic beverages), per 1,000 square feet	4.00
Boardinghouses, per person	0.20
Bowling alleys (no bars or lunch facilities), per alley	0.20
Carwash (automatic, water recycled)	5.00
Carwash (automatic, no recycling), per line	10.00
Carwash, self-service, per stall	1.00

Churches, per 1,000 square feet	0.1, plus 1 per premises
Cleaners (pickup only), per premises	1.00
Cleaners (pressing facilities), per press	1.25
Cleaners (cleaning and pressing facilities), per 1,000 square feet	1, plus 1 per premises
Clinics (medical or dental), per exam room	0.5, plus 1 per premises
Convalescent homes, per bed	0.25, plus 1.0 per premises
Convenience store	1.50
Day care center, per 1,000 square feet of building space devoted to day care operations	0.5, plus 1 per premises
Department store with food, per 1,000 square feet	0.60
Department store, no food, per 1,000 square feet	0.40
Donut/cake shop, per 1,000 square feet of area devoted to public food consumption	2.5, plus 1 per premises
Drugstores	1.00
Duplex or row houses, per unit	1.00
Factories (exclusive of excessive industrial use), per 1,000 square feet	Custom
Fraternal organization/banquet hall, etc. (not including other uses determined under separate categories), per 1,000 square feet	0.20
Funeral home, per 1,000 square feet	1.5, plus residence
Furniture store, per 1,000 square feet	0.25
Garden center, per employee	0.16
Gift shop, per premises	1.00
Grocery stores and supermarkets, per 1,000 square feet	1.10
Group living facilities:	
Boarding facility, convent, etc., per bed	0.35
Adult foster care, per bed	0.35

Hospitals, per 1,000 square feet	1.00
Hotels, motels, per room (plus bar and restaurant)	0.40
Industrial facility	Custom
Laundry (self-service), per washer	0.5, plus 1 per premises
Lumberyard, per 1,000 square feet	1, plus 1 per premises
Machine shop, tool and die, per employee	0.08
Manufactured home park, per space	1.00
Meat market, per 500 square feet	0.5, plus 1 per premises
Motor freight terminal, per 15 employees	1.00
Multiple-family residence, per unit	1.00
Museum, per 1,000 square feet	0.50
Nurseries, per 1,000 square feet	0.5, plus 1 per premises
Nursing homes, per bed	0.25, plus 1 per premises
Office building, per 1,000 square feet	0.60
Other residential (including fraternity or sorority houses), per bedroom	0.50
Park, campground, recreation areas, etc.	Custom
Pet, plant and fish stores, per 1,000 square feet	1.10
Public buildings (excluding hospitals and schools), per 1,000 square feet	0.75
Public carrier terminal, per each five urinals and stalls	1, plus 1 per premises
Public restroom (freestanding building or public restroom off common entry serving multiple tenants), per each five urinals or stalls	1.00
Rest areas (each urinal and stool)	1.00
Restaurants/banquet rooms, per 1,000 square feet:	
Meals only, includes drive-ins	2.50

	Meals and alcoholic beverages	6.50
	Banquet room (not associated with restaurant)	2.00
Roominghouses (no meals), per person		0.17
Schools (cafeteria without showers or pool), per classroom		1.00
Schools (showers, gym, cafeteria), per classroom		1.70
Schools (showers or pool), per classroom		1.35
Schools (no cafeteria or showers), per classroom		0.67
Single-family residence		1.00
Service station (not including other uses determined under separate categories), per service area		0.30
Store, retail, per 1,000 square feet (not listed elsewhere)		0.30
Swimming pool, per 1,000 square feet		3.50
Theaters, inside, per seat		0.025
Trailer parks/campgrounds (central bathhouses), per site		0.35
Trailer parks (individual baths), per unit		1.00
Trailer parks (individual baths, seasonal only), per unit		0.50
Veterinary hospital/clinic, per 1,000 square feet		1, plus 1 per premises, plus 0.5 per 1,000 square feet kennel operation
Warehouses, per 1,000 square feet		0.10

(b) The determination of REUs to be assigned shall take into account combinations of uses, based on REU criteria for each use type.

(c) Whenever the use of the property is changed, modified, or enlarged, the city shall charge an additional benefit fee based on the REU criteria for the change, modification, or enlargement. The additional charge shall be directly proportionate to the additional REUs over the number previously applicable to the premises. At no time, however, shall the number of REUs be revised below the number previously applicable.

(d) For those uses listed as "Custom," the city council shall make a determination of REUs to be assigned for the premises, and may require an estimated fee to be paid pending final determination. For nonresidential uses, the owner may request a similar determination if the particular use is not listed or there are special circumstances. The final determination may take into account actual usage of the facility, data from similar facilities, growth projections, or such other information as the council deems appropriate.

(e) Every connection shall be charged for on the basis of at least one unit. The connection and benefit charges

shall be paid at the time of the application for the zoning permit unless other arrangements are made by the city manager on account of undue hardship only. The connection and benefit charges shall be exclusive of and in addition to any fee or payment made or required for engineering or inspection charges. The construction and installation of any such connection shall be subject to the same rules and regulations that are provided in this article.

(Code 2006, § 38-244; Ord. No. 137, art. V, § 4, 3-9-1992; Ord. No. 194, § 1, 9-9-2002)

Sec. 38-197. Records of permits and connections.

The director shall keep a record of all permits granted under the authority of this article, which will include the name of the applicant and contractor, the location of the work and the place in the street where the connection is to be made.

(Code 2006, § 38-245; Ord. No. 137, art. V, § 5, 3-9-1992)

Sec. 38-198. Connections to property outside city.

When application is made for permission to connect a building situated on property outside the city limits to the sanitary sewer system, the city council may authorize in its sole discretion the director to grant a permit for such connection upon the following terms and conditions: Notwithstanding any charges established by this article, the city council may authorize, by contract, other charges for the right to connect to the sanitary sewer system. The owner shall pay the cost of the sewer mains to extend to the owner's property and the sewer mains so constructed shall be the sole property of the city. The owner of the property shall submit written permission from the governmental unit in which such property is located to make connection to the sanitary sewer system. The owner thereof shall pay such rates for sewer services as established by ordinances and resolutions of the city for furnishing such services to consumers outside the city. Each applicant whose premises are hereafter connected directly to a city sanitary sewer shall pay to the city a connection charge. The connection charge shall be set by resolution of the city council and changed as necessary from time to time based on the unit factors for connection charges within the city listed in section 38-196. Notwithstanding the foregoing, the city retains the right, in its sole discretion, to refuse to accept sewage from any source outside of the city's boundaries.

(Code 2006, § 38-246; Ord. No. 137, art. V, § 6, 3-9-1992)

Sec. 38-199. Separate building sewer required for each building.

Every building or premises shall have a separate and independent building sewer, except where the building is an accessory to the principal use, such as a garage or storage building.

(Code 2006, § 38-247; Ord. No. 137, art. V, § 7, 3-9-1992; Ord. No. 156)

Sec. 38-200. Persons authorized to do work.

Excavation and backfill for building sewers on private property may be made by the owner. Connection and installation of the building sewer on private property shall be made by a licensed plumbing contractor or licensed sewer contractor.

(Code 2006, § 38-248; Ord. No. 137, art. V, § 8, 3-9-1992)

Sec. 38-201. Use of existing building sewer for new building.

Existing building sewers may be used in connection with new buildings only when they are found, on examination and test by the director, to meet all requirements of this article.

(Code 2006, § 38-249; Ord. No. 137, art. V, § 9, 3-9-1992)

Sec. 38-202. Elevation of connection.

Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by means approved by the director and discharged to the building sewer.

(Code 2006, § 38-250; Ord. No. 137, art. V, § 10, 3-9-1992)

Sec. 38-203. Prohibited surface runoff connections.

No person or owner shall make connection of roof downspouts, areaway drains, or other sources of surface runoff to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer.

(Code 2006, § 38-251; Ord. No. 137, art. V, § 11, 3-9-1992)

Sec. 38-204. Prohibited groundwater connections.

Exterior foundation drains or other sources of groundwater shall not be connected to a building sewer or building drain which in turn is connected, directly or indirectly, to a public sanitary sewer.

(Code 2006, § 38-252; Ord. No. 137, art. V, § 12, 3-9-1992)

Sec. 38-205. Payment of costs; indemnification of city.

All costs and expenses incident to the installation and connection and maintenance of the building drain and building sewer shall be borne by the owner of the property. The owner shall indemnify the city from all loss or damage that may, directly or indirectly, be occasioned by the installation of the building sewer.

(Code 2006, § 38-253; Ord. No. 137, art. V, § 13, 3-9-1992)

Secs. 38-206--38-238. Reserved.

DIVISION 5. REGULATION OF PUBLIC SEWERS

Sec. 38-239. General limitations on discharges.

Use of public sewers shall be limited to those discharges that are not harmful to the public sewerage system, the sewage treatment plant or the stream receiving the sewage treatment plant effluent. If natural or manmade occurrences are detrimental to the water pollution control facilities or to the public health and welfare of the community, industrial wastes could be prohibited, wholly, or in part, at any time.

(Code 2006, § 38-271; Ord. No. 137, art. VI, § 1, 3-9-1992)

Sec. 38-240. Prohibited discharges.

Except as provided in this article, no person shall discharge or cause to be discharged any of the following described waters or wastes, directly or indirectly, to any public sewer:

(1) Any water or waste will be prohibited that may cause damaging, hazardous or unhealthful effects by:
   a. Reacting chemically, either directly or indirectly, with the water pollution control works;
   b. Having a mechanical action that will destroy or damage the water pollution control facilities;
   c. Restricting the hydraulic capacity of the water pollution control facilities;
   d. Restricting the normal inspection or maintenance of the water pollution control facilities;
   e. Placing unusual demands on the water pollution control facilities or process;
   f. Limiting the effectiveness of the water pollution control process;
   g. Being dangerous to public health or safety; and
   h. Causing obnoxious conditions inimical to the public interest.

(2) Specifically, any of the following wastes shall be prohibited:
   a. Having a pH below 6.0 or above 9.0.
   b. Containing more than ten mg/L of the following gases: hydrogen sulphide, sulphur dioxide, oxides of nitrogen or any of the halogens.
   c. Containing any explosive liquid, solid or gas.
   d. Containing any flammable substances with a flashpoint lower than 187 degrees Fahrenheit.
   e. Having a temperature below 32 degrees Fahrenheit (zero degrees Celsius) or above 104 degrees

Fahrenheit (40 degrees Celsius) at the sewage treatment plant.

f. Containing grease or oil or other substance that will solidify or become viscous at temperatures below 100 degrees Fahrenheit.

g. Containing insoluble substances in excess of 10,000 mg/L.

h. Containing total solids (soluble or insoluble substances) in excess of 20,000 mg/L.

i. Containing soluble substances in concentrations that could increase the viscosity to greater than 1 1/10 specific viscosity.

j. Containing insoluble substances having a specific gravity greater than 2 65/100 .

k. Containing insoluble substances that will fail to pass a no. 8 standard sieve, or having any dimension greater than one-half inch.

l. Containing gases or vapors, either free or occluded, in concentrations toxic or dangerous to humans or animals.

m. Having a chlorine demand greater than 15 mg/L in 30 minutes.

n. Containing more than five mg/L of any antiseptic substance.

o. Containing phenols in excess of two-tenths mg/L or as approved by the state water resources commission.

p. Containing any toxic or irritating substance which will create conditions hazardous to public health and safety.

q. Containing grease, oil or any oil substance exceeding 100 mg/L.

r. Containing radioactive wastes or isotopes.

s. Being of sufficient flow or concentration or both to be defined as a "slug" under this article.

t. Containing any sludge or precipitates or extractions resulting from any industrial or commercial treatment or pretreatment of any wastes of such.

u. Containing any wastes of such character and quantity that unusual attention or expense is required for processing.

v. Having discharge concentrations of incompatible pollutants exceeding the standards of the latest published guidelines established by the state and federal governments for the effluent of the city treatment plant as provided in this article.

(Code 2006, § 38-272; Ord. No. 137, art. VI, § 2, 3-9-1992)

Sec. 38-241. Point of application of restrictions.

The standards and regulations in section 38-240, unless otherwise noted, are to apply at the point where the wastes are discharged into a public sewer, and all chemical or mechanical corrective treatment must be accomplished to practical completion before this point is reached.

(Code 2006, § 38-273; Ord. No. 137, art. VI, § 3, 3-9-1992)

Sec. 38-242. Applicability of new federal categorical pretreatment standards.

Upon the promulgation of the federal categorical pretreatment standards for a particular industrial subcategory, the federal standard, if more stringent than limitations imposed under this article for sources in that subcategory, shall immediately supersede the limitations imposed under this article. The superintendent shall notify all affected users of the applicable reporting requirements under 40 CFR 403.12.

(Code 2006, § 38-274; Ord. No. 137, art. VI, § 4, 3-9-1992)

Sec. 38-243. Modification of federal categorical pretreatment standards.

(a) Where the city's wastewater treatment system achieves consistent removal of pollutants limited by federal pretreatment standards, the city may apply to the approval authority for modification of specific limits in

the federal pretreatment standards.

(b) For purposes of this section, consistent removal shall mean reduction in the amount of a pollutant or alteration of the nature of the pollutant by the wastewater treatment system to a less toxic or harmless state in the effluent which is achieved by the system in 95 percent of the samples taken when measured according to the procedures set forth in section 403.7(c)(2) (40 CFR 403), "General Pretreatment Regulations for Existing and New Sources of Pollution," promulgated pursuant to the Act. The city may then modify pollutant discharge limits in the federal pretreatment standards if the requirements contained in 40 CFR 403.7 are fulfilled and prior approval from the approval authority is obtained.

(Code 2006, § 38-275; Ord. No. 137, art. VI, § 5, 3-9-1992)

Secs. 38-244--38-294. Reserved.

DIVISION 6. PRETREATMENT

Sec. 38-295. Generally; discharge permit.

Persons who discharge incompatible pollutants or compatible pollutants to the public sanitary sewer in excess of the limits established in this article shall obtain a discharge permit in accordance with this article and provide pretreatment of their discharge at their expense in accordance with this article. Persons who provide pretreatment shall obtain a discharge permit from the director. Grease, oil and sand traps required by the director shall be installed at no expense to the city.

(Code 2006, § 38-291; Ord. No. 137, art. VII, § 1, 3-9-1992)

Sec. 38-296. Incompatible pollutants.

(a) Persons discharging incompatible pollutants, other than those described in this article, which are strictly prohibited from being discharged into the sewerage system, shall reduce their incompatible pollutants to levels attainable through the application of the best practicable control technology currently available, as defined in section 304(b) of the Federal Water Pollution Control Act Amendments of 1972 (PL 92-550), unless otherwise indicated in the discharge permit. If it is found by the director that certain incompatible pollutants can be reliably removed by the treatment plant, the director may enter into a contract with the person making the discharge for the purpose of treatment of the pollutants for a fee or extra strength surcharge and allowing the discharge. This shall be so indicated in the discharge permit. This credit may be rescinded at any time.

(b) All persons discharging or proposing to discharge any toxic pollutant, as defined by section 307(a)(1) of the Federal Water Pollution Control Act Amendments of 1972, shall apply for permission for such discharge from the director. Attainment of allowed concentrations by dilution will not be allowed as a manner to meet discharge standards.

(Code 2006, § 38-292; Ord. No. 137, art. VII, § 2, 3-9-1992)

Sec. 38-297. Excess pollutants.

Persons discharging pollutants in excess of the limits listed in this section shall be subject to review by the director. The director shall determine the type or amount of pretreatment required at the user's expense, or he may enter into a contract with the person making the discharge for the purpose of treatment of the pollutants for a fee and allow the discharge. The director's determination shall be based on an engineering study prepared at the user's expense. The discharge from a user shall be subject to the provisions of this subdivision when the following limits are exceeded:

(1) Five-day BOD greater than 250 mg/L.

(2) Oil or grease greater than 100 mg/L.

(3) Total phosphorous greater than 15 mg/L.

(4) Average daily flow exceeding three percent of the total daily design flow of the sewage treatment plant.

(5) Suspended solids greater than 300 mg/L.

(Code 2006, § 38-293; Ord. No. 137, art. VII, § 3, 3-9-1992)

Sec. 38-298. Control manhole requirements.

When the director has determined that it is necessary to ascertain the character of discharge to the public sewage system, the owner of such property served by a sewer connection shall install approved control manholes on the connections to allow observation, sampling and measurement of all substances discharged therein. The cost of the manholes and all equipment considered necessary by the director for sampling and metering equipment shall be at the expense of the user. The director shall approve all equipment prior to installation.

(Code 2006, § 38-294; Ord. No. 137, art. VII, § 4, 3-9-1992)

Sec. 38-299. Control manhole locations.

All control manholes shall be located on the user's property within ten feet of the property line. The control manholes shall be constructed on the sewer connection or the storm sewer connection. If the property is fenced, a gate shall be provided at the manhole location, with provision for a lock to be provided by the director. If the user does not want direct access to his property for security or other reasons, he shall, at his expense, construct a security fence around the control manhole of an area acceptable to the director. The director may allow control manholes in the street right-of-way in an approved manner and location. Those control manholes that cannot be constructed within ten feet of the property line shall be in an open and accessible area.

(Code 2006, § 38-295; Ord. No. 137, art. VII, § 5, 3-9-1992)

Sec. 38-300. Right of inspection.

The director may inspect the facilities of any user to determine whether the purpose of this division is being met and all discharge requirements are being complied with. Persons or occupants of premises where sewage or other wastes are created or discharged shall allow the director ready access at all reasonable times and make provisions for emergency access to all parts of the premises for the purposes of inspection or sampling or in the performance of such governmental function.

(Code 2006, § 38-296; Ord. No. 137, art. VII, § 6, 3-9-1992)

Sec. 38-301. Access to sewer outfalls and meters.

Access to and inspection of sewer outfalls to the river and sewer meters shall be as outlined in section 38-300.

(Code 2006, § 38-297; Ord. No. 137, art. VII, § 7, 3-9-1992)

Sec. 38-302. Approval of plans; compliance schedule.

(a) Detailed plans showing pretreatment facilities operating procedures and effluent characteristics shall be submitted to the director for review and approval before construction of the facility. The approval of such plans and procedures will in no way relieve such person from the responsibility of modifying the facility, if necessary, to provide an acceptable effluent. Any changes in the approved facilities or method of operation shall be reviewed and approved by the director.

(b) Any person to which pretreatment standards are applicable shall be in compliance with such standards in the shortest reasonable time, but not later than three years from the date of the promulgation of the U.S. EPA guidelines. In addition, pretreatment facilities for incompatible pollutants introduced into the sewer system by a major contributing industry shall commence construction within 18 months from the date of the final promulgation of the effluent limitations guidelines defining best practicable control technology currently available.

(c) The director shall require the development of a compliance schedule, by each person discharging industrial wastes, for the installation of such pretreatment or equalization technologies.

(Code 2006, § 38-298; Ord. No. 137, art. VII, § 8, 3-9-1992)

Secs. 38-303--38-322. Reserved.

DIVISION 7. DISCHARGE PERMITS

Sec. 38-323. Persons required to obtain permit.

(a) Persons required by this article to provide pretreatment and persons engaged in any activity listed in

section 306(b)(1)(A) of the Act, which are as follows, shall obtain a permit prior to connecting to or discharging to the sewerage system:

(1) Pulp or paper mills.

(2) Paper board, building and board mills.

(3) Meat product or rendering processing.

(4) Dairy product processing.

(5) Grain mills.

(6) Canned and preserved fruits and vegetables processing.

(7) Canned and preserved seafood processing.

(8) Sugar processing.

(9) Textile mills.

(10) Cement manufacturing.

(11) Feedlots.

(12) Electroplating and other plating.

(13) Organic chemical manufacturing.

(14) Inorganic chemical manufacturing.

(15) Plastic and synthetic materials manufacturing.

(16) Soap and detergent manufacturing.

(17) Fertilizer manufacturing.

(18) Petroleum manufacturing.

(19) Iron and steel manufacturing.

(20) Nonferrous metals manufacturing.

(21) Phosphate manufacturing.

(22) Steam and electric generation plants.

(23) Ferroalloy manufacturing.

(24) Leather tanning and finishing.

(25) Drum or barrel cleaning plants.

(26) Glass and asbestos manufacturing.

(27) Rubber processing.

(28) Timber products processing.

(b) Such person presently discharging to the sewerage system shall, within 60 days from the effective date of the ordinance from which this article is derived, complete and file an application for a permit with the director. The director may also require any other person who is discharging or proposing to discharge wastes into the system to obtain a permit. The director may change the conditions of the permit as circumstances or laws or regulations enacted by the state or federal governments may require. Limitations on the discharge of wastes into the system shall be in accordance and agreement with the current effluent guidelines developed by the Federal Environmental Protection Agency. The director shall direct the form the permit application shall use.

(c) Users required to obtain a permit pursuant to this section shall complete and file with the city an application in the form prescribed by the city, accompanied by a fee as set by the council. In support of the application, the user shall submit, in units and terms appropriate for evaluation, the following information:

(1) Name, address and location (if different from the address).

(2) SIC number according to the Standard Industrial Classification Manual, Bureau of Budget, 1972, as amended.

(3) Wastewater constituents and characteristics, including, but not limited to, those mentioned in this article, as determined by a reliable analytical laboratory; sampling and analysis shall be performed in accordance with procedures established by the EPA pursuant to section 304(g) of the Act and contained in 40 CFR 136, as amended.

(4) Time and duration of contribution.

(5) Average daily and three-minute peak wastewater flow rates, including daily, monthly and seasonal variations if any.

(6) Site plans, floor plans, mechanical and plumbing plans and details to show all sewers, sewer connections, and appurtenances by size, location and elevation.

(7) Description of activities, facilities, and plant processes on the premises, including all materials which are or could be discharged.

(8) Where known, the nature and concentration of any pollutants in the discharge which are limited by any city, state or federal pretreatment standards, and a statement regarding whether or not the pretreatment standards are being met on a consistent basis and, if not, whether additional operation and maintenance or additional pretreatment is required for the user to meet applicable pretreatment standards.

(9) If additional pretreatment or operation and maintenance will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. The following conditions shall apply to this schedule:

a. The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (e.g., hiring an engineer, completing preliminary plans, completing final plans, executing contract for major components, commencing construction, completing construction, etc.).

b. No increment referred to in subsection (c)(9)a of this section shall exceed nine months.

c. Not later than 14 days following each date in the schedule and the final date for compliance, the user shall submit a progress report to the superintendent including, as a minimum, whether or not it complied with the increment of progress to be met on such date and, if not, the date on which it expects to comply with the increment of progress, the reason for delay, and the steps being taken by the user to return the construction to the schedule established. In no event shall more than nine months elapse between such progress reports to the superintendent.

(10) Each product produced by type, amount, process and rate of production.

(11) Type and amount of raw materials processed (average and maximum per day).

(12) Number and type of employees, and hours of operation of plant and proposed or actual hours of operation of pretreatment system.

(13) Any other information as may be deemed by the city to be necessary to evaluate the permit application.

(d) The city will evaluate the data furnished by the user and may require additional information. After evaluation and acceptance of the data furnished, the city may issue a permit subject to the terms and conditions provided in this article.

(Code 2006, § 38-311; Ord. No. 137, art. VIII, § 1, 3-9-1992)

Sec. 38-324. Enforcement of conditions.

The conditions of the permit shall be enforced by the director in accordance with the provisions of this article. Any permit holder who exceeds the conditions and provisions of the permit will be subject to the enforcement provisions of this article and applicable state and federal laws.

(Code 2006, § 38-312; Ord. No. 137, art. VIII, § 2, 3-9-1992)

Sec. 38-325. Annual discharge report.

Each person issued a permit shall submit a signed annual discharge report to the director. The director may require a permit holder to submit more frequent reports if in his judgment the wastes being discharged are possibly in violation of this article. The report shall include, but is not limited to, the nature of the process, volume, rates of flow, mass emissions, production quantities, hours of operation, personnel or other information that relates to the generation, handling and discharge of wastes. The report may also include the chemical constituents and quantity of liquid or gaseous materials stored on-site. If insufficient data has been furnished, other information will be provided upon request of the director.

(Code 2006, § 38-313; Ord. No. 137, art. VIII, § 3, 3-9-1992)

Sec. 38-326. Accidental discharges.

All persons discharging wastes to the sewerage system shall notify the water pollution control plant upon accidentally discharging wastes in violation of this article or the user's permit. The notification shall be made as soon after the accidental discharge as possible, but in no case more than 30 minutes after the accidental discharge. This notification shall be followed within 15 days by a detailed written report describing the causes of the accident and measures being taken to prevent future occurrences. Dates shall be set for completion of such measures, and the completion shall be reported to the director. Notification will not relieve users of liabilities for expenses, loss or damage to the system or downstream, or for any fines imposed on the city on account thereof.

(Code 2006, § 38-314; Ord. No. 137, art. VIII, § 4, 3-9-1992)

Sec. 38-327. Confidential status of information.

All information and data on a user obtained from reports, questionnaires, permit applications, permits and monitoring programs and from inspections shall be available to the public without restriction, unless the user specifically requests the information be classified confidential on the basis of proprietary process. When information is classified confidential, the director shall provide proper and adequate facilities and procedures to safeguard the confidentiality of manufacturing proprietary processes, except that confidentiality shall not extend to waste products discharged to the waters of the state.

(Code 2006, § 38-315; Ord. No. 137, art. VIII, § 5, 3-9-1992)

Sec. 38-328. State requirements.

State requirements and limitations on discharges shall apply in any case where they are more stringent than federal requirements and limitations or those in this article.

(Code 2006, § 38-316; Ord. No. 137, art. VIII, § 6, 3-9-1992)

Sec. 38-329. City's right of revision.

The city reserves the right to establish by ordinance more stringent limitations or requirements on discharges to the wastewater disposal system if deemed necessary to comply with the objectives presented in division 1 of this article.

(Code 2006, § 38-317; Ord. No. 137, art. VIII, § 7, 3-9-1992)

Sec. 38-330. Compliance with discharge standards; reporting requirements.

(a) It is unlawful to discharge without a city permit to any natural outlet within the city or in any area under the jurisdiction of the city, or to the POTW, any wastewater except as authorized by the superintendent in accordance with the provisions of this article.

(1) *Permit modification*. Within nine months of the promulgation of a national categorical pretreatment standard the wastewater permit of users subject to such standard shall be revised to require compliance with such standard within the timeframe prescribed by such standard. Where a user subject to a national categorical pretreatment standard has not previously submitted an application for a wastewater contribution permit as required by this division, the user shall apply for a wastewater contribution permit within 60 days after the promulgation of the applicable addition. The user with an existing wastewater

contribution permit shall submit to the superintendent within 60 days after the promulgation of an applicable federal categorical pretreatment standard the information required by this section.

(2) *Permit conditions*. Wastewater discharge permits shall be expressly subject to all provisions of this article and all other applicable regulations, user charges and fees established by the city. Permits may contain the following:

a. The unit charge or schedule of user charges and fees for the wastewater to be discharged to a community sewer.

b. Limits on the average and maximum wastewater constituents and characteristics.

c. Limits on the average and maximum rate and time of discharge or requirements for flow regulation and equalization.

d. Requirements for installation and maintenance of inspection and sampling facilities.

e. Specifications for monitoring programs, which may include sampling locations, frequency of sampling, number, types and standards for tests and reporting schedule.

f. Compliance schedules.

g. Requirements for submission of technical reports or discharge reports.

h. Requirements for maintaining and retaining plant records relating to wastewater discharge as specified by the city and affording city access thereto.

i. Requirements for notification of the city of any new introduction of wastewater constituents or any substantial change in the volume or character of the wastewater constituents being introduced into the wastewater treatment system.

j. Requirements for notification of slug discharges.

k. Other conditions as deemed appropriate by the city to ensure compliance with this article.

(3) *Permit duration*. Permits shall be issued for a specified time period, not to exceed five years. A permit may be issued for a period less than a year or may be stated to expire on a specific date. The user shall apply for permit reissuance a minimum of 180 days prior to the expiration of the user's existing permit. The terms and conditions of the permit may be subject to modification by the city as the limitations or requirements as identified in this article are modified or other just cause exists. The user shall be informed of any proposed changes in his permit at least 30 days prior to the effective date of change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.

(4) *Permit transfer*. Wastewater discharge permits are issued to a specific user for a specific operation. A wastewater discharge permit shall not be reassigned or transferred or sold to a new owner, a new user, different premises, or a new or changed operation without the approval of the city. Any succeeding owner or user shall also comply with the terms and conditions of the existing permit.

(5) *Compliance date report*. Within 90 days following the date for final compliance with applicable pretreatment standards or, in the case of a new source, following commencement of the introduction of wastewater into the POTW, any user subject to pretreatment standards and requirements shall submit to the superintendent a report indicating the nature and concentration of all pollutants in the discharge from the regulated process which are limited by pretreatment standards and requirements and the average and maximum daily flow for these process units in the user's facility which are limited by such pretreatment standards or requirements. The report shall state whether the applicable pretreatment standards or requirements are being met on a consistent basis and, if not, what additional operation and maintenance or pretreatment is necessary to bring the user into compliance with the applicable pretreatment standards or requirements. This statement shall be signed by an authorized representative of the industrial user, and certified to by a qualified professional.

(6) *Periodic compliance records*.

a. Any user subject to a pretreatment standard, after the compliance date of such pretreatment

standard, or, in the case of a new source, after commencement of the discharge into the POTW, shall submit to the superintendent during the months of June and December, unless required more frequently in the pretreatment standard or by the superintendent, a report indicating the nature and concentration of pollutants in the effluent which are limited by such pretreatment standards. In addition, this report shall include a record of all daily flows which during the reporting period exceeded the average daily flow reported pursuant to subsection (a)(5) of this section. At the discretion of the superintendent and in consideration of such factors as local high or low flow rates, holidays, budget cycles, etc., the superintendent may agree to alter the months during which these reports are to be submitted.

b. The superintendent may impose mass limitations on users which are using dilution to meet applicable pretreatment standards or requirements, or in other cases where the imposition of mass limitations are appropriate. In such cases, the report required by subsection (a)(6)a of this section shall indicate the mass of pollutants regulated by pretreatment standards in the effluent of the user. These reports shall contain the results of sampling and analysis of the discharge, including the flow and the nature and concentration, or production and mass when requested by the superintendent, of pollutants contained therein which are limited by the applicable pretreatment standards. The frequency of monitoring shall be prescribed in the applicable pretreatment standard. All analysis shall be performed in accordance with procedures established by the administrator pursuant to section 304(g) of the Act and contained in 40 CFR 136 and amendments thereto or with any other test procedures approved by the administrator. Sampling shall be performed in accordance with the techniques approved by the administrator.

(7) *Monitoring facilities*.

a. The city shall require to be provided and operated, at the user's own expense, monitoring facilities to allow inspection, sampling, and flow measurement of the building sewer or internal drainage systems. The monitoring facility should normally be situated on the user's premises, but the city may, when such a location would be impractical or cause undue hardship on the user, allow the facility to be constructed in the public street or sidewalk area and located so that it will not be obstructed by landscaping or parked vehicles.

b. There shall be ample room in or near such sampling manhole or facility to allow accurate sampling and preparation of samples for analysis. The facility and sampling and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expense of the user.

c. Whether constructed on public or private property, the sampling and monitoring facilities shall be provided in accordance with the city's requirements and all applicable local construction standards and specifications. Construction shall be completed within 90 days following written notification by the city.

(8) *Inspections and sampling*. The city shall inspect the facilities of any user to ascertain whether the purpose of this article is being met and all requirements are being complied with. Persons or occupants of premises where wastewater is created or discharged shall allow the city or its representative ready access at all reasonable times to all parts of the premises for the purpose of inspection, sampling, or records examination or in the performance of any of their duties. The city approval authority, ~~the state department of environmental quality~~ the state Environment, Great Lakes and Energy Department (EGLE) or successor agency and the EPA shall have the right to set up on the user's property such devices as are necessary to conduct sampling, inspection, compliance monitoring or metering operations. Where a user has security measures in force which would require proper identification and clearance before entry into the user's premises, the user shall make necessary arrangements with the user's security guards so that, upon presentation of suitable identification, personnel from the city, ~~the state department of environmental quality~~ the state Environment, Great Lakes and Energy Department (EGLE) or successor agency and the EPA will be permitted to enter, without delay, for the purposes of performing their specific responsibilities.

(9) *Pretreatment*. Users shall provide necessary wastewater treatment as required to comply with this article

and shall achieve compliance with all federal categorical pretreatment standards within the time limitations as specified by the federal pretreatment regulations. Any facilities required to pretreat wastewater to a level acceptable to the city shall be provided, operated and maintained at the user's expense. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the city for review, and shall be acceptable to the city before construction of the facility. The review of such plans and operating procedures will in no way release the user from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the city under the provisions of this article. Any subsequent changes in the pretreatment facilities or method of operation shall be reported to and be acceptable to the city prior to the user's initiation of the changes.

(b) The city shall annually publish in a newspaper distributed locally a list of the users which were not in compliance with any pretreatment requirements or standards at least once during the 12 previous months. The notification shall also summarize any enforcement actions taken against the users during the same 12 months.

(c) All records relating to compliance with pretreatment standards shall be made available to officials of the EPA or ~~the state department of environmental quality~~ the state Environment, Great Lakes and Energy Department (EGLE) or successor agency upon request.

(Code 2006, § 38-318; Ord. No. 137, art. VIII, § 8, 3-9-1992)

Secs. 38-331--38-348. Reserved.

DIVISION 8. INDUSTRIAL COST RECOVERY

Sec. 38-349. Generally.

(a) Existing or future industrial users, as identified in the Standard Industrial Classification Manual, 1972, under division A, B, D, E or I, that contribute process wastes and cooling water to the sanitary sewer system of the city shall be charged a fee in proportion to the amount of the federal grant which is allocable to the treatment of wastes from those users. The fee to be assessed will be determined by flow and strength. As a minimum, any industry's share shall be proportional to its flow in relation to treatment works flow capacity. In computing derivation of charges for cost recovery, the following strength and volume units are used as the basis of design:

Treatment	mg/L
Suspended solids	300
BOD	250
Phosphorous	15

(b) The industrial cost recovery amount shall be equal to the amount of U.S. EPA participation in project costs. An industrial user's share shall include only that portion of the grant assistance allocable to its use or to capacity firmly committed for its use.

(c) Industries' annual payment shall be amortized over a 30-year cost recovery period and shall not include an interest component.

(d) Industrial users shall be exempt in the cost recovery system if they are governmental users or discharge primarily segregated domestic wastes or other wastes in volumes less than 25,000 gallons per day or equivalent strengths thereof, the latter being calculated using the pollutant concentrations defined by the "normal domestic sewage" definition of this article.

(e) Domestic wastes attributable to the employees of the industrial facility shall be exempt from the cost recovery system and shall be 15 gallons per employee per work shift. Where the industrial facility feels its employee domestic waste exceeds the 15-gallon exemption, such substantiation shall be submitted to the director, who shall

review and make a determination as to the amount of exemption. Such exemption shall be reviewed by the city on an annual basis, with new substantiation of the allowed exemption being submitted to the city upon request of the director. The industrial user shall furnish, on a periodic basis as established by the director, a certified report indicating the number of man-days worked for that period. One man-day shall be equal to one employee working one normal work shift. This certified report shall be used as the basis for establishing the exemption of domestic waste attributable to employees of such industry.

(f) In order to determine the degree to which users must be monitored, "major" and "minor" user categories will be established. Classification of industry into such categories will be at the option of the city, but industry may petition for reclassification based on sound engineering study or certified independent laboratory analysis. Major users will be monitored on a regular basis. Minor users will be monitored only to the extent that such monitoring is reasonable insofar as it is administratively effective to do so.

(g) The initiation of the cost recovery period will be no later than 30 days after final acceptance of the plant expansion project by the EPA.

(h) The city will, at annual intervals beginning one year after the start of the industrial cost recovery period, submit the following to the regional administrator:

(1) Information listing industrial cost recovery amounts charged and collected from industries during the preceding annual accounting period.

(2) Amount of payments being submitted to the federal government for the period.

(3) Investments made and the amount of interest earned during the preceding annual accounting period.

(4) Fiscal status including accrued interest earned on 80 percent of all industrial cost recovery amounts retained by the grantee since initiation of the industrial cost recovery period.

(5) Certification by the grantee that information submitted is complete and correct and that the grantee has complied with all provisions of the approved industrial cost recovery system.

(6) A check for the annual payment to the U.S. Environmental Protection Agency.

(i) Significant revisions of the approved industrial cost recovery system must be submitted to and approved by the regional administrator prior to implementation.

(j) An industrial user's payment will be adjusted to reflect significant changes in strength or volume so that the user pays its allocable share.

(k) On abandonment of an industrial facility, the user's cost recovery obligation will cease. A new industry will be assessed cost recovery only for the unexpired portion of the cost recovery period. To accomplish compliance with the Act, the following records will be maintained:

(1) Documentation of the final grant amount.

(2) The originally approved industrial cost recovery system and all materials and correspondence related thereto.

(3) Any and all subsequently approved revisions to the industrial cost recovery system and all materials and correspondence related thereto.

(4) The grantee's notification of initiation of operation of the industrial cost recovery system.

(5) All annual submissions from the grantee.

(6) All material relating to approval of the use of retained funds.

(7) The record of the grantee's annual payments to the EPA.

(Code 2006, § 38-341; Ord. No. 137, art. IX, § 1, 3-9-1992)

Sec. 38-350. Tests of measuring equipment.

(a) In order to determine the strength and volume of a user's waste, the city may require monitoring, control manholes, control manhole locations, and right of inspection.

(b) It shall be the obligation of the user to conduct a test on measuring equipment at least once every 12 months or when required by the city to determine the accuracy, and the results thereof shall be furnished in writing to the director. It shall also be the user's responsibility to notify the department within a reasonable time in advance so that the department may, if it chooses, have a witness present during such test.

(c) If upon any such test the percentage of accuracy is found to be within the accuracy tolerance as established by the manufacturer's specifications, such measuring equipment shall be determined to have correctly measured the quantity delivered to the sewer system. If, however, the percentage of accuracy tolerance is found to be outside the accuracy tolerance as established by the manufacturer's specifications, then such measuring equipment shall be immediately adjusted to register correctly the quantity delivered to the sewer system. The billings to such user shall be adjusted for a period extending back to the time when the inaccuracy began, if such time is ascertainable, or for a period extending back one-half of the time elapsed since the date of the last test or the date of the last adjustment, if the time is not ascertainable.

(Code 2006, § 38-342; Ord. No. 137, art. IX, § 2, 3-9-1992)

Sec. 38-351. Engineering study.

If, in the opinion of the director, it is impractical or infeasible for the producer to install a meter to measure the industrial waste being discharged in to the sanitary sewer, the director may require that the city perform an engineering study to determine the percentage of water being discharged to the sanitary sewer system. Such engineering study, when approved by the director, shall constitute the basis upon which the industrial cost recovery established by this article shall be computed, and the costs of such a study shall be borne by the user.

(Code 2006, § 38-343; Ord. No. 137, art. IX, § 3, 3-9-1992)

Sec. 38-352. Determination of volume of discharge when sewage is not metered.

When it is not administratively feasible to meter the quantity of sewage delivered to the city sewers, the volume will be construed as being the same as the water delivered to the user by the city water system unless otherwise provided.

(Code 2006, § 38-344; Ord. No. 137, art. IX, § 4, 3-9-1992)

Sec. 38-353. Determination of concentration of waste.

Determination of the average concentration or strength of the waste delivered shall be the obligation of the user. Analysis shall be made on representative samples collected by the user or his agent and at such intervals as the city may designate, but not less than annually. Cost of all testing shall be at the user's expense. The city may conduct multiple discharge analysis or may require multiple discharge analysis from an independent testing laboratory. Sampling will be conducted according to accepted methods. Composite or grab sampling, depending on the user's process, may be used.

(Code 2006, § 38-345; Ord. No. 137, art. IX, § 5, 3-9-1992)

Sec. 38-354. Calculation of user's annual cost; collection; disposition of revenue.

(a) The user's annual cost will be determined by volume and strength. Specific values for volume, BOD, SS and phosphorous will be derived by dividing the federal grant cost component attributable to each of the basic design parameters so that a cost is derived per 100 cubic feet of volume and per pound for suspended solids, BOD and phosphorous.

(b) The city, by ordinance, shall establish unit charges to be used in computing the industrial cost recovery share after obtaining the recommendation of the city's engineers.

(c) Deposits; manner.

(1) Revenues collected for industrial cost recovery under this division shall be deposited in one of the following accounts:

a. Industrial cost recovery fund: Federal.

b. Industrial cost recovery fund: Local.

c. Receiving fund: Water and sewer fund.

(2) Revenues shall be deposited to these accounts in the following manner:

a. Fifty percent of all revenue collected shall be deposited in the federal industrial cost recovery fund.

b. Eighty percent of the remaining revenues shall be deposited in the local industrial cost recovery fund.

c. All remaining revenue shall be deposited in the water and sewer receiving fund.

(d) Revenues collected under this division shall be restricted and may be transferred and disbursed only as provided in this article.

(e) Once a year, on an annual basis, the month of which will be agreed upon between the director and the EPA, all amounts deposited to the federal industrial cost recovery fund, plus all interest earned thereon, shall be returned to the United States Treasury in a manner as may be prescribed by the United States Treasurer or his designee.

(f) Amounts deposited in the local industrial cost recovery fund, plus all interest earned thereon, may not be transferred or otherwise expended from this fund for any purpose whatsoever, except by resolution of the city council with written approval of the regional administrator of the EPA and then only for the purpose of the expansion or reconstruction of water pollution control facilities.

(g) Amounts deposited to the receiving fund may be transferred or otherwise expended to meet any obligation of the sewer fund; provided, however, these funds may not be used to reduce sewer user charges or industrial cost recovery amounts for any person.

(h) Pending use as provided elsewhere in this article, all amounts deposited to the local industrial cost recovery fund for reconstruction or expansion shall be invested in obligations of the federal government, or obligations of any agency thereof, or such amounts shall be deposited in accounts fully collateralized by obligations of the federal government or by obligations fully guaranteed as to principal and interest by the federal government or any agency thereof.

(i) Charges for industrial cost recovery shall be billed and collected on an annual basis. Bills shall be rendered at least 25 days prior to the due date. The initial bill to be rendered shall be not later than one year and 30 days after final acceptance of the property by the federal environmental protection agency. All subsequent bills shall be rendered on an annual basis within the stated 30-day period.

(j) If industrial cost recovery charges are not paid on or before the due date, there shall be assessed a late charge of ten percent or at a rate as determined from time by time by council resolution. If industrial cost recovery charges are not paid within 30 days after the due date thereof, the water services to such premises may be discontinued; and if such water is obtained from a source of supply other than the city's water supply system, the discharge thereof into the city's sewage disposal system shall be illegal and the owner of the property subject to fine or imprisonment, as provided for violation of this Code.

(k) Charges for industrial cost recovery to any premises shall be a lien thereon, and during April of each year the person charged with the management of the system shall certify any such charge which as of April 1 of that year has been delinquent six months or more to the city assessor, who shall enter the charge upon the city tax roll of that year against the premises to which such service had been rendered, and such charges shall be collected and such lien shall be enforced in the same manner as provided in respect to taxes assessed upon such roll; provided that when a tenant is responsible for payment of any such charge against any premises located within the boundary of the city and the city is so notified in writing, with a true copy of the lease of the affected property (if there is one) attached, then no such charge shall become a lien against such premises from and after the date of such notice. However, in the event of the filing of such notice, no further service shall be rendered by the system to such premises until a cash deposit not to exceed three times the average annual charge to such premises shall have been made as security for the payment of charges thereto.

(l) In the case of premises located outside the corporate limits of the city, which premises are subject to the city industrial cost recovery system, the owners of such premises shall at all times be liable for such charges and shall make such deposit to ensure payment of charges as the city treasurer shall require.

(Code 2006, § 38-346; Ord. No. 137, art. IX, § 6, 3-9-1992)

Secs. 38-355--38-381. Reserved.

DIVISION 9. PROTECTION FROM DAMAGE

Sec. 38-382. Damaging or tampering with sewer system.

No 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 sewerage system. Any person violating this provision shall be subject to immediate arrest under a charge of disorderly conduct.

(Code 2006, § 38-361; Ord. No. 137, art. X, § 1, 3-9-1992)

Sec. 38-383. Liability for expense or damage caused by violation.

Any person violating any of the provisions of this division shall become liable to the city for any expense, loss, or damage occasioned the city by reason of such violation.

(Code 2006, § 38-362; Ord. No. 137, art. X, § 2, 3-9-1992)

Secs. 38-384--38-409. Reserved.

DIVISION 10. POWERS OF PUBLIC WORKS DIRECTOR

Sec. 38-410. Right of entry.

The director shall be permitted to enter all properties for purposes of inspection, observation, measurement, sampling and testing in accordance with the provisions of this article, whether or not an easement has been granted. The director shall have no authority to inquire into any processes, including metallurgical, chemical, oil, refining, ceramic, paper or other industries, beyond that point having a direct bearing on the kind and source of discharge to the sewerage system or waterways.

(Code 2006, § 38-381; Ord. No. 137, art. XI, § 1, 3-9-1992)

Sec. 38-411. Liability of city employees when working on private property.

While performing the necessary work on private properties referred to in this article, the director shall observe all safety rules applicable to the premises established by the company, and the company shall be held harmless for injury or death to the city employees, and the city shall indemnify the person against loss or damage to its property by city employees and against liability claims and demands for personal injury or property damage asserted against the person and growing out of the gauging, sampling operating and inspections, except as such may be caused by negligence or failure of the person to maintain safe conditions as required in this article.

(Code 2006, § 38-382; Ord. No. 137, art. XI, § 2, 3-9-1992)

Sec. 38-412. Entry on easements.

The director and other duly authorized employees of the city bearing proper credentials and identification shall be permitted to enter all private property through which the city holds a duly negotiated easement for the purpose of, but not limited to, inspection, observation, measurement, sampling, repair, and maintenance of any portion of the public sewage works lying within such easement. All entry and subsequent work, if any, on the easement shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

(Code 2006, § 38-383; Ord. No. 137, art. XI, § 3, 3-9-1992)

Sec. 38-413. Sampling and testing.

All measurements, tests and analyses of the characteristics of waters and wastes to which reference is made in this article may be made in accordance with test methods as defined in this article and shall be determined at the control manhole provided, or upon suitable samples taken at the control manhole. If no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected. Sampling shall be carried out by customarily accepted methods to reflect the effect of the constituents upon the sewage works and to determine the existence of hazards to life, limb

and property. The particular analyses involved will determine whether a 24-hour composite of all outfalls of the premises is appropriate, or whether grab samples should be taken. Normally, but not always, BOD and suspended solids analyses are obtained from 24-hour composites of all outfalls, whereas pHs are determined from periodic grab samples.

(Code 2006, § 38-384; Ord. No. 137, art. XI, § 4, 3-9-1992)

Secs. 38-414--38-439. Reserved.

DIVISION 11. ENFORCEMENT

Sec. 38-440. Suspension of service; suspension of permit.

(a) The city may suspend the wastewater treatment service or a wastewater contribution permit when such suspension is necessary, in the opinion of the city, in order to stop an actual or threatened discharge which presents or may present an imminent or substantial endangerment to the health or welfare of persons or to the environment, cause interference to the POTW, or cause the city to violate any condition of its NPDES permit.

(b) Any person notified of the suspension of the wastewater treatment service or the wastewater contribution permit shall immediately stop or eliminate the contribution. In the event of a failure of the person to comply voluntarily with the suspension order, the city shall take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW system or endangerment to any contribution permit or the wastewater treatment service upon proof of the elimination of the noncomplying discharge. A detailed written statement submitted by the user describing the cause of the harmful contribution and the measures taken to prevent any future occurrence shall be submitted to the city within 15 days of the date of occurrence.

(Code 2006, § 38-401; Ord. No. 137, art. XII, § 1, 3-9-1992)

Sec. 38-441. Revocation of permit.

Any user who violates the following conditions of this section, or applicable state and federal regulations, is subject to having his permit revoked in accordance with the procedures of this article:

(1) Failure of a user to factually report the wastewater constituents and characteristics of his discharge;

(2) Failure of the user to report significant changes in operations, or wastewater constituents and characteristics;

(3) Refusal of reasonable access to the user's premises for the purpose of inspection or monitoring; or

(4) Violation of conditions of the permit.

(Code 2006, § 38-402; Ord. No. 137, art. XII, § 2, 3-9-1992)

Sec. 38-442. Notification of violations.

Whenever the city finds that any user has violated or is violating this article, a wastewater contribution permit, or any prohibition, limitation or requirements contained in this article, the city may serve upon such person a written notice stating the nature of the violation. Within 30 days of the date of the notice, a plan for the satisfactory correction thereof shall be submitted to the city by the user.

(Code 2006, § 38-403; Ord. No. 137, art. XII, § 3, 3-9-1992)

Sec. 38-443. Show cause hearing.

(a) The city may order any user who causes or allows an unauthorized discharge to enter the POTW to show cause before the city council why the proposed enforcement action should not be taken. A notice shall be served on the user specifying the time and place of a hearing to be held by the city council regarding the violation, the reasons why the action is to be taken, and the proposed enforcement action, and directing the user to show cause before the city council why the proposed enforcement action should not be taken. The notice of the hearing shall be served personally or by registered or certified mail (return receipt requested) at least ten days before the hearing. Service may be made on any agent or officer of a corporation.

(b) The city council may itself conduct the hearing and take the evidence, or may designate any of its

members or any officer or employee of an assigned department to:

(1) Issue in the name of the city council notices of hearings requesting the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in such hearings.

(2) Take the evidence.

(3) Transmit a report of the evidence and hearing, including transcripts and other evidence, together with recommendations to the city council for action thereon.

(c) At any hearing held pursuant to this section, testimony taken must be under oath and recorded electronically or stenographically. The transcript, so recorded, will be made available to any member of the public or any party to the hearing upon payment of the usual charges therefor.

(d) After the city council has reviewed the evidence, it may issue an order to the user responsible for the discharge directing that, following a specified time period, the sewer service be discontinued unless adequate treatment facilities, devices or other related appurtenances shall have been installed or existing treatment facilities, devices or other related appurtenances are properly operated. Further orders and directives as are necessary and appropriate may be issued.

(Code 2006, § 38-404; Ord. No. 137, art. XII, § 4, 3-9-1992)

Sec. 38-444. Legal action.

If any person discharges sewage, industrial wastes or other wastes into the city's wastewater disposal system contrary to the provisions of this article, federal or state pretreatment requirements, or any order of the city, the city attorney may commence an action for appropriate legal or equitable relief in the circuit court of the county.

(Code 2006, § 38-405; Ord. No. 137, art. XII, § 5, 3-9-1992)

Secs. 38-445--38-471. Reserved.

DIVISION 12. INDUSTRIAL USE OF SYSTEM

Sec. 38-472. Requirements for persons discharging industrial waste.

Any industry or structure discharging or desiring to discharge industrial waste to the system shall provide the city with the following information or material and do the following:

(1) A written statement setting forth the nature of the enterprise, the source and amount of water used, and the amount of waste to be discharged, with the present or expected bacterial, physical, chemical, radioactive or other pertinent characteristics of the wastes.

(2) A plan map of the building, works or complex, with each outfall to the surface water, sanitary sewer, storm sewer, natural watercourse, or groundwater noted and described and the waste outlets identified.

(3) A test sample and reports shall be filed with the city and the appropriate state agencies on appropriate characteristics of wastes on a schedule, at locations and according to methods approved by the city.

(4) Place waste treatment facilities, process facilities, waste streams or other potential waste problems under the specific supervision and control of persons who have been certified by an appropriate state agency as properly qualified to supervise such facilities.

(5) A report on raw materials entering the process or support systems, intermediate materials, final products and waste byproducts, as these factors may pertain to waste control.

(6) Maintain records and file reports on the final disposal of specific liquids, solids, sludge, oils, radioactive materials, solvents or other waste.

(7) If any industrial process is to be altered as to include or negate a process waste or potential waste, written notification shall be given to the city, subject to approval of the waste product.

(Code 2006, § 38-421; Ord. No. 137, art. XIII, 3-9-1992)

Secs. 38-473--38-497. Reserved.

DIVISION 13. CONNECTION OF PRIVATE SYSTEMS

Sec. 38-498. Prerequisites for connection; payment of costs.

(a) Before any sanitary sewer system constructed by private, as distinguished from public, funding (referred to in this section as a "private sanitary sewer") shall be permitted to connect to the public system, the owner of the system (referred to in this section as the "developer") shall do and provide the city with the following:

(1) Provide the city with the developer's plans and specifications for construction, an estimate of the cost of construction, and a performance bond, and deposit with the city the estimated cost of review of construction plans covering the cost of hiring a registered professional engineer to review plans and specifications, which moneys shall be placed by the city in an escrow account in the name of the developer. The city shall have the right to require the developer to upsize the system for the benefit of future users, and the city shall, upon connection of future users, compute a refund to the developer based upon the percentage benefit received by the upstream users who benefit from the upsizing.

(2) Obtain approval of the city of the plans and specifications.

(3) Secure all necessary permits for construction.

(4) Upon commencement of construction of the private sanitary sewer, deposit with the city in the escrow account referred to in subsection (a)(1) of this section a sum of 15 percent of the cost of construction of the wastewater system improvements to cover the anticipated cost of inspection of construction and payment of connection charges.

(b) Upon completion of connection of the private sanitary sewer to the system and delivery of as-built plans to the city, the performance bond, upon recommendation of the city's engineer and approval of the city council, shall be released and any moneys remaining in the developer's escrow account shall be returned to the developer. Any additional expenses incurred by the city in assuring the city that the private sanitary sewer is properly operating shall be deducted therefrom or charged directly to the developer, at the option of the city.

(Code 2006, § 38-441; Ord. No. 137, art. XIV, 3-9-1992)

Secs. 38-499--38-519. Reserved.

DIVISION 14. RATES AND CHARGES FOR CITY SERVICES

Sec. 38-520. Established; applicability.

Rates and charges for the use of the city sewerage system are hereby established. Such charges and rates shall be made against each lot, parcel of land or premises which may have any sewer connection with the sewer system of the city or which may otherwise discharge sewage or industrial waste, either directly or indirectly, into such system or any part thereof. Charges for use of the city sanitary sewer collection system shall be designated as:

(1) A user charge, which shall distribute operation, maintenance and replacement costs for the city wastewater collection treatment system to each user on a proportional basis.

(2) A capital charge, which shall distribute capital costs by the city wastewater collection and treatment system to each user on an equitable basis.

(Code 2006, § 38-461; Ord. No. 137, art. XVII, § 1, 3-9-1992)

Sec. 38-521. User charge.

The user charge for service furnished by the sewerage system shall be levied upon each lot or parcel of land, building or premises having any sewer connection with such system, on the basis of the quantity of water used thereon or therein as the same is measured by meters therein used, and shall be collected in the same manner as provided for the payment of charges for water used; except, in cases where the character of the sewage from a manufacturing or industrial plant, building or premises places a burden upon the system greater than that imposed by normal domestic strength wastewater, additional charges shall be imposed over the regular rates, or the city may if it deems it advisable compel such manufacturing or industrial plant, building or premises to treat such sewage in

such manner as shall be specified by the city before discharging such sewage into the sewage disposal system. Rates for users obtaining all or part of their water supply from sources other than the city's water system shall be determined by gauging or metering the actual sewage entering the system or by metering the water used by them in a manner acceptable to the city. Charges for users shall be computed on the basis of 1,000-gallon units per customer.

(Code 2006, § 38-462; Ord. No. 137, art. XVII, § 2, 3-9-1992)

Sec. 38-522. Benefit charges.

Those persons owning lands in direct proximity to a city sanitary sewer and who desire to make connection to the sewer shall pay a benefit charge for the privilege of each connection to the sewer. Such benefit charge shall be as established from time to time by resolution of the city council. Such benefit charge shall be paid in cash or in installments, with interest and penalties, as established and provided from time to time by resolution of the city council.

(Code 2006, § 38-463; Ord. No. 137, art. XVII, § 3, 3-9-1992)

Sec. 38-523. Connection charges.

Each premises hereafter connecting to any city sanitary sewer shall pay a connection charge as established from time to time by resolution of the city council. The connection charge shall be paid in cash before a sewer permit is issued. If the developer has made substitute improvements, either as part of the development or subject to a special assessment, then the city manager shall determine a credit to be given to the developer for such improvements, and such credit shall be against the aggregate connection charges and benefit charges.

(Code 2006, § 38-464; Ord. No. 137, art. XVII, § 4, 3-9-1992)

Sec. 38-524. Upstream benefit charge.

Each premises hereafter making connection to a sanitary sewer lateral or interceptor which is upstream of a sanitary sewer interceptor upsized two inches or more in diameter at the city's expense of upsizing and which was not funded through the sale of general obligation sewer bonds shall, in addition to other applicable special assessments, benefit charges, connection charges, or permit or other charges, pay an upstream benefit charge in an amount determined by the department of public works. The amount of the upstream benefit charge shall be the relative portion of the cost of the upsizing, plus eight percent per annum interest, as the benefit of the parcel connected bears to the total benefit to all upstream parcels benefitted by the upsizing. The upstream benefit charge shall be paid in cash or in installments, with interest and penalties, all as shall be established and provided from time to time by resolution of the city council.

(Code 2006, § 38-465; Ord. No. 137, art. XVII, § 5, 3-9-1992)

Sec. 38-525. Rate for service to city.

The city shall pay the same sewer rate for service to it as would be payable by a private customer for the same service. All such charges for service shall be payable from the current funds of the city, or from the proceeds of taxes which the city, within constitutional limits, is hereby authorized and required to levy in amounts sufficient for that purpose.

(Code 2006, § 38-466; Ord. No. 137, art. XVII, § 6, 3-9-1992)

Sec. 38-526. Billing; delinquency penalty.

Charges for all sewage disposal service shall be billed and collected at least quarterly. The frequency of the billings shall be as established from time to time by resolution of the city council. All bills paid on or before the 20th day of the month next following the date of billing shall be without penalty, but if unpaid by such date the bill shall thereafter be considered delinquent and shall be subject to a ten percent penalty, or as otherwise determined by resolution of the city council.

(Code 2006, § 38-467; Ord. No. 147, § 1, 1-10-1994)

Sec. 38-527. Enforcement of collection.

(a) *Generally*.

(1) The city is hereby authorized to enforce the collection of charges for sewage service to any premises by discontinuing either the water service or the sewage service to such premises, or both, and legal action may be instituted by the city against the customer to collect payment of charges. The following charges for sewage service are a lien on the premises to which furnished, under the provisions of Public Act No. 94 of 1933 (MCL 141.101 et seq.):

a. User charges.

b. Capital charges.

c. Benefit charges, including upstream benefit charges, and other connection fees.

(2) The city manager or his designee shall, annually on November 1, certify all unpaid user and capital charges for such service furnished to any premises, and any delinquent installment payments for connection fees, benefit charges and upstream benefit charges which, on October 31 preceding, have remained unpaid for a period of six months, to the city assessor, who shall place the same on the next city tax roll. Such charges so assessed shall be collected in the same manner as general city taxes. Where water service or sewer service to any premises is turned off to enforce the payment of sewage service charges, such service shall not be recommenced until all delinquent charges have been paid, and there shall be a turn-on charge to be set by resolution and changed as necessary from time to time. In such cases or any other cases where, in the discretion of the city manager or his designee, the collection of charges for sewage service may be difficult or uncertain, the city manager may require a deposit of three times the average quarterly sewage service bill for the premises as estimated by the director of public works. Such deposit may be applied against any delinquent sewage service charges and the application thereof shall not affect the right of the department to turn off the water service or sewer service to any premises for any delinquency not thereby satisfied. No such deposit shall bear interest, and such deposit, or any remaining balance thereof, shall be returned to the customer making the deposit when he shall discontinue receiving sewer service.

(b) *Leased premises*. The provisions of this section shall not apply in any instance where a lease has been legally executed containing a provision that the lessor shall not be liable for payment of sewer bills accruing subsequent to the filing provided for in this subsection, provided that an affidavit with respect to the execution of such a lease or a true copy of the lease of the affected premises, if there is one, shall be filed with the city clerk along with a lease monitoring fee, due annually during the duration of the lease, which amount shall be set by resolution of the council. The monitoring fee shall be due for each full or partial year of the lease. Upon filing of the lease and the fee, then no such charge shall become a lien against the premises from and after the date of such notice. In the event of filing of such notice that the tenant is responsible, the city shall render no further service to such premises until a cash deposit as established by resolution of city council shall have been made as security for such sewer service. Thirty days' notice shall be given the city clerk by the lessor of any cancellation, change in or termination of the lease. Failure to provide such notice, or failure to file the annual fee, shall render the premises liable for the payment of sewer bills and subject to the lien as provided in this section. Notwithstanding the foregoing, the city may discontinue sewer service to the premises if the responsible person fails to pay the rates, assessments, charges, or rentals for the sewer service. Such discontinuance shall not invalidate or diminish any of the other methods employed by the city to collect any delinquent amounts due.

(Code 2006, § 38-468; Ord. No. 147, § 1, 1-10-1994; Ord. No. 156)

Sec. 38-528. Sewer charge exemption for water used in filling swimming pools.

(a) *Defined.* For the purpose of this section, the term "swimming pool" means any receptacle of water within the city that is used or intended to be used for the purpose of immersion or partial immersion of human beings for swimming, bathing or diving and is capable of being filled, at any point, to the depth of 24 or more inches.

(b) *Pools under construction exempted.* A swimming pool that is under construction shall not be subject to this section until construction is completed or until it fills with water to a depth of 24 inches or more, whichever occurs first.

(c) *Sewer charge adjustment applies when filling pools.* Property owners shall be encouraged to fill swimming pools from house spigots. Property owners shall be exempt from sewer charges when installing and

filling a new pool or when replacing liner that requires complete filling of the pool from the tap.

(d) *Notice to city required.* The property owner must notify the public works department no less than two working days in advance prior to filling the pool.

(e) *Calculation and application of exemption.* Upon notification, a department employee will visit the property to determine the size of the pool. The department employee shall use standard pool filling quantity formulas to determine how much water will be needed. That amount shall then be credited from sewer charges at the next billing. This exemption from sewer charges shall not apply to "topping off" pools, or for leaks.

(f) *Time during which pools may be filled.* The pool filling shall only take place between 8:00 a.m. and 4:30 p.m.

(g) *City not responsible for discolored water.* The city shall not be held responsible for any discolored (rusty) water discharged into the pool.

(Ord. No. 13-235, § 5-34, 7-18-2013)

Secs. 38-529--38-549. Reserved.

DIVISION 15. STORM SEWERS

Sec. 38-550. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Base rate means a rate established by the city council and used in the computation of the rate to be charged to each parcel under this division.

Natural waterways means the Thornapple River.

Rate means the amount of the stormwater service charge to be billed on an annual basis.

Runoff coefficient means an acceptable average coefficient of runoff for various types of land use regardless of slope or unique variables.

Stormwater means atmospheric precipitation, surface water or cooling water.

Stormwater system means public sewers, drains, ditches, retention ponds, dams, river impoundments, treatment facilities and flood control facilities used for collecting and transporting stormwater.

Surface area means the acreage amount contained within the parcel.

Usage class means the class of usage assigned to a parcel according to the records of the city assessor.

Usage class factor means a runoff coefficient assigned by the city council to each usage class and used in the computation of the storm sewer service charge.

(Code 2006, § 38-501; Ord. No. 136, § 1, 4-8-1991)

Sec. 38-551. Stormwater improvement fund established.

The stormwater improvement fund for the city is hereby established. All stormwater service charges and stormwater improvement permit fees shall be deposited into such fund. All expenditures from the stormwater improvement fund shall be used for the construction, maintenance and improvement of the stormwater system servicing the city.

(Code 2006, § 38-502; Ord. No. 136, § 2, 4-8-1991)

Sec. 38-552. Stormwater improvement permit required.

No person shall improve any site or lot within the city without securing a permit from the city clerk. Such permits shall be entitled "stormwater improvement permit." The fee to be charged for stormwater improvement permits shall be as established by resolution of the city council.

(Code 2006, § 38-503; Ord. No. 136, § 3, 4-8-1991)

Sec. 38-553. Stormwater service charge established.

All owners of real property in the city shall be charged for the use of the stormwater system based on the impact of the stormwater entering the stormwater system from the property. The impact of the stormwater from the property on the system shall be determined on the basis of the method of computation set forth in this division. The amount to be charged to each parcel shall be known as the stormwater service charge.

(Code 2006, § 38-504; Ord. No. 136, § 4, 4-8-1991)

Sec. 38-554. Computation of charges.

The annual rate to be charged to each parcel within the city under this division shall be determined by a formula established by resolution of the council.

(Code 2006, § 38-505; Ord. No. 136, § 5, 4-8-1991)

Sec. 38-555. Determination of factors affecting charges.

Base rates, usage class factors, surface area, and runoff coefficients shall be determined by resolution of the city council.

(Code 2006, § 38-506; Ord. No. 136, § 6, 4-8-1991)

Sec. 38-556. Exempt parcels.

There shall be no exempt parcels under this division.

(Code 2006, § 38-507; Ord. No. 136, § 7, 4-8-1991)

Sec. 38-557. Billing of charges; appeals.

Stormwater service charge billings may be combined with the billing for other utility services provided by the city or may be billed separately. Disputes regarding storm sewer service charges shall be filed with the city clerk and heard by the city manager. Appeals from the city manager shall be heard by the city council if a written appeal from such determination is filed with the city clerk within ten days after the city manager's determination.

(Code 2006, § 38-508; Ord. No. 136, § 6, 4-8-1991)

Sec. 38-558. Collection of unpaid charges.

Unpaid stormwater service charges shall constitute a lien against the property affected. Charges which have remained unpaid for a period of six months prior to March 31 of any year may, after notice to the owner, by resolution of the city council, be certified to the city assessor, who shall place the charges on the next tax roll. In the alternative, the city council may direct the city attorney to file suit and to collect unpaid charges.

(Code 2006, § 38-509; Ord. No. 136, § 7, 4-8-1991)

APPENDIX A

FRANCHISES

The following franchises granted by the city are currently in effect:

Grantee	Ord. No.	Adoption Date	Term
Consumers Power Co. - Electricity	121	11-11-1985	
Consumers Power Co. - Gas	140	9-14-1992	30 years

ARTICLE III. CABLE TELEVISION

Sec. 34-61. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Act means the Communications Act of 1934, as amended (and specifically as amended by the Cable Television Consumer Protection and Competition Act of 1992, PL 102-385), and as may be amended from time to time.

Advertising means all matter cablecast for which any money, service or other valuable consideration is directly or indirectly paid, exchanged or promised or charged or accepted in connection with the presentation of cable services.

Associated equipment means all equipment and services subject to regulation pursuant to 47 CFR 76.923.

Basic cable service means "basic service" as defined in FCC rules, and any other cable television service which is subject to rate regulation by the city pursuant to the act and FCC rules, and shall include, at a minimum, all public, educational and governmental programming or channels required to be carried by the city.

Cable communication system, cable television system, cable system, CATV and system have that meaning given by section 602(2) of the act and shall mean a system of coaxial cables or other signal conductors and equipment used or to be used to originate or receive television or radio signals directly or indirectly off the air and to transmit them via cable to subscribers for a fixed or variable fee, including the origination, receipt, transmission, and distribution of voices, sound signals, pictures, visual images, digital signals, telemetry, or any other type of closed circuit transmission by means of electrical or light wave impulses, whether or not directed to originating signals or receiving signals off the air.

Cable service means all of the services as defined by section 602(5) of the act which the franchisee has provided or will provide pursuant to the terms of the franchise agreement.

Channel means a portion of the electromagnetic frequency spectrum which is used in a cable system and which is capable of delivering a "television channel." For purposes of this article, a channel shall be deemed to have a bandwidth of six Mhz.

City means the city, Michigan, and all the territory within its territorial corporate limits.

Commission and cable commission mean the city cable commission provided for in this article.

FCC means the Federal Communications Commission.

FCC rules means all rules of the FCC promulgated from time to time pursuant to the act.

~~Franchise and franchise agreement mean the separate agreement by which the franchise is granted to the franchisee, as required by this article.~~

~~Increase in rates means an increase in rates or a decrease in programming or customer services.~~

~~Institutional network means a trunkline and that portion of the plant dedicated to use by public and private entities as provided for in a franchise.~~

~~Local gross revenues means all compensation derived by the franchisee which is attributable to the number of subscribers within the city or derived from cable or noncable service to subscribers or persons within the territorial corporate limits of the city. This term shall include, but not be limited to, all subscriber charges for basic cable service, pay TV, and premium channels, payments for advertising, fees for installation and service calls, commissions, revenue sharing or percentage of sales revenues or other compensation received from travel or home shopping services, and any and all compensation from all ancillary cable services, cable operations and cable-related activities within the city, including but not limited to the:~~

~~(1) Sale of cable equipment to subscribers;~~

~~(2) Rental or sale of descrambling converters or other devices;~~

~~(3) Rental or sale of remote control devices (including those with volume control); and~~

~~(4) Rental or sale of A/B or input switches.~~

~~Deposits and other monies which are returned to the customer (and barter services or trade-outs received or exchanged for promotion and sale of cable services) shall not be included as part of the local gross revenues. Neither the sale of cable equipment to nonsubscribers nor proceeds or disposition or retirement of assets shall be included in local gross revenue. To the extent that the franchisee's books or accounts do not reflect the source of any revenue, or where the source thereof may not be reasonably determined, that portion of gross revenue allocable to the city shall be based on the ratio of the number of subscribers in the corporate limits of the city to the total number of subscribers of the franchisee.~~

~~Pay-per-view means cable services through an arrangement under which a charge is made on a per-program or per-diem basis to a subscriber for receiving a television program or other service not a part of the basic cable service.~~

~~Pay TV means an arrangement under which a charge is made over and above the basic subscriber rate to a subscriber for receiving any particular channel or package of channels.~~

~~Producer means a user providing input services to the cable system for receipt by subscribers.~~

~~Public channels means channels which are dedicated to the public interest, according to the following categories:~~

~~(1) Public access;~~

~~(2) Educational use;~~

~~(3) Local governmental purposes; and~~

~~(4) Local interest programming.~~

State of the art means a cable system with production facilities, technical performance, capacity, equipment, components and service equal to or better than has been developed and demonstrated to be generally accepted and used in the cable television industry for comparable areas of equivalent population.

Subscriber means a person whose premises are physically and lawfully connected to receive any transmission from the system.

Subscriber service drop means each extension wiring from the franchisee's distribution lines to a subscriber's premises.

User means a person utilizing a system channel as a producer, for purposes of production or transmission of material, or as a subscriber, for purposes of receipt of cable services.

All other words and phrases used in this article shall have the same meaning as defined in the act and FCC rules. (Code 2006, § 34-61; Ord. No. 111, § 2; Ord. No. 144, 1-10-1994)

Sec. 34-62. Franchise required.

(a) No person shall construct, install, maintain or operate a cable communications system in the city nor shall any person provide a cable communications service or acquire ownership or control of a cable communications company in the city without such person having first obtained a franchise therefor from the city in the form of a franchise agreement between the city and the franchisee, which franchise agreement shall include, at a minimum, compliance with the specifications of this article.

(b) No person shall use, occupy or traverse the city streets, alleys, lanes, avenues, boulevards, sidewalks, bridges, viaducts, rights-of-way or any other public place or public way in the city or any extensions thereof or additions thereto, whether on, above or under the surface of the ground, for the purposes of installing, constructing, maintaining or operating a cable communications system or facilities therefor or for the purpose of furnishing a cable communications service without such person having first obtained a franchise therefor from the city in the form of a franchise agreement between the city and the franchisee, which franchise agreement shall include, at a minimum, compliance with all the specifications of this article.

(c) The specifications required by this article are minimum requirements of a franchise agreement. Additional requirements, including, but not limited to, rates, charges, deposits, specifications regarding required interconnections, studios or other signal origination facilities, numbers of channels to be equipped and available for immediate use upon initial construction of the system, use of channels by the city, schools, and other educational institutions, quality of community access, availability of equipment to users, required establishment and expansion of service area, other use of channels and other specifications or requirements of a cable communications franchisee or system may be established in the franchise agreement.

(d) A franchise granted by the city to the company to construct, erect, operate, and maintain a cable television system for the reception, amplification and distribution of video or audio signals to subscribing members of the public for a fee shall be nonexclusive, not to exceed 15 years from and after the effective date of the signing of a franchise agreement.

(e) A franchise established by the city shall grant the company the right and privilege to construct, operate and maintain the cable television system in, upon, along, across, above, over and under the streets, alleys, public ways and public places now laid out or dedicated within the city boundaries, and all extensions thereof, and all additions thereto, in the city.

(f) Upon the expiration of the original term of the franchise, the company or its successors and assigns shall be entitled to a renewal of the franchise for an additional term of ten years if, after a public hearing affording due process to all interested parties and conducted in accordance with all applicable federal and state laws and

regulations, the council shall find that the company or its successors and assigns remain qualified to operate the CATV system and have provided past service to the city and subscribers of the system in substantial compliance with the terms and conditions of the franchise.
(Code 2006, § 34-62; Ord. No. 111, § 3)

Sec. 34-63. Application for franchise.

A franchise application shall be filed with the city council and may be in the form as established by the city council by resolution.
(Code 2006, § 34-63; Ord. No. 111, § 4)

Sec. 34-64. Compliance with applicable laws.

(a) The company shall, at all times during the life of the franchise, be subject to all lawful exercises of police power of the city.

(b) The company agrees to comply with all valid local, state and federal regulations, including the rules and regulations of the FCC.
(Code 2006, § 34-64; Ord. No. 111, § 5)

Sec. 34-65. Indemnification of city; insurance.

The company shall indemnify, protect and save the city harmless from and against any and all losses, costs, expenses resulting from damage to any property or bodily injury or death to any person, including payments made under any workers compensation law, which arise out of or occur by reason of the exercise by the company of the rights granted in the franchise. The company shall carry insurance to protect itself and the city from and against all claims, demands, actions, judgments, costs, expenses and liabilities which may arise or result, directly or indirectly, from or by reason of such loss, injury or damage. The insurance policy shall specifically provide that the city shall be a named insured. The amounts of such insurance against liability due to physical damage to property and liability due to bodily injury or to death of persons shall be set by resolution of the city council and amended from time to time as necessary. The company shall also carry such insurance as it deems necessary to protect it and the city from any and all claims under the workers compensation laws in effect that may be applicable to the company. All insurance required by this section shall be and remain in force and effect for the entire period of the franchise. The policies of insurance, or certified copies thereof, shall be filed with the city clerk. No franchise granted shall become effective until such copies are filed with the city clerk.
(Code 2006, § 34-65; Ord. No. 111, § 6)

Sec. 34-66. Construction standards and timetable.

(a) The company shall construct not less than 90 percent of its total cable system, and shall commence cable television operations, within one year after the telephone company or power company has cleared the poles to permit the cable company to begin construction and the company has secured all necessary federal, state and local permits. It shall thereafter equitably and reasonably extend the system so as to enable it to render service to all feasible areas within the city. The company shall apply for the pole line agreements and necessary permits within 60 days from the enactment of the franchise agreement. A further timetable shall be set out in the franchise agreement.

(b) A strand map shall be filed with the city clerk for city council approval. Such review of the strand map shall be completed within 30 days following its submission to the council.

(c) With regard to the company's construction, operation and maintenance of its cable television system, the following standards shall apply:

(1) The construction, maintenance and use of the company's cable television system shall comply with the standards for materials and engineering and all other provisions of the National Electrical Safety Code, the National Electrical Code, the Bell Telephone System's Code of Pole Line Construction, and any other standards issued by the FCC or other federal or state regulatory agencies in relation thereto.

(2) the city shall have the right to supervise all construction and installation work performed subject to the provisions of the franchise and to make such inspections as it shall find necessary to insure compliance with governing ordinances.

(d) Any cable communications company granted a franchise pursuant to this article shall install, construct, maintain and operate its cable communications system in accordance with the accepted standards of the industry, in conformity with the state of the art and any standards of operation or maintenance for a cable communications system which may be established or issued by the Federal Communications Commission. Further, it is the intention of the city that any person granted a franchise to furnish a cable communications service to the public within the city shall possess the financial and technical qualifications necessary to provide a cable communications system which will assure its subscribers a high quality of technical and public service.

(e) Every cable communications system franchised under this article, as a minimum, shall maintain and make available without charge such public access channels, education access channels and local government access channels as may from time to time be designated, established, required or regulated by the rules and regulations of the Federal Communications Commission, including the expansion of such access channel capacity as may be required to fulfill the needs for such access channels pursuant to those access rules of the Federal Communications Commission as may from time to time be in force and effect.
(Code 2006, § 34-66; Ord. No. 111, § 7)

Sec. 34-67. Street vacation or abandonment.

If any street, alley, public highway, or utility easement, or any portion thereof, used by the company shall be vacated by the city or the use thereof discontinued by the company during the term of the franchise, the company shall forthwith remove its facilities therefrom unless specifically permitted to leave them there, and upon the removal thereof, restore, repair or reconstruct the street area where such removal has occurred in such condition as may be required by the city. In the event of failure, neglect or refusal of the company after 30 days' notice by the council to repair, improve or maintain such street portions, the city may do such work or cause it to be done, and the cost thereof as found and declared by the city shall be paid by the company, and collection may be by court action or otherwise.
(Code 2006, § 34-67; Ord. No. 111, § 8)

Sec. 34-68. Conditions of street occupancy.

(a) Use. All transmission and distribution structures, lines and equipment erected by the company within the city shall be so located as to cause minimum interference with the rights and reasonable convenience of property owners who adjoin any of the streets, alleys or other public ways and places.

(b) Restoration. In case of any disturbance of pavement, sidewalks, driveways or other surfacing, the company shall, at its own cost and expense and in a manner approved by the city, replace and restore all paving, sidewalks, driveways or surfaces of any street or alley disturbed to as good a condition as before such work was commenced.

(c) Relocation of fixtures. If at any time during the period of the franchise the city shall lawfully elect to alter or change the grade or width of any street, alley or other public way, the company, upon reasonable notice by the city, shall remove, re-lay, and relocate its poles, wires, cables, underground conduits, manholes, and other system fixtures at its own expense.

(d) Temporary removal of wires for building moving. The company shall, on the request of any person holding a building moving permit issued by the city, temporarily raise or lower its wires to permit the moving of buildings. The expense of such temporary removal, raising or lowering of wires shall be paid by the person requesting the same and the company shall have the authority to require such payment in advance. The company shall be given not less than seven days' advance notice to arrange for such temporary wire changes.

(e) Trimming of trees. The company shall have the authority to trim trees upon and overhanging any street, alley, or other public way so as to prevent the branches of such trees from coming in contact with its wires, cables, or other equipment.
(Code 2006, § 34-68; Ord. No. 111, § 9)

Sec. 34-69. Pole use.

(a) The company shall, whenever possible and practicable, use the poles owned and maintained by the city or utility companies which serve the city. When the use of such poles is not practicable or satisfactory and rental agreements cannot be entered into with such parties, the company shall have the right to erect and maintain its own poles, as may be necessary for the proper construction and maintenance of the television distribution system.

(b) In all sections of the city where the cables, wires, or other like facilities of public utilities are presently placed underground at any time in the future, the company shall place its cables, wires, or other like facilities underground to the maximum extent technology reasonably permits the company to do so.
(Code 2006, § 34-69; Ord. No. 111, § 10)

Sec. 34-70. Operational standards.

(a) The technical standards for operation of the system shall, in addition to meeting the requirements specified in this article, conform to all further requirements specified in the franchise agreement, and any other standards or codes therefor as may be adopted by the city or the commission, provided that such subsequently adopted standards or codes do not materially affect the rights and obligations of the franchisee during the term of a franchise.

(b) A franchisee shall, at all times, meet or exceed the minimum customer service standards set forth in 47 CFR 76.309(c), which standards are hereby incorporated by reference as minimum customer service obligations and requirements of this article and any franchise granted pursuant to this article; provided, however, that nothing contained in this section shall prohibit the city from enforcing, through the end of the franchise term, any pre-existing customer service requirements that exceed the standards set forth in 47 CFR 76.309(c) and are contained in a current franchise agreement in effect on the effective date of the ordinance from which this subsection is derived, nor shall this subsection prohibit the city and any cable operator from agreeing to customer service requirements that exceed the minimum standards set forth in 47 CFR 76.309(c). If any provision of this article or any franchise granted pursuant to this article is less restrictive with respect to customer service requirements, then the provisions of 47 CFR 76.309(c) shall control. Nothing contained in this subsection shall prevent the city from establishing or enforcing any regulation concerning customer service that imposes customer service requirements that exceed or address matters not covered by the standards set forth in 47 CFR 76.309(c).

(c) the city shall have access at all reasonable hours to the company's books and records relating to the property and the operation of the company and to all other records required to be kept under this article.

(d) A copy of any and all rules, regulations, terms and conditions adopted by the company for the conduct of its business shall be filed with the city clerk, and a copy shall also be available for public inspection at the office of the company.

(e) The franchise shall not in any way be construed as a license or permit to the company to engage in the sale or service of radio or television sets. As part of the consideration for the granting of this franchise, the company shall not engage in the sale or service of TV sets or appliances.
(Code 2006, § 34-70; Ord. No. 111, § 11; Ord. No. 144, 1-10-1994)

Sec. 34-71. Service to municipal buildings and schools.

The company agrees to and shall furnish, without installation change or monthly service fee, a free connection to the city hall, municipal buildings designated by the council and to all public, elementary, secondary, schools located within the city.
(Code 2006, § 34-71; Ord. No. 111, § 13)

Sec. 34-72. Rates.

(a) Purpose; interpretation. The purpose of this section is to:

(1) Adopt regulations consistent with the act and FCC rules with respect to basic cable service rate regulation; and

(2) Prescribe procedures to provide a reasonable opportunity for consideration of the views of interested parties in connection with basic cable service rate regulation by the city. This article shall be implemented and interpreted consistent with the act and FCC rules.

(b) Rate regulations promulgated by the FCC. In connection with the regulation of rates for basic cable service and associated equipment, the city shall follow all FCC rules.

(c) Rate filing; additional information; burden of proof.

(1) A cable operator shall submit its schedule of rates for the basic service tier and associated equipment or a proposed increase in such rates in accordance with the act and FCC rules. The cable operator shall include as part of its submission such information as is necessary to show that its schedule of rates or its proposed increase in rates complies with the act and FCC rules. The cable operator shall file ten copies of the schedule or proposed increase with the city clerk. For purposes of this article, the filing by the cable operator shall be deemed to have been made when at least ten copies have been received by the city clerk. the city council may, by resolution, adopt rules and regulations prescribing the information, data and calculations which must be included as part of the cable operator's filing of the schedule of rates or a proposed increase.

(2) In addition to information and data required by rules and regulations of the city pursuant to subsection (c)(1) of this section, a cable operator shall provide all information requested by the city manager in connection with the city's review and regulation of existing rates for the basic service tier and associated equipment or a proposed increase in these rates. the city manager may establish deadlines for the submission of the requested information and the cable operator shall comply with such deadlines.

(3) A cable operator has the burden of proving that its schedule of rates for the basic service tier and associated equipment or a proposed increase in such rates complies with the act and FCC rules, including, without limitation, 47 USC 543 and 47 CFR 76.922 and 76.923.

(d) Proprietary information. If this article, any rules or regulations adopted by the city pursuant to subsection (c)(1) of this section or any request for information pursuant to subsection (c)(2) of this section requires the production of proprietary information, the cable operator shall produce the information. However, at the time the allegedly proprietary information is submitted, a cable operator may request that specific, identified portions of its response be treated as confidential and withheld from public disclosure pursuant to the procedures and rules set forth in 47 CFR 0.459 regarding confidential business information.

(e) Public notice; tolling order; hearing on basic cable service rate following tolling order.

(1) Upon the filing of ten copies of the schedule of rates or the proposed increase in rates pursuant to subsection (e)(1) of this section, the city clerk shall publish a public notice in a newspaper of general circulation in the city which shall state that:

a. The filing has been received by the city clerk and (except those parts which may be withheld as proprietary) is available for public inspection and copying; and

b. Interested parties are encouraged to submit written comments on the filing to the city clerk not later than seven days after the public notice is published.

the city clerk shall give notice to the cable operator of the date, time and place of the meeting at which the city council shall first consider the schedule of rates or the proposed increase. The notice shall be mailed by first class mail at least three days before the meeting. In addition, if a written staff or consultant's report on the schedule of rates or the proposed increase is prepared for consideration of the city council, then the city clerk shall mail a copy of the report by first class mail to the cable operator at least three days before the meeting at which the city council shall first consider the schedule of rates or the proposed increase.

(2) After a cable operator has filed its existing schedule of rates or a proposed increase in these rates, the existing schedule of rates will remain in effect or the proposed increase in rates will become effective after 30 days from the date of filing unless the city council tolls the 30-day deadline pursuant to 47 CFR 76.933 by issuing a brief written order, by resolution or otherwise, within 30 days of the date of filing. the city council may toll the 30-day deadline for an additional 90 days in cases not involving cost-of-service showings and for an additional 150 days in cases involving cost-of-service showings.

(3) If a written order has been issued pursuant to subsection (e)(2) of this section and 47 CFR 76.933 to toll the effective date of existing rates for the basic service tier and associated equipment or a proposed increase in these rates, the cable operator shall submit to the city any additional information required or requested pursuant to subsection (e) of this section. In addition, the city council shall hold a public hearing to consider the comments of interested parties within the additional 90-day or 150-day period, as the case may be. the city clerk shall publish a public notice of the public hearing in a newspaper of general circulation within the city which shall state:

a. The date, time and place at which the hearing shall be held;

b. That interested parties may appear in person, by agent, or by letter at such hearing to submit comments on the objections to the existing rates or the proposed increase in rates; and

c. That copies of the schedule of rates or the proposed increase in rates and related information (except those parts which may be withheld as proprietary) are available for inspection or copying from the office of the clerk.

The public notice shall be published not less than 15 days before the hearing. In addition, the city clerk shall mail by first class mail a copy of the public notice to the cable operator not less than 15 days before the hearing.

(f) Staff or consultant report; written response. Following the public hearing, the city manager shall cause a report to be prepared for the city council which shall (based on the filing of the cable operator, the comments or objections of interested parties, information requested from the cable operator and its response, staff or consultant's review, and other appropriate information) include a recommendation for the decision of the city council pursuant to subsection (g) of this section. the city clerk shall mail a copy of the report to the cable operator by first class mail not less than 20 days before the city council acts under subsection (g) of this section. The cable operator may file a written response to the report with the city clerk. If at least ten copies of the response are filed by the cable operator with the city clerk within ten days after the report is mailed to the cable operator, the city clerk shall forward it to the city council.

(g) Rate decisions and orders. the city council shall issue a written order by resolution which, in whole or in part, approves the existing rates for basic cable service and associated equipment or a proposed increase in such rates, denies the existing rates or proposed increase, orders a rate reduction, prescribes a reasonable rate, allows the existing rates or proposed increase to become effective subject to refund, or orders other appropriate relief, in accordance with FCC rules. If the city council issues an order allowing the existing rates or proposed increase to become effective subject to refund, it shall also direct the cable operator to maintain an accounting pursuant to 47 CFR 76.933. The order specified in this subsection shall be issued within 90 days of the tolling order under subsection (e)(2) of this section in all cases not involving a cost-of-service showing. The order shall be issued within 150 days after the tolling order under subsection (e)(2) of this section in all cases involving a cost-of-service showing.

(h) Refunds. the city council may order a refund to subscribers as provided in 47 CFR 76.942. Before the city council orders any refund to subscribers, the city clerk shall give at least seven days' written notice to the cable operator by first class mail of the date, time, and place at which the city council shall consider issuing a refund order and shall provide an opportunity for the cable operator to comment. The cable operator may appear in person, by agent, or by letter at such time for the purpose of submitting comments to the city council.

(i) Decisions to be in writing; effective date of decisions; public notice of decisions. Any order of the city council pursuant to subsection (g) or subsection (h) of this section shall be in writing, shall be effective upon adoption by the city council, and shall be deemed released to the public upon adoption. the city clerk shall publish a public notice of any such written order in a newspaper of general circulation within the city which shall:

(1) Summarize the written decision; and

(2) State that copies of the text of the written decision are available for inspection or copying from the office of the city clerk. In addition, the city clerk shall mail a copy of the text of the written decision to the cable operator by first class mail.

(j) Additional rules, powers and remedies.

(1) Adoption of rules and regulations. In addition to rules promulgated pursuant to subsection (c) of this section, the city council may, by resolution or otherwise, adopt rules and regulations for basic cable service rate regulation proceedings (including, without limitation, the conduct of hearings), consistent with the act and FCC rules.

(2) Failure to give notice. The failure of the city clerk to give the notices or to mail copies of reports as required by this article shall not invalidate the decisions or proceedings of the city council.

(3) Additional hearings. In addition to the requirements of this article, the city council may hold additional public hearings upon such reasonable notice as the city council, in its sole discretion, shall prescribe.

(4) Additional powers. the city shall possess all powers conferred by the act, FCC rules, the cable operator's franchise, and all other applicable law. The powers exercised pursuant to the act, FCC rules, and this article shall be in addition to powers conferred by law or otherwise. the city may take any action not prohibited by the act and FCC rules to protect the public interest in connection with basic cable service rate regulation.

(5) Remedies for failure to comply. the city may pursue any and all legal and equitable remedies against the cable operator (including, without limitation, all remedies provided under a cable operator's franchise with the city) for failure to comply with the act, FCC rules, any orders or determinations of the city pursuant to this article, any requirements of this article, or any rules or regulations promulgated under this article. Subject to applicable law, failure to comply with the act, FCC rules, any orders or determinations of the city pursuant to this article, any requirements of this article, or any rules and regulations promulgated under this article shall also be sufficient grounds for revocation or denial of renewal of a cable operator's franchise.

(6) Conflicting provisions. In the event of any conflict between this article and the provisions of any prior ordinance or any franchise, license, permit, consent agreement or other agreement with a cable operator, then the provisions of this article shall control.

(Code 2006, § 34-72; Ord. No. 111, § 14; Ord. No. 144, 1-10-1994)

Sec. 34-73. Annual fee.

(a) The company shall pay to the city, for and in consideration of the right and privilege to conduct cable television operations pursuant to the franchise, an annual fee in an amount equal to three percent of gross subscription revenue, calculated on a monthly basis, derived from its cable television operations in the city. Each year's fee shall be due and payable to the city clerk by January 31 for the preceding calendar year.

(b) In the event of revocation or termination of the franchise, the final annual fee payment shall be prorated from the immediately preceding January 1 to the date of termination of service.
(Code 2006, § 34-73; Ord. No. 111, § 15)

Sec. 34-74. Assignment of franchise or transfer of control of franchisee.

A franchise shall not be assigned nor shall control of the company be transferred without the prior approval of the council, which approval shall not be unreasonably withheld. No consent by the council shall be required for a transfer in trust, mortgage or other instrument of hypothecation to secure an indebtedness of the company.
(Code 2006, § 34-74; Ord. No. 111, § 16)

Sec. 34-75. Forfeiture and revocation of franchise.

(a) the city may declare a forfeiture of the franchise and revoke the franchise if the company:

(1) Substantially violates any provision of the franchise and the violation remains uncured for a period of 30 days subsequent to receipt by the company of a written notice of such violation, except where such violation is not the fault of the company or is due to excusable neglect.

(2) Practices any fraud or deceit upon the city.

(b) A forfeiture may be declared, for any reason, by any resolution of the council, duly adopted after 30 days' notice to the company, and shall in no way affect any of the city's rights under the franchise or any provision of law; provided, however, that before the franchise may be terminated and canceled under this section, except for nonpayment of monies due to the city from the company, the company shall be provided with an opportunity to be heard at a public hearing before the council upon ten days' written notice to the company on the time and place of the public hearing; provided that such notice shall affirmatively cite the reasons alleged to constitute a course for revocation and provided further that notice of such public hearing shall be published in a newspaper of general circulation at least ten days before the hearing.
(Code 2006, § 34-75; Ord. No. 111, § 17)

Sec. 34-76. Complaint procedures.

The company shall maintain a local business office or agent easily accessible to the citizens of the city for the purpose of receiving subscriber complaints expeditiously and normally within 24 hours. The council may designate any officer of the city with the responsibility of monitoring the company's operations and, in cases where customers complaints are unsatisfied by the company's response to the complaints, such person shall have the power, and the company shall accept and give recognition to, recommended changes in the company's complaint procedures.

~~(Code 2006, § 34-76; Ord. No. 111, § 18)~~

~~Sec. 34-77. Service and system maintenance.~~

~~The company shall, at its own expense, at all times maintain and furnish telephone answering service and system maintenance service to subscribers both during and after regular business hours. The company, in addition to having its telephone listed in the local telephone directory, shall advise each of its subscribers in writing of such a telephone number.~~
~~(Code 2006, § 34-77; Ord. No. 111, § 19)~~

~~Sec. 34-78. Miscellaneous provisions.~~

~~(a) Failure to enforce or comply with article provisions. Failure to enforce or insist upon compliance with any of the terms or conditions of this article shall not constitute a general waiver or relinquishment of any such terms or conditions, but the same shall be and remain at all times in full force and effect.~~

~~(b) Filing current map showing location of facilities; furnishing reports. Every cable communications company shall file annually with the city engineer a current map showing the exact location of the transmission and distribution facilities and equipment in the city used by it in providing cable communications service, and, further, shall prepare and furnish the city, on written request therefor, at such times and in such form as may be prescribed, such reports as to its operations, finances, facilities and activities as may be reasonably necessary to enable the city to perform its obligations, functions and duties under this article.~~
~~(Code 2006, § 34-78; Ord. No. 111, § 20)~~

~~Sec. 34-79. Filing of franchise agreement.~~

~~The company shall, within 15 days after the franchise becomes effective by approval of the franchise by ordinance of the city council, file in the office of the city clerk a copy of the franchise agreement. Failure on the part of the company to file such written agreement within such time shall be deemed an abandonment and rejection of the rights conferred by this article.~~
~~(Code 2006, § 34-79; Ord. No. 111, § 23)~~

POTTERVILLE, MI

(13649)

FIRST ROUGH CODE DRAFT
(Manuscript—Unedited)

Prepared by:
Sandra S. Fox, Senior Code Attorney

GENERAL INTRODUCTORY COMMENTS

This and the following chapters comprise the "manuscript" (first rough draft) of the city's new code of ordinances, to which the following general statements apply:

- The manuscript is a rough draft in which my recommendations are indicated by strike-through (language is deleted) or underlining (language is added).

- If the reason for an instance of underline or strike-through is obvious or has been previously mentioned, no comment will be made. For all other strike-through or underlining instances, a comment will be included as a footnote. Note that I have corrected numerous state law references throughout the manuscript without footnote comment. All footnotes used in this manuscript are for purposes of discussion only. They will be removed before the final code is printed as will underline and strike-through.

- Throughout the code, history notes at the end of sections (and temporary footnotes) indicate the source of material included.

- Titles of people, agencies, departments, divisions, etc. will not be capitalized in the final code. Similarly, standard MCC styling regarding gender and number will be applied, and grammar, style, syntax and other errors will be corrected during editing.

- Throughout the code, references to sections, articles, chapters, etc. will be corrected as the code is divided and subdivided during editing to the end that the reference refers to the appropriate portion of the chapter. Similarly, the word "ordinance" will be replaced with article, chapter, or section, as appropriate and when necessary. Those accomplished during legal review will not be memorialized with underline, strike-through or footnote, except where necessary for additional explanation.

- Legal review does not include review of technical specifications such as those associated with plumbing, sewer, and water installations; fire ratings; flood control provisions; etc. All mechanical or technical specifications should be reviewed by the city's building, zoning, and utility personnel, the city engineer, or such other personnel as appropriate. Legal review encompasses comparison of the city's code of ordinances with state statutes. It does not include review of state administrative rules and regulations or, with certain exceptions, review of federal law.

- The manuscript is a working draft and is not an example of the final appearance of the code. The code will be printed in single columns with Times New Roman 11-point font unless the city directs otherwise.

- Unless otherwise requested, the "running head" at the top of each left page of the code will contain the shortened title "Potterville Code."

- The city's contract includes a base number of pages and a rate to be paid per page above that base number. This manuscript is not an approximation of finished pages.

- Highlighting has no significance unless a footnote specifically directs attention to a highlighted section.

- Where possible throughout the code, internal references have been eliminated to avoid difficulties that arise with future supplementation of the code. Such changes accomplished during legal review will not be memorialized with underline, strike through or footnotes.

- Definitions, severability provisions and penalty provisions throughout the code that duplicate chapter 1 general provisions have been deleted without comment or stricken as duplicative. Also, we do not codify preliminary language from ordinances or effective dates, repealer clauses, etc.

- All chapters and sections will be renumbered, and all internal cross references to other portions of this code will be updated to correspond with that numbering, when the manuscript is edited and renumbered in preparation of the final draft (proof).
- Monetary amounts throughout the code should be verified by the city for accuracy.

TABLE OF CHAPTERS

NOTE: Odd-numbered chapters other than Chapter 1 are reserved for future use.

EXECUTIVE SUMMARY
(Summary of Footnotes)

Chapter 1. General Provisions

Sec. 1-2. Definitions and rules of construction. Additional definitions are suggested as indicated. Note that since these definitions apply to the code as a whole, definitions throughout the code that duplicate those in this section will be stricken or deleted without comment. Note also that the rules of construction in this section and in the charter regarding number, tense, gender, etc. will be applied during the editing phase of this project.

Sec. 1-2. Definitions—Fee schedule. I recommend the use of a separate fee schedule that is not published with the code but adopted by reference and kept "on file". If the city elects to use such a schedule, MCC editorial staff will replace all fee amounts throughout the code with "amount provided in the city fee schedule" or a similar phrase. The city can prepare its own fee schedule, to be amended and readopted from time to time as necessary. If MCC prepares the schedule, there is a set-up fee of $200 per schedule page. Fee schedules generally run from 5-10 pages.

Sec. 1-7. General penalty; continuing violations. Since this section applies to the code as whole, throughout the code section that merely state that this section applies will be stricken or deleted without further comment. Also, see the traffic chapter with regarding to penalties until the adopted state MVC. Move those penalties into this section?

Chapter 2. Administration

Div. 2. Planning Commission. The charter refers to this as the planning board.

Div. 2. Cost recovery for cleanup of hazardous materials. This division has been moved to the environment chapter.

Div. 3. Fire Run Charges. This division has been moved to the fire protection chapter.

Sec. 2-237. Limits on budget stabilization fund. MCL 141.443 provides: "The amount of money in the fund shall not exceed either 20% of the municipality's most recent general fund budget, as originally adopted, or 20% of the average of the municipality's 5 most recent general fund budgets, as amended, whichever is less."

Chapter 4. Animals

Sec. 4-8. Prohibited animals. What animal committee?

Sec. 4-7. Chickens and ducks. Parts of this section have been rewritten for improved clarity and brevity.

Sec. 4-9. Enforcement officials; violations and penalties. Stricken as duplicative of municipal infraction provisions now in law enforcement chapter.

Sec. 4-4. Dog control requirements. Sections are rewritten for clarity and brevity.

Sec. 4-31, 4-32, 4-33, 4-35. These four sections (and others) existed as duplicates of section 4-4 when this chapter was updated in 2016. The update failed to address the duplication, so section 4-4 shown above had 2016 provisions and sections 4-31, 4-32, 4-33, 4-35 had similar provisions dated from 2012. I have stricken the 2012 duplicates in favor of the 2016 inadvertent and indirect amendment of them as shown in section 4-4 above.

Sec. 4-5. License and tag required; procedure. Section is rewritten for clarity and brevity.

Sec. 4-34. Dangerous dogs. See preceding footnote regarding duplication in the animal chapter. The same applies here. Section 4-6 and 4-34 both existed as duplicates in the prior code. The only difference is that these two sections were not amended by the 2016 ordinance. Duplication is stricken as shown and, in addition, the definition of dangerous dog is moved to the definitions section of this chapter.

Chapter 6, Buildings and Construction

Sec. 5-35. Swimming pool standards and specifications. The sewer charge exemption regrading the filling of swimming pools has been placed in the utilities chapter.

Chapter 8. Businesses

Sec. 28-35. Exceptions. This section was not addressed in amending ordinances so it is unclear whether it was intentionally retained or intended to be repealed. Please advise.

Art. IV. Massage Establishments. Consider adopting Mich. Adm. Rules R338.751, prohibited conduct, and R338.752, client records.

Sec. 8-32. License required. Duplicative and unnecessary text is stricken.

Sec. 8-39. Exception to instructor license requirement. I have limited this exception the instructor license since the business license would be required regardless of the credentials of the owner, correct?

Sec. 8-33. Contents of license application; amendments. There are no provisions in this chapter addressing what is generally required in business license applications. Also, in subsection (a)(4) and (a)(5), would it be better to simply list the state license number of each therapist?

Sec. 8-35. License fee. Is the first annual fee submitted with the license application?

Sec. 8-36. Display of license; transfer of location or ownership. See stricken text which appears to be a staff question. Are there fees associated with these license and location changes?

Sec. 8-37. Penalties and other remedies. Section is rewritten to eliminate unnecessary text.

Chapter 12, Environment

Div 2. Cost recovery for cleanup of hazardous materials. This division has been moved here from the administration chapter.

Chapter 14, Fire Prevention and Protection

Div. 3. Fire Run Charges. This division has been moved here from the administration chapter.

Sec. 14-31. Fire code adopted. Does the city wish to specify the edition? The most current is 2018.

Div 2. Fireworks. Much of this article is stricken due to the limitation on local regulation found in MCL 28.457.

Sec. 14-61.2. Definitions. Definitions are conformed MCL 28.452. Also, note that the state definition of APA Standard 87-1 specifies the 2001 edition.

Sec. 14-64. Ignition, discharge and use of consumer fireworks. Conformed to MCL 28.457. With the exception of New Year's Eve, the MCL 28.457 allows use to continue only until 11:45 p.m. I have left the city's midnight cutoff in place.

Sec. 14-70. Penalty. This penalty, and the disposition of it, is mandated by MCL 28.457. Should the enforcing agency be the city police department? Should the mandated portion actually be remitted (as stated in the statute) or simply earmarked for the department?

Chapter 20, Law Enforcement

Art. III. Municipal Civil Infractions. I would like to see this article and the general penalty section from chapter 1 brought together. Consider a new article in the administration chapter 2 that contains both.

Chapter 24, Offenses

Sec. 20-31. Assaulting or obstructing police officer or firefighter. Assault or obstruction or an officer is a felony under MCL 750.479 and 750.81d. A first conviction of MCL 750.478a, intimidation, hindrance or obstruction of public employee, is a misdemeanor.

Sec. 20-32.Summoning police department, fire department or ambulance service without cause. MCL 750.411a prohibits making an intentionally makes a false report of the commission of a crime, or intentionally causing a false report of the commission of a crime to be made, to a peace officer, police agency of this state or of a local unit of government, 9-1-1 operator, or any other governmental employee or contractor or employee of a contractor who is authorized to receive reports of a crime, knowing the report is false." Adapt this language to replace this section?

Sec. 20-33. Making false report causing evacuation or closing of public building. This false report would be covered under the broader language of the preceding section. Combine?

Sec. 20-61. Window peeping. As noted in the state law reference, window peeping is identified as disorderly conduct under MCL 750.167. Several other sections as noted also fall under that statute section. Would the city prefer to replace these disorderly conduct sections with the disorderly person statute language? Note: If so, we should omit begging and vagrancy since the begging subsection was found unconstitutional in 2013.

Sec. 20-63. Jostling or crowding others; obstructing passage. As noted in the state law reference, this behavior is identified as disorderly conduct under MCL 750.167. See footnote to section 20-61.

Sec. 20-64. Failure to support family. As noted in the state law reference, failure to support is identified as disorderly conduct under MCL 750.167. See section 20-61 footnote.

Sec. 20-121.Intoxication in public place. As noted in the state law reference, public intoxication is identified as disorderly conduct under MCL 750.167. See section 20-61 footnote.

Sec. 20-122. Begging or soliciting alms. MCL 750.167(1)(h) upon which this section is based was held unconstitutional in 2013. Whether this section is constitutional will depend on whether it is narrowly drawn to serve an important government interest (which is obviously the goal of the language here). I have not stricken the section, but note that it is subject to attack on constitutional grounds. See, e.g., Speet v. Schuette, 726 F.2d 867 (6th Cir. 2013)

Sec. 20-123. Disturbing the peace; allowing premises to be used so as to disturb public peace. Related offenses are combined.

Sec. 20-154. Prostitution. Age restrictions is conformed to MCL 750.448 as amended in 2002.

Sec. 20-184. Carrying weapons; exceptions. Due to the "other dangerous weapon" language of subsection (a), I have added subsection (e) making it clear that this section does not attempt to restrict firearms to the extent prohibited in MCL 123.1102.

Sec. 20-211. Enticing minor to enter motor vehicle or private property. Cited state statute applies to children under 16 years of age.

Sec. #.Curfew for minors.

(a) MCL 722.751 mandates curfew hours of 10pm to 6am for children under 12.
(b) MCL 722.752 mandates curfew hours for minors under 16 of 12 midnight to 6am.
(c) MCL 755.753 makes this "aiding/abetting" offense applicable to persons 16 and older.
(d) I have added exceptions developed by courts across the nation of the last decades.

Chapter 26, Parks and Recreation

Sec. 22-41. Weapons and explosives. The stricken language is prohibited by MCL 123.1102

Chapter 30. Streets, Sidewalks and Other Public Places

Sec. 34-31. Telecommunications within rights-of-way. Unnecessary provisions are stricken. These provisions were previously an article in the now retired telecommunications chapter.

Sec. 32-37. Removal of snow and rubbish from sidewalks. I have removed ice from this section since the ice removal regulations below provide a different time requirement for removal.

Sec. #. Removal of ice from sidewalks. Publication policy is stricken as unnecessary.

Sec. 36-1. State vehicle code and uniform traffic code adopted.

1. See the suggested new penalty provisions. If the city wants to adopt these penalties should they be retained here or incorporated into the general penalty section of chapter 1 for clarity?

2. The league also recommends that if snowmobile enforcement is done regularly, Part 821 §324.82101 to 324.82160 of the Natural Resources and Environmental Protection Act (Act 451 of 1994) also be adopted. Does the city need those provisions?

3. Note that the UTC must be adopted each time it is amended per MCL 257.953. Fortunately, is not much of a problem since the UTC was revised in 2002 to remove provisions covered by the Michigan Vehicle Code. It now contains mostly administrative type provisions.

Sec. 36-56. Penalties for parking violations. I have removed the column in this table that provided a state law citation. Such cross references are unnecessary (since the MVC and the UTC are adopted) and would need monitoring and periodic update.

Chapter 38, Utilities

Div. 3. Cross Connection Control. I suspect that the next division was intended, back in the 70's, to replace this division. Strike this division? Combine the two divisions and eliminate duplicative text?

Div. 4. Cross Connection Control Program. See preceding footnote. Also, this division seems to track the state manual. Why not replace it with an adoption of the manual to go along with the state rules?

Sec. 38-122. Local authority. This language appears to have been copied verbatim from the state manual and is unnecessary.

Appendix A. Franchises.

I recommend that all franchises, contractual by nature, be omitted from codification.

Art. III, Cable Television. I suggest that these old franchise related provisions be omitted from codification.

PART I

CHARTER*

***Editor's Note--**Printed herein is the Home Rule Charter of the City of Pottersville, Michigan, which was approved by the electors and adopted on November 8, 1988. The sequence of sections is the same as in the act comprising it. Amendments to the Charter are indicated by history notes following amended provisions. The absence of a subsequent history note indicates that the provision remains unchanged from the original act. Obvious misspellings and grammatical errors have been corrected without notation. For stylistic p0urposes, a uniform system of numbering, headings, catchlines and citations to state statutes has been used. The title, enactment, severability, repealer, transitional, ratification, publication and effective date provisions have been omitted, and where a section has been amended or repealed by a later provision, only the current language has been printed. Additions made for clarity are indicated by brackets.

State law reference—Authority of city to frame, adopt and amend charter, Mich. Const. art. VII, § 22; home rule cities act, MCL 117.1 et seq.; mandatory charter provisions, MCL 117.3; permissible charter provisions, MCL 117.4b et seq.

PREAMBLE

"We, the people of the City of Potterville, County of Eaton, State of Michigan, mindful of the ideals and labors of our fathers in founding and developing this community, and pursuant to authority granted by the Constitution and Laws of the State of Michigan, in order to maintain a city government, and to provide for the public peace and health and for safety of persons and property, do hereby ordain and establish this charter for the City of Potterville, Michigan."

ARTICLE I. - GENERAL

ARTICLE II. - POWERS OF THE CITY

ARTICLE III. - CITY COUNCIL

ARTICLE IV. - CITY MANAGER

ARTICLE V. - ADMINISTRATIVE DEPARTMENTS

ARTICLE VI. - GENERAL FINANCE AND TAXATION

ARTICLE VII. - PLANNING

ARTICLE VIII. - NOMINATIONS AND ELECTIONS

ARTICLE I. GENERAL NAME, BOUNDARIES AND POLITICAL SUBDIVISIONS OF THE CITY AND DEFINITIONS

Section 1.01. Name.

The official name of the city governed by this charter shall be the City of Potterville, hereinafter referred to as City.

State law reference—Incorporation, consolidation of territory and alteration of boundaries of home rule cities, MCL 117.61 et seq.; city as body corporation, MCL 117.1.

Section 1.02. Boundaries.

The City boundaries existing when this charter takes effect shall continue in force until changed in accordance with law. A technical description of the City boundaries may be obtained from the State Boundary Commission.

State law reference—Incorporation, consolidation of territory and alteration of boundaries of home rule cities, MCL 117.61 et seq.

Section 1.03. Political subdivisions.

The City shall constitute one ward, unless changed, in accordance with the laws of this state.

Section 1.04. Tense, number and gender.

Words used in the present tense shall not be limited to the time of the adoption of this charter but shall extend to and include the time of the happening of any event or requirement of the provisions applied. The singular shall include the plural. The plural shall include the singular. The masculine gender shall include the feminine gender and the neuter.

ARTICLE II. POWERS OF THE CITY

Section 2.01. Powers of the City.

The City shall have, and be vested with, any and all powers, privileges, and immunities, expressed and implied, which cities and their officers are, or hereafter may be, permitted to exercise or to provide for in their charter under the constitution and laws of the State of Michigan, and all powers, privileges and immunities which cities are permitted to or may provide in their charters by Public Act No. 279 of 1909 (MCL 117.1 et seq.), as amended, as fully and completely as if those powers, privileges and immunities, including each and every permissible charter provision as enumerated in the aforementioned act, were specifically enumerated and set forth within this charter.

State law reference—Permissible that charter provide that the city may exercise all municipal powers in the management and control of municipal property and in the administration of municipal government, MCL 117.4j(3).

Section 2.02. Construction.

The powers of the City under this charter shall be construed liberally in favor of the City, and the specific mention of particular powers in the charter shall not be construed as limiting in any way the general power stated in this article.

Section 2.03. Intergovernmental relations.

The City may exercise any of its powers or perform any of its functions and participate in the financing thereof, jointly or in cooperation, by contract or otherwise, with any one or more states, or their agencies thereof, or in combination of cities, villages or townships or other political subdivisions of the states, or the United States or any agency thereof.

State law reference—Intergovernmental contracts between municipal corporations, MCL 124.1 et seq.

ARTICLE III. CITY COUNCIL

State law reference--Mandatory that charter provide for a legislative body, MCL 117.3(a).

Section 3.01. Composition, eligibility, election and terms.

(a) Composition. There shall be a City Council of seven members elected by the qualified voters of the City at large.

(b) Eligibility. Only qualified voters of the City shall be eligible to hold the office of Councilman, and Mayor.

(c) Election and terms. The regular election of Councilmen shall be held on the first Tuesday after the first Monday of November of each odd numbered year, in the manner provided in Article VIII. At the first election under this charter four Councilmen shall be elected; the three candidates receiving the greatest number of votes shall serve for terms of four years, and the one candidate receiving the next greatest number of votes shall serve for terms of two years. Commencing at the next regular elections, four Councilmen shall be elected; each of the three candidates receiving the greatest number of votes shall serve for a four-year term, and the one receiving the fourth greatest number of votes shall serve for a two-year term. The terms of Councilmen shall begin the first day of January after their election.
State law reference—Charter to provide for time of holding election, MCL 117.3(c); Michigan election law, MCL 168.1 et seq.; mandatory that Charter provide for qualifications of officers, MCL 117.3(d); staggered terms of office for elected officials, MCL 117.3b.

Section 3.02. Compensation; expenses.

The Council may determine the annual salary of Councilmen by ordinance, but no ordinance increasing such salary shall become effective until the date of commencement of the terms of Councilmen elected at the next regular election, provided that such election follows the adoption of such ordinance by at least six months. Councilmen shall receive their actual and necessary expenses incurred in the performance of their duties of office.
State law reference—Salaries, terms of office, MCL 117.5(d).

Section 3.03. Mayor.

The Council shall elect from among its members officers of the City who shall have the titles of Mayor and Deputy Mayor, each of whom shall serve at the pleasure of the Council. The mayor shall preside at meetings of the council, shall be recognized as head of the City government for all ceremonial purposes and by the Governor for purposes of military law but shall have no administrative duties. The Deputy Mayor shall act as mayor during the absence or disability of the Mayor.

Section 3.04. General powers and duties.

All powers of the City shall be vested in the Council, except as otherwise provided by law or this charter, and the Council shall provide for the exercise thereof and for the performance of all duties and obligations imposed on the City by law.

Section 3.05. Prohibitions.

(a) Holding other office. Except where authorized by law, no councilman shall hold any other City office or employment during the term for which he or she was elected to [the] council, and no former councilman shall be employed by the City until one year after the expiration of the term for which he or she was elected to the council.

(b) Appointments and removals. Neither the Council nor any of its members shall in any manner dictate the appointment or removal of any City administrative officers or employees who the Manager or any of his subordinates are empowered to appoint, but the Council may express its views and fully and freely discuss with the Manager anything pertaining to [the] appointment and removal of such officers and employees.

(c) Interference with administration. Except for the purpose of inquiries and investigations under section 3.09, the Council or its members shall deal with City officers and employees who are subject to the direction and supervision of the Manager solely through the Manager, and neither the Council nor its members shall give orders to any such officer or employee, either publicly or privately.
(Res. No. 01-10, ref. of 11-6-2001)

Section 3.06. Vacancies; forfeiture of office; filling of vacancies.

(a) Vacancies. The office of Councilman shall become vacant upon his death, resignation, removal from office in any manner authorized by law or forfeiture of his office.

(b) Forfeiture of office. The City Council shall declare the forfeiture of the office of any councilmember and may remove him or her at any time during the term. The position of a councilmember may be forfeited if he or she:

(1) Lacks at any time any qualifications required by this Charter.

(2) Violates any express prohibitions of this Charter.

(3) Is convicted of a crime involving moral turpitude, whether a felony or a misdemeanor.

(4) Commits misconduct in office which include, but is not necessarily limited to:

(a) Public intoxication.

(b) While in City Hall, or in any public place, makes or excites any disturbance or contention, as defined by law.

(c) Conviction of a charge of criminal contempt for a violation of a valid personal protection order entered by a Michigan Court.

(d) Fails to attend three (3) consecutive regular meetings of the Council without being excused by the Council.

(c) Filling of vacancies. A vacancy in the Council shall be filled for the remainder of the unexpired term if any, at the next regular election following not less than 60 days upon the occurrence of the vacancy, but the Council by a majority vote of all its remaining members shall appoint a qualified person to fill the vacancy until the person elected to serve the remainder of the unexpired term takes office. If the Council fails to do so within 30 days following the occurrence of the vacancy, the election authorities shall call a special election to fill the vacancy, to be held not sooner than 90 days and not later than 120 days following the occurrence of the vacancy and to be otherwise governed by the provisions of Article VIII. Notwithstanding the requirement in section 3.11 that a quorum of the Council is reduced to less than four, the remaining members may by majority action appoint additional members to raise the membership to four.
(Res. No. 01-11, ref. of 11-6-2001)
State law reference—Vacancies, filling, MCL 201.37.

Section 3.07. Judge of qualifications.

The Council shall be the judge of the election and qualifications of its members and of the grounds for forfeiture of their office and for that purpose shall have power to subpoena witnesses, administer oaths and require the production of evidence. A member charged with conduct constituting grounds for forfeiture of his office shall be entitled to a public hearing on demand, and notice of such hearing shall be published in one or more newspapers of general circulation in the City at least one week in advance of the hearing. Decisions made by the Council under this section shall be subject to review by the courts.
State law reference—Mandatory that charter provide for the qualifications and duties of its officers, MCL 117.3(d).

Section 3.08. City Clerk.

The Council shall appoint an officer of the City who shall have the title of City Clerk. The City Clerk shall give notice of Council meetings to its members and the public, keep the journal of its proceedings in the English language, be the Clerk of the Council and perform such other duties as are assigned to him by this charter or by the Council. The Clerk shall be the chief accountant of the City and shall maintain a uniform system of accounts which shall conform to the requirements of state law.

Section 3.09. Investigations.

The Council may make investigations into the affairs of the City and the conduct of any City department, office or agency and for this purpose may subpoena witnesses, administer oaths, take testimony and require the production of evidence. Any person who fails or refuses to obey a lawful order issued in the exercise of these powers by the Council shall be guilty of a

misdemeanor and punishable by a fine of not more than $100.00, or by imprisonment for not more than 90 (ninety) days, or both.

Section 3.10. Independent audit.

The Council shall provide for an independent bi-annual audit of all City accounts and may provide for such more frequent audits as it deems necessary. Such audits shall be made by a certified public accountant or firm of such accountants who have no personal interest, direct or indirect, in the fiscal affairs of the City government or any of its officers. The Council may, without requiring competitive bids, designate such accountant or firm annually or for a period not exceeding three years, provided that the designation for any particular fiscal year shall be made no later than 30 days after the beginning of such fiscal year. If the state makes such an audit, the Council may accept it as satisfying the requirements of this section.

Section 3.11. Procedure.

(a) Meetings. The Council shall meet regularly at least once in every month at such times and places as the Council may prescribe by rule. Special meetings may be held on the call of the mayor or four or more members and, whenever practicable, upon no less then eighteen hours' notice to each member. The business which the Council may perform shall be conducted at a public meeting held in compliance with Public Act No. 267 of 1976 (MCL 15.261 et seq.) as amended.

(b) Rules, journal and records. The Council shall determine its own rules and order of business and shall provide for keeping a journal of its proceedings. This journal shall be a public record and made available to the general public in compliance with Public Act No. 442 of 1976 (MCL 15.231 et seq.), as amended, and Public Act No. 267 of 1976 (MCL 15.261 et seq.), as amended. All records of the City shall be public, as provided by law.

(c) Voting, quorum. Voting, except on procedural motions, shall be by roll call and the ayes and nays shall be recorded in the journal. Four members of the Council shall constitute a quorum, but a smaller number may adjourn from time to time and may compel the attendance of absent members in the manner and subject to the penalties prescribed by the rules of the Council. No action of the Council, except as otherwise provided in the preceding sentence and in section 3.06, shall be valid or binding unless adopted by the affirmative vote of four or more members of the Council.
State law reference—Mandatory for charter to provide for adopting, continuing, amending and repealing city ordinances, MCL 117.3(k).

Section 3.12. Action requiring an ordinance.

In addition to other acts required by law or by specific provision of this charter to be done by ordinance, those acts of the City Council shall be by ordinance which:

(1) Adopt or amend an administrative code or establish, alter or abolish any City department, office or agency;

(2) Provide for a fine or other penalty or establish a rule or regulation for violation of which a fine or other penalty is imposed;

(3) Grant, renew or extend a franchise;

(4) Adopt with or without amendment [any] ordinance proposed under the initiative power; and

(5) Amend or repeal any ordinance previously adopted, except as otherwise provided in Article IX with respect to repeal of ordinances reconsidered under the referendum power.

Acts other than those referred to in the preceding sentence may be done either by ordinance or resolution.

Section 3.13. Ordinances in general.

(a) Form. Every proposed ordinance shall be introduced in writing and in the form required for final adoption. The enacting clause shall be "The City of Potterville hereby ordains…." Any ordinance which repeals or amends an existing ordinance, sections or subsections to be repealed or amended, and shall indicate matter to be omitted by enclosing it in brackets or by strikeout type and shall indicate new matter by underscoring or by italics.

(b) Procedure. An ordinance may be introduced by any member at any regular or special meeting of the Council. Upon introduction of any ordinance, the City Clerk shall distribute a copy to each Councilmember and to the Manager, shall file a reasonable number of copies in the office of the City Clerk and such other public places as the Council may designate, and shall publish a notice setting out the time and place for a public hearing thereon and for its consideration by the Council. The public hearing shall follow the publication by at least seven days, may be held separately or in connection with a regular or special Council meeting and may be adjourned from time to time; all persons interested shall have an opportunity to be heard. After the hearing the Council may adopt the ordinance with or without amendment or reject it. As soon as practicable after adoption of any ordinance, the Clerk shall have it published together with notice of its adoption.

(c) Effective date. Except as otherwise provided in this charter, every adopted ordinance shall become effective at the expiration of 30 days after adoption or at any later date specified therein.

(d) "Publish" defined. As used in this charter, the term publish means as follows:

1) When used in reference to Section 3.13, the term "publish" means to print the ordinance or a brief summary in one or more newspapers of general circulation in the City, along with providing copies at City Hall, during its normal hours of operation.

2) When used elsewhere in the charter, the term "publish" means to print in a newspaper of general circulation, or, at the option of the City Council, to disseminate the written information on the public access channel of the local cable television system, and to provide copies of said written documents, at City Hall, during its normal hours of operation.

State law reference—Power of city to adopt ordinances relative to municipal concerns, Mich. Const. art. VII, § 22; charter to provide for adopting, amending and repealing ordinances and publication thereof, MCL 117.3(k).

Section 3.14. Emergency ordinances.

(a) To meet a public emergency affecting life, health, property or the public peace, the Council may adopt one or more emergency ordinances, but such ordinances may not levy taxes, grant, renew or extend a franchise, regulate the rate charged by any public utility for its services or authorize the borrowing of money. An emergency ordinance shall be introduced in the form and manner prescribed for ordinances generally, except that it shall be plainly designated as an emergency ordinance and shall contain, after the enacting clause, a declaration stating that an emergency exists and describing it in clear and specific terms. An emergency ordinance may be adopted with or without amendment or rejected at the meeting at which it is introduced, but the affirmative vote of at least five members shall be required for adoption. After its adoption the ordinance shall be published and printed as prescribed for other adopted ordinances. It shall become effective upon adoption or at such later time as it may specify.

(b) Every emergency ordinance shall automatically stand repealed as of the 61st day following the date on which it was adopted, but this shall not prevent reenactment of the ordinance in the manner specified in this section if the emergency still exists. An emergency ordinance may also be repealed by adoption of the repealing ordinance in the same manner specified in this section for adoption of emergency ordinances.

Section 3.15. Codes of technical regulations.

The Council may adopt any standard code of technical regulations by reference thereto in an adopting ordinance. The procedure and requirements governing such an adopting ordinance shall be as prescribed for ordinances generally except that:

(1) The requirements of section 3.13, for distribution and filing of copies of the ordinance shall be construed to include copies of the code of technical regulations as well as of the adopting ordinance, and

(2) A copy of each adopted code of technical regulations as well as of the adopting ordinance shall be authenticated and recorded by the City Clerk pursuant to subsection 3.16(a).

Copies of any adopted code of technical regulations shall be made available by the City Clerk for distribution or for purchase at a reasonable price.

State law reference—Mandatory for charter to provide for adoption of technical codes, MCL 117.3(k).

Section 3.16. Authentication and recording; codification; printing.

(a) Authentication and recording. The City Clerk shall authenticate by his signature and record in full in a properly indexed book kept for the purpose all ordinances and resolutions adopted by the Council.

(b) Codification. Within three years after adoption of this charter and at least every ten years thereafter, the Council shall provide for the preparation of a general codification of all City ordinances and resolutions having the force and effect of law. The general codification shall be adopted by the Council by ordinance and shall be published promptly in bound or looseleaf form, together with this charter and any amendments thereto, pertinent provisions of the constitution and other laws of the state of Michigan, and such codes of technical regulations and other rules and regulations as the Council may specify. This compilation shall be known and cited officially as the Potterville City Code. Copies of the code shall be furnished to City officers, placed in libraries and public offices for free public reference and made available for purchase by the public at a reasonable price fixed by the Council.

(c) Printing of ordinance and resolutions. The Council shall cause each ordinance and resolution having the force and effect of law and each amendment to this charter to be printed promptly following its adoption, and the printed ordinances, resolutions and charter amendments shall be distributed or sold to the public at reasonable prices to be fixed by the council. Following publication of the first Potterville City Code and at all times thereafter, the ordinances, resolutions and charter amendments shall be printed in substantially the same style as the code currently in effect and shall be suitable in form for integration therein. The Council shall make such further arrangements as it deems desirable with respect to reproduction and distribution of any current changes in or additions to the provisions of the constitution and other laws of the state of Michigan, or the codes of technical regulations and other rules and regulations included in the code.

State law reference—Codification authority, MCL 117.5b.

ARTICLE IV. CITY MANAGER*

***State law reference—**Mandatory for charter to provide for qualifications, appointment and compensation of city officers, MCL 117.3(d).

Section 4.01. Appointment; qualifications; compensation.

The Council shall appoint a City Manager for an indefinite term and fix his compensation. The Manager shall be appointed solely on the basis of his executive and administrative qualifications.

Section 4.02. Removal.

The Council may remove the Manager from office in accordance with the following procedures:

(1) The Council shall adopt by affirmative vote of a majority of all its members a preliminary resolution which must state the reasons for removal and may suspend the Manager from duty for a period not to exceed 45 days. A copy of the resolution shall be delivered promptly to the Manager.

(2) Within five days after a copy of the resolution is delivered to the Manager, he may file with the Clerk to be forwarded to the Council a written request for public hearing. This hearing shall be held at a Council meeting not earlier than fifteen days nor later than thirty days after the request is filed. The Manager may file with the Council a written reply not later than five days before the hearing.

(3) The Council may adopt a final resolution of removal, which may be made effective immediately, by affirmative vote of a majority of all its members at any time after five days from the date when a copy of the preliminary resolution was delivered to the Manager, if he has not requested a public hearing, or at any time after the public hearing if he has requested one.

The Manager shall continue to receive his salary until the effective date of a final resolution of removal. The action of the Council in suspending or removing the Manager shall not be subject to review by any court or agency.

Section 4.03. Acting City Manager.

By letter filed with the City Clerk the Manager shall designate, subject to approval of the Council, a qualified City administrative officer to exercise the powers and perform the duties of Manager during his temporary absence or disability. During such absence or disability, the Council may

revoke such designation at any time and appoint another officer of the City to serve until the Manager shall return or his disability shall cease.

Section 4.04. Powers and duties of the City Manager.

The City Manager shall be the chief administrative officer of the city. He shall be responsible to the Council for the administration of all City affairs placed in his charge by or under this charter. He shall have the following powers and duties:

(1) He shall appoint and, when he deems it necessary for the good of the service, suspend or remove all City employees and appointive administrative officers provided by law, this charter or personnel rules adopted pursuant to this charter. He may authorize any administrative officer who is subject to his direction and supervision to exercise these powers with respect to subordinates in that officer's department, office or agency.

(2) He shall direct and supervise the administration of all departments, offices and agencies of the city, except as otherwise provided by this charter or by law.

(3) He shall attend all Council meetings and shall have the right to take part in discussion but may not vote.

(4) He shall see that all laws, provisions of this charter and acts of the Council, subject to enforcement by him or by officers subject to his direction and supervision, are faithfully executed.

(5) He shall prepare and submit the annual budget and capital program to the Council.

(6) He shall submit to the Council and make available to the public a complete report on the finances and administrative activities of the City as of the end of each fiscal year.

(7) He shall make such other reports as the Council may require concerning the operations of the City departments, offices and agencies subject to his direction and supervision.

(8) He shall keep the Council fully advised as to the financial condition and future needs of the City and make such recommendations to the Council concerning the affairs of the City as he deems desirable.

(9) He shall perform such other duties as are specified in this charter or as may be required by Council.

ARTICLE V. ADMINISTRATIVE DEPARTMENTS

Section 5.01. General provisions.

Section 5.02. Personnel system.

Section 5.03. Legal officer.

Section 5.01. General provisions.

(a) Creation of departments. There shall be within the administrative service of the City a Board of Review, Assessor, Treasurer, Police Chief and Fire Chief. The Council may establish such other City departments, offices or agencies in addition to that created by this charter and may prescribe the functions of all departments, offices and agencies, except that no function assigned by this charter to a particular department, office or agency may be discontinued or, unless this charter specifically so provides, assigned to any other.

(b) Direction by Manager. All departments, offices and agencies under the direction and supervision of the Manager shall be administered by an officer appointed by and subject to the direction and supervision of the Manager. The City Manager shall appoint the Assessor, Board of Review, Treasurer and Police Chief. With the consent of Council, the Manager may serve as the head of one or more such departments, offices or agencies or may appoint one person as the head of two or more of them.

(c) Appointive officers, duties. All appointive officers of the City shall perform such duties as are provided for such officers by state law, this charter, the City Ordinances, and the administrative directives of the Manager. The City Treasurer shall have such powers and duties and prerogatives with regard to the collection and custody of state, county, school district, and City taxes and moneys as are conferred by law upon township treasurers in connection with state, county, township and school district taxes upon real and personal property. The City assessor shall have all power vested in, and shall be charged with all the duties imposed upon, assessing officers by general laws of the state. He shall prepare all regular and special assessment rolls in the manner prescribed by this charter, by ordinance and by the general laws of the state.

(d) [Qualifications.] The qualifications of appointive officers of the City shall be based solely on their education and experience.

(e) [Compensation.] The compensation of appointive officers of the City shall be set by the City Manager in accordance with budget appropriations.

Section 5.02. Personnel system.

The City Manager shall prepare personnel rules. The Manager shall refer such proposed rules to the City Council and the Council may by ordinance adopt them with or without amendment. These rules shall provide for:

(1) The classifications of all City positions, based on the duties, authority and responsibility of each position, with adequate provision for reclassification of any position whenever warranted by changed circumstances.

(2) A pay plan for all City positions;

(3) Methods for determining the merit and fitness of candidates for appointment or promotion;

(4) The policies and procedures regulating reduction in force and removal of employees;

(5) The hours of work, attendance regulations and provisions for sick and vacation leave;

(6) The policies and procedures governing persons holding provisional appointments;

(7) The policies and procedures governing relationships with employee organizations;

(8) Policies regarding in-service training programs;

(9) Grievance procedures, including procedures for the hearing of grievances by the City Council, which may render final decisions based on its findings; and

(10) Other practices and procedures necessary to the administration of the City personnel system.

Section 5.03. Legal officer.

There shall be a legal officer of the city, appointed by the Council as provided in section 5.01, who shall serve as chief legal adviser to the Council, the Manager and all City departments, offices and agencies, shall represent the City in all legal proceedings and shall perform any other duties prescribed by this charter or by ordinance.

ARTICLE VI. GENERAL FINANCE AND TAXATION*

State law references—Revised Municipal Finance Act, MCL 141.2101 et seq.; Uniform Budgeting and Accounting Act, MCL 141.421 et seq.

Section 6.06. Public records.

Section 6.07. Amendments after adoption.

Section 6.08. Lapse of appropriations.

Section 6.09. Administration of budget.

Section 6.10. Power to tax.

Section 6.11. Subjects of taxation.

Section 6.12. Exemptions.

Section 6.13. Tax day.

Section 6.14. Preparation of the assessment roll.

Section 6.15. City tax roll.

Section 6.16. City tax roll certified for collection.

Section 6.17. Taxes lien.

Section 6.18. Taxes due: Notification.

Section 6.19. Collection of City taxes.

Section 6.20. Protection of City lien.

Section 6.21. State, county, and school taxes.

Section 6.22. Municipal borrowing power.

Section 6.01. Fiscal year.

The fiscal year of the City shall begin on the first day of July and end on the last day of June.

Section 6.02. Submission of the budget and budget message.

The Manager shall submit to the Council a budget for the ensuing fiscal year and an accompanying message in the time frame as established by resolution of the Council.

Section 6.03. Budget message.

The Manager's message shall explain the budget both in fiscal terms and in terms of the work programs. It shall outline the proposed financial policies of the City for the ensuing fiscal year, describe the important features of the budget, indicate any major changes from the current year in financial polices, expenditures, and revenues together with the reasons for such changes, summarize the city's debt position and include such other material as the Manager deems desirable.

Section 6.04. Budget.

The budget shall provide such financial data, and in such form as required by state statute.

Section 6.05. Council action on budget, levy of taxes.

(a) Notice and hearing. The Council shall publish such notice of a public hearing as required by state statute.

(b) Amendment before adoption. After the public hearing, the Council may adopt the budget with or without amendment. In amending the budget, it may add or increase programs or amounts and may delete or decrease any programs of [or] amounts, except expenditures required by law or for debt service or for estimated cash deficit, provided that no amendment to the budget shall increase the authorized expenditures to an amount greater than the total of estimated income and fund balance.

(c) Adoption. The Council shall adopt the budget on or before the 30th day of June of the fiscal year currently ending. If it fails to adopt the budget by this date, the amounts appropriated for current operation for the current fiscal year shall be deemed adopted for the ensuing fiscal year on a month-to-month basis, with all items in it prorated accordingly, until such time as the Council adopts a budget for the ensuing fiscal year. Adoption of the budget shall constitute appropriations of the amounts specified therein as expenditures from the funds indicated and shall constitute a levy of the property tax therein proposed.

(d) [Levy of taxes.] The levy of the amount of taxes for the aforementioned budget tax levy shall not exceed one and one-half (1½) percent of the taxable value of all real and personal property subject to taxation in the city, as annually affected by the Headly amendment, be further reduced by eighty percent annually of new taxable additions to the city's taxable value for five years; thereafter fifty percent of new taxable additions.
(Res. No. 06-05, ref. of 5-2-2006)
State law reference—Public hearing required prior to adoption of budget, Mich. Const. art. VII, § 32; budget hearings of local governments, MCL 141.411—141.415.

Section 6.06. Public records.

Copies of the budget as adopted shall be public records and shall be made available to the public at suitable places in the city.
State law reference—Freedom of information act, MCL 15.261 et seq.

Section 6.07. Amendments after adoption.

Supplemental appropriations. If during the fiscal year the Manager certifies that there are available for appropriation revenues in excess of those estimated in the budget, the Council by resolution may make supplemental appropriations for the year up to the amount of such excess. The Council may make such supplemental appropriations, as the Council deems necessary, by procedures established by state statute.

Section 6.08. Lapse of appropriations.

Every appropriation shall lapse at the close of the fiscal year to the extent that it has not been expended or encumbered.

Section 6.09. Administration of budget.

(a) Work programs and allotments. At such time as the Manager shall specify, each department, office or agency shall submit work programs for the ensuing fiscal year showing the requested allotments of its appropriation by periods within the year. The Manager shall review and authorize such allotments with or without revision as early as possible in the fiscal year. He may revise such allotments during the year if he deems it desirable and shall revise them to accord with any supplemental, emergency, reduced or transferred appropriations made pursuant to section 6.07.

(b) Payments and obligations prohibited. No payment shall be made or obligation incurred against any allotment or appropriation except in accordance with appropriations duly made and unless the Manager or his designee first certifies that there is a sufficient unencumbered balance in such allotment or appropriation and that sufficient funds therefrom are or will be available to cover the claim or meet the obligation when it becomes due and payable. Any authorization of payment or incurring of obligation in violation of the provisions of this charter shall be void and any payment or incurred such obligation, and he shall also be liable to the City for any amount so paid [sic]. However, except where prohibited by law, nothing in this charter shall be construed to prevent the making of [or] authorizing of payments or making of contracts for capital improvements to be financed wholly or partly by the issuance of bonds or to prevent the making of any contract or lease providing for payments beyond the end of the fiscal year, provided that such action is made or approved by ordinance or resolution.

Section 6.10. Power to tax.

The City shall have the power to assess, levy and collect taxes, rents, tolls and excises.
State law reference—General powers of city to levy taxes for public purposes, Mich. Const. art. VII, § 21.

Section 6.11. Subjects of taxation.

The subjects of ad valorem taxation for municipal purposes shall be the same as for state, county and school purposes under the general law. Except as otherwise provided by this charter, City taxes shall be levied, collected and returned in the manner provided by statute.
State law reference—Mandatory for charter to provide that subjects of taxation are the same as state county, and school purposes under the general law, MCL 117.3(f).

Section 6.12. Exemptions.

No exemptions from taxation shall be allowed, except as expressly required or permitted by statute.
State law reference—Real estate exemptions, MCL 211.7 et seq.

Section 6.13. Tax day.

Unless otherwise provided the thirty-first day of December in each year shall be tax day of [for] both real and personal property in the City.
State law reference—Levy date, MCL 211.2.

Section 6.14. Preparation of the assessment roll.

On or before the first Monday in March in each year the assessor shall prepare and certify an assessment roll of all property in the City subject to taxation. Such roll shall be prepared in accordance with statute and this charter. Values shall be estimated according to recognized methods of systematic assessment. The records of the assessor shall show separate figures for the value of the land, of the building improvements and of the personal property; and the method of estimating all such values shall be as nearly uniform as possible. Notwithstanding the foregoing, if the county prepares such assessment roll as provided by statute the City shall utilize such assessment roll.
State law reference—Charter to provide for the times of preparation and confirmation of assessment roll, MCL 117.3(i); assessment roll, MCL 211.24 et seq.

Section 6.15. City tax roll.

After the Board of Review has completed its review of the assessment roll the Assessor shall prepare a copy of the assessment roll to be known as the "City Tax Roll" and upon receiving the certification of the several amounts to be raised the assessor shall spread upon said tax roll the

several amounts determined by the Council to be charged, assessed or reassessed against persons or property. He shall also spread the amounts of the general City tax according to and in proportion to the several valuations set forth in said assessment roll. To avoid fractions in computation on any tax roll, the assessor may add to the amount of the several taxes to be raised not more than the amount prescribed by statute. Any excess created thereby on any tax rolls shall belong to the City.

State law reference—Completion of assessment, avoidance of fractions, MCL 211.39.

Section 6.16. City tax roll certified for collection.

After extending taxes aforesaid the assessor shall certify said tax roll and shall annex his warrant thereto, directing and requiring the Treasurer to collect from the several persons named in said roll the several sums mentioned therein opposite their respective names as a tax or assessment, and granting to him for the purpose of collecting the taxes, assessments, and charges on such roll, all the powers and immunities possessed by township treasurers for the collection of taxes under the general laws of the state.

State law reference—Board of review, endorsement and signed statement, MCL 211.30(3); completed roll valid, conclusive presumption, MCL 211.31.

Section 6.17. Taxes lien.

The taxes thus assessed shall become a debt due to the City from the persons to whom they are assessed. The amounts assessed on any interest in real property shall become a lien upon such real property for such amounts and for all interest and charges thereon and all personal taxes shall become a first lien on all personal property of such persons so assessed. The liens shall take precedence over all other claims, encumbrances and liens to the extent provided by statute and shall continue until such taxes, interest and charges are paid.

Section 6.18. Taxes due: Notification.

City taxes shall be due on the first day of July of the year when levied. The Treasurer shall not be required to call upon the persons named in the City tax roll, nor to make personal demand for the payment of taxes, but he shall give notice as provided by state statute which notice shall be deemed sufficient for the payment of all taxes on said roll. Failure on the part of the treasurer to give said notice shall not invalidate the taxes on said tax roll nor release any person or property assessed from the penalty provided in this charter in case of nonpayment of the same.

Section 6.19. Collection of City taxes.

City taxes shall be due and payable on the first day of July of each year. To all taxes there may be added one percent as a collection fee. To all taxes paid after September 15, there may be added, up to the maximum, a penalty as provided by state statute. The added collection fees and penalties and interest herein provided shall belong to the City and shall constitute a charge and shall be a

lien against the property to which the taxes themselves apply, collectible in the same manner as the taxes to which they are added.
State law reference—Collection of taxes, MCL 211.44 et seq.

Section 6.20. Protection of City lien.

The City shall have the power to acquire by purchase any premises within the City at any tax or other public sale or by direct purchase from the State of Michigan or the fee owner, when such purchase is necessary to protect the lien of the City, lease or sell the same for the purpose of securing therefrom the amount of such taxes or special assessments, or both together with any incidental expenses incurred in connection with the exercise of this power. Any such procedure exercised by the City in the protection of its tax lien shall be deemed to be for a public purpose.

Section 6.21. State, county, and school taxes.

For the purpose of assessing taxes in the City for state, county, and school purposes, the City shall be considered the same as a township, and all provisions of state law relative to the collection of such taxes and the fees to be paid therefor, the accounting therefor to the appropriate taxing units, and the returning of taxes to the county treasurer for nonpayment thereof shall apply to the performance thereof by the Treasurer, who shall perform the same duties and have the same powers as township treasurers under the state law.
State law reference—Charter to provide for taxation, MCL 117.3(h).

Section 6.22. Municipal borrowing power.

Subject to the applicable provisions of law and this charter, the Council may by ordinance or resolution authorize the borrowing of money for any purpose within the scope of powers vested in the City and permitted by law and may authorize the issuance of bonds or other evidence of indebtedness, therefor, such bonds or other evidence of indebtedness shall include but not be limited to the following types:

(1) General Obligations which pledge the full faith, credit and resources of the City for the payment of such obligations; when authorized by a three-fifths vote of the electors voting thereon at any general or special election;

(2) Notes issued in anticipation of the collection of taxes;

(3) In case of fire, flood, or other calamity, emergency loans due in not more than five years for the relief of the inhabitants of the City and for the preservation of municipal property;

(4) Special assessment bonds issued in anticipation of the payment of special assessments made for the purpose of defraying the cost of any public improvement, or in anticipation of the payment of any combination of such special assessments. Such special assessment bonds may be an

obligation of the special assessment district or districts or may be both an obligation of the special assessment district or districts and a general obligation of the City.

(5) Mortgage bonds for the acquiring, owning, purchasing constructing, improving, or operating of any public utility which the City is authorized by this charter to acquire or operate, provided such bonds shall not impose any liability upon such City but shall be secured only upon the property and revenues of such public utility including a franchise, stating the terms upon which, in case of foreclosure the purchaser may operate the same, which franchise shall in no case extend for a longer period than twenty years from the date of the sale of such utility and franchise on foreclosure. Such bonds shall be authorized by a three-fifths vote of the electors voting thereon at any general or special election. A sinking fund shall be created in the event of the issuance of such bonds, by setting aside such percentage of the gross or net earnings of the public utility as may be deemed sufficient for the payment of the mortgage bonds at maturity, unless serial bonds are issued of such a nature that no sinking fund is required.

(6) Bonds for the refunding of the funded indebtedness of the City.

(7) Revenue bonds as authorized by statute which are secured only by the revenues from a public improvement and do not constitute a general obligation of the City.

State law reference—Municipal power to borrow money and contract debts, Mich. Const. art. VII, § 21; charter may provide for city borrowing, MCL 117.4a.

ARTICLE VII. PLANNING*

***State law reference—**Municipal planning, MCL 125.33.

Section 7.01. Planning.

There shall be a City planning board created by ordinance established and governed by the laws of the State of Michigan with regards to duties, members, appointment, compensation, term, removal from office and vacancies. The planning board shall have such tasks, duties and other responsibilities as required by ordinance or the laws of the State of Michigan.

ARTICLE VIII. NOMINATIONS AND ELECTIONS*

***State law reference—**Michigan election law, MCL 168.1 et seq.; elections, time, manner, means, MCL 117.3(c).

Section 8.01. City elections.

Section 8.02. Nominations.

Section 8.03. Council ballots.

Section 8.04. Watchers and challengers.

Section 8.05. Determination of election results.

Section 8.06. Ballots for ordinances and charter amendments.

Section 8.07. Voting machines.

Section 8.08. Availability of list of qualified voters.

Section 8.01. City elections.

(a) Regular elections. The regular City election shall be held on the first Tuesday after the first Monday of November in each odd numbered year.

(b) Qualified voters. All citizens qualified by the constitution and laws of the state of Michigan to vote in the City and who satisfy the requirements for registration prescribed by law shall be qualified voters of the City within the meaning of this charter.

(c) Conduct of elections. Except as otherwise provided by this charter, the provisions of the general election laws of the state of Michigan shall apply to elections held under this charter. All elections provided for by the charter shall be conducted by the election authorities established by law. For the conduct of City elections, for the prevention of fraud in such elections and for the recount of ballots in cases of doubt or fraud, the Council shall adopt by ordinance all regulations which it considers desirable, consistent with law and this charter, and the election authorities may adopt, and if they adopt shall publicize, further regulations consistent with law and this charter and the regulations of the Council.
State law reference—Elections, general provisions, MCL 117.26; odd year general election on first Tuesday of November, MCL 168.644a.

Section 8.02. Nominations.

(a) Petitions. Candidates for election to the City Council shall be nominated by petition. Any qualified voter of the City may be nominated for election as a Councilman at large by a petition signed by qualified voters of the city, of not more than 30 nor less than 15 for which the candidate is nominated [sic]. The signatures to a nominating petition need not all be affixed to one paper, but to each separate paper of a petition there shall be attached an affidavit executed by its circulator stating the number of the signers of the paper, that each signature on it was affixed in his presence and that he believes each signature to be the genuine signature of the person whose name it purports to be. The signatures shall be executed in ink or indelible pencil. Each signer shall indicate next to his signature the date of his signing and the place of his residence.

(b) Filling [Filing] and acceptance. All separate papers comprising a nominating petition shall be assembled and filed with the Clerk as one instrument in no case later than the date on which a primary would be held. The Tuesday after the first Monday in August [sic]. The election authorities shall make a record of the exact time when each petition is filed. No nominating petition shall be accepted unless accompanied by a signed acceptance of the nomination.

(c) Procedure after filing. Within five days after the filing of a nominating petition, the election authorities shall notify the candidate and the person who filed the petition whether or not it satisfies the requirements prescribed by this charter. If a petition is found insufficient, the election authorities shall return it immediately to the person who filed it with a statement certifying wherein it is found insufficient. Within the regular time for filing petitions such a petition may be amended and filed again as a new petition or a different petition may be filed for the same candidate. The election authorities shall keep on file all petitions found sufficient at least until the expiration of the term for which the candidates are nominated in those petitions.
State law reference—Charter to provide for nomination of elective officers, MCL 117.3(b); candidates for local offices, MCL 168.646a.

Section 8.03. Council ballots.

(a) Names on ballots. The full names of all candidates nominated for membership in the City Council, except those who have withdrawn, died or become ineligible, shall be printed on the official ballots without party designation or symbol. If two or more candidates have the same surname or surnames so similar as to be likely to cause confusion, their residence addresses or occupations shall be printed with their names on the ballot. Candidates names shall appear on the ballot according to state law.
State law reference—Candidate names on ballots, MCL 168.691.

Section 8.04. Watchers and challengers.

A regularly nominated candidate shall be entitled, upon written application to the election authorities at least five days before the election, to appoint two persons to represent him as watchers and challengers at each polling place where voters may cast their ballots for him. A person so appointed shall have all the rights and privileges prescribed for watchers and challengers by or under the general election laws of the state of Michigan. The watchers and challengers may exercise their rights throughout the voting and until the ballots have been counted.
State law reference—Rights of watchers and challengers, MCL 168.733.

Section 8.05. Determination of election results.

Number of votes. Every voter shall be entitled to vote for as many candidates for the City Council as there are members to be elected to the Council.

Section 8.06. Ballots for ordinances and charter amendments.

An ordinance or charter amendment to be voted on by the City shall be presented for voting by ballot title. The ballot title of a measure may differ from its legal title and shall be a clear, concise statement describing the substance of the measure without argument or prejudice. Below the ballot title shall appear the following question: "Shall the above described (ordinance) (amendment) be adopted?" Immediately below such question shall appear, in the following order, the words "yes" and "no" and to the left of each a square in which by making a cross (X) the voter may cast his vote.

Section 8.07. Voting machines.

The Council may provide for the use of mechanical or other devices for voting or counting the votes not inconsistent with law.
State law reference—Voting machines, MCL 168.772.

Section 8.08. Availability of list of qualified voters.

If for any purpose relating to a general or City election or to candidates or issues involved in such an election, any organization, group or person requests a list of qualified voters of the city, the department, office or agency which has custody of that list shall either permit the organization, group or person to copy the voters names and addresses from the list or furnish a copy of the list.

ARTICLE IX. INITIATIVE AND REFERENDUM*

***State law reference—**Permissible for charter to provide for initiative and referendum, MCL 117.4i(g).

Section 9.01. General authority.

Section 9.02. Commencement of proceedings; petitioners; committee; affidavit.

Section 9.03. Petitions.

Section 9.04. Procedure after filing.

Section 9.05. Referendum petitions; suspension of effect of ordinance.

Section 9.06. Action on petitions.

Section 9.07. Results of election.

Section 9.01. General authority.

(a) Initiative. The qualified voters of the City shall have the power to propose ordinances to the Council and, if the Council fails to adopt an ordinance so proposed without any change in substance, to adopt or reject it at the City election, provided that such power shall not extend to the budget or capital program or any ordinance relating to appropriation of money, levy of taxes or salaries of City officers or employees.

(b) Referendum. The qualified voters of the City shall have power to require reconsideration by the Council of any adopted ordinance and, if the Council fails to repeal an ordinance so reconsidered, to approve or reject it at a City election, provided that such power shall not extend to the budget or capital program or any emergency ordinance or ordinance relating to appropriation of money or levy of taxes.

Section 9.02. Commencement of proceedings; petitioners; committee; affidavit.

(a) Any five qualified voters may commence initiative or referendum proceedings by filing with the City Clerk an affidavit stating they will constitute the petitioners' committee and be responsible for circulating the petition and filing it in proper form, stating their names and addresses and specifying the address to which all notices to the committee are to be sent, and setting out in full the proposed initiative ordinance or citing the ordinance sought to be reconsidered.

(b) Promptly after the affidavit of the petitioners' committee is filed the Clerk shall issue the appropriate petition blanks to the petitioners' committee.

Section 9.03. Petitions.

(a) Number of signatures. Initiative and referendum petitions must be signed by qualified voters of the City equal in number to at least 15 percent of the total number of qualified voters registered to vote at the last regular City election.

(b) Form and content. All papers of a petition shall be uniform in size and style and shall be assembled as one instrument for filing. Each signature shall be executed in ink or indelible pencil and shall be followed by the address of the person signing. Petitions shall contain or have attached thereto throughout their circulation the full text of the ordinance proposed or sought to be reconsidered.

(c) Affidavit of circulator. Each paper of a petition shall have attached to it when filed an affidavit executed by the circulator thereof stating that he personally circulated the paper, the number of signatures thereon, that all the signatures were affixed in his presence, that he believes them to be the genuine signatures of the persons whose names they purport to be and that each signer had an opportunity before signing to read the full text of the ordinance proposed or sought to be reconsidered.

(d) Time for filing referendum petitions. Referendum petitions must be filed within 30 days after adoption by the Council of the ordinance sought to be reconsidered.

State law reference—Filing petitions, signatures, MCL 117.25 et seq.

Section 9.04. Procedure after filing.

(a) Certificate of clerk; amendment. Within twenty days after the petition is filed, the City Clerk shall complete a certificate as to its sufficiency, specifying, if it is insufficient, the particulars wherein it is defective and shall promptly send a copy of the certificate to the petitioners' committee by registered mail. A petition certified insufficient for lack of the required number of valid signatures may be amended once if the petitioners' committee files a notice of intention to amend it with the Clerk within two days after receiving the copy of his certificate and files a supplementary petition upon additional papers within ten days after receiving the copy of such certificate. Such supplementary petition shall comply with the requirements of subsections (b) and (c) of section 9.03, and within five days after it is filed the Clerk shall complete a certificate as to the sufficiency of the petition as amended and promptly send a copy of such certificate to the petitioners' committee by registered mail as in the case of an original petition. If a petition or amended petition is certified sufficient, or if a petition or amended petition is certified insufficient and the petitioners' committee does not elect to amend or request Council review under subsection (b) of this section within the time required, the Clerk shall promptly present his certificate to the Council and the certificate shall then be a final determination as to the sufficiency of the petition.

(b) Council review. If a petition has been certified insufficient and the petitioners' committee does not file notice of intention to amend it or if an amended petition has been certified insufficient, the committee may, within two days after receiving the copy of such certificate, file a request that it be reviewed by the Council. The Council shall review the certificate at its next meeting following the filing of such request and approve or disapprove it, and the Council's determination shall then be a final determination as to the sufficiency of the petition.

(c) Court review; new petition. A final determination as to the sufficiency of a petition shall be subject to court review. A final determination of insufficiency, even if sustained upon court review, shall not prejudice the filing of a new petition for the same purpose.

Section 9.05. Referendum petitions; suspension of effect of ordinance.

When a referendum petition is filed with the City Clerk, the ordinance sought to be reconsidered shall be suspended from taking effect. Such suspension shall terminate when:

(1) There is a final determination of insufficiency of the petition, or

(2) The petitioners' committee withdraws the petition, or

(3) The Council repeals the ordinance, or

(4) Thirty days have elapsed after a vote of the City on the ordinance.

Section 9.06. Action on petitions.

(a) Action by council. When an initiative or referendum petition has been finally determined sufficient, the Council shall promptly consider the proposed initiative ordinance in the manner provided in Article III or reconsider the referred ordinance by voting its repeal. If the Council fails to adopt a proposed initiative ordinance without any change in substance within 60 days or fails to repeal the referred ordinance within 30 days after the date the petition was finally determined sufficient, it shall submit the proposed or referred ordinance to the voters of the city.

(b) Submission to voters. The vote of the City on a proposed or referred ordinance shall be held not less than 30 days and not later than one year from the date of the final Council vote thereon. If no regular City election is to be held within the period prescribed in this subsection, the Council shall provide for a special election; otherwise, the vote shall be held at the same time as such regular election, except that the Council may in its discretion provide for a special election at an earlier date within the prescribed period. Copies of the proposed or referred ordinance shall be made available at the polls.

(c) Withdrawal of petitions. An initiative or referendum petition may be withdrawn at any time prior to the fifteenth day preceding the day scheduled for a vote of the City by filing with the City Clerk a request for withdrawal signed by at least four members of the petitioners' committee. Upon the filing of such request the petition shall have no further force or effect and all proceedings thereon shall be terminated.

Section 9.07. Results of election.

(a) Initiative. If a majority of the qualified electors voting on a proposed initiative ordinance vote in its favor, it shall be considered adopted upon certification of the election results and shall be treated in all respects in the same manner as ordinances of the same kind adopted by the Council. If conflicting ordinances are approved at the same election, the one receiving the greatest number of affirmative votes shall prevail to the extent of the conflict.

(b) Referendum. If a majority of the qualified electors voting on a referred ordinance vote against it, it shall be considered repealed upon certification of the election results.

State law reference—Elections, general provisions, MCL 117.26.

ARTICLE X. PUBLIC IMPROVEMENTS AND SPECIAL ASSESSMENTS*

***State law reference—**Obligations in anticipation of special assessments, MCL 133.9; mandatory notices and hearings, MCL 211.741 et seq.; deferment for older persons, MCL 211.761 et seq.; deferment of special assessments on homesteads, MCL 211.761 et seq.; public improvements, MCL 41.721 et seq., MCL 68.31 et seq.

Section 10.01. General power relative to special assessments.

The Council shall have the power to determine the necessity of any local or public improvement and to determine that the whole or any part of the expense thereof shall be defrayed by special assessment upon the property especially benefited and shall so declare by resolution, provided that all special assessments levied shall be based upon or be in proportion to the benefits derived or to be derived. Such resolution shall state the estimated cost of the improvement, what proportion of the cost thereof shall be paid by special assessment, and what part, if any, shall be a general obligation of the city, and the number of installments in which assessments may be paid, and shall designate the districts or land and premises upon which special assessments shall be levied.

Section 10.02. Detailed procedure to be fixed by ordinance.

The Council shall prescribe by general ordinance the complete special assessment procedure concerning the initiation of projects, plans and specifications, estimates of costs, notice of hearings making and confirming assessment rolls in advance of starting the improvement, and the correction of errors therein, collection of special assessments, and any other matters concerning making of improvements by the special assessment method.

ARTICLE XI. MUNICIPAL UTILITIES*

***State law reference—**Restrictions, Mich. Const. art. VII, §§ 24, 25; ownership and operation of water supply or sewage disposal facility by city, Mich, Const. art. VII, § 26; permissible city power over utilities, MCL 117.4f; local authority to provide and regulate sewer and water service, MCL 324.4301 et seq.; water and sewer authorities, MCL 124.281 et seq.; franchises limited to a term of 30 years, Mich. Const. art. VII, § 30.

Section 11.04. Accounts.

Section 11.01. General powers respecting utilities.

The City shall possess and hereby reserves to itself all the powers granted to cities by the constitution and general laws of the State of Michigan to acquire, construct, own, operate, improve, enlarge, extend, repair and maintain, either within or without its corporate limits, including, but not by the way of limitation, public utilities for supplying water, light, heat, power, gas, sewage treatment, and garbage disposal facilities, or any of them, to the municipality and the inhabitants thereof; and also to sell and deliver water, light, heat, power, gas and other public utility services, without its corporate limits to any amount not to exceed the limitations set by state law and constitution.
State law reference—Permissible city powers over utilities, MCL 117.4f.

Section 11.02. Rates.

The Council shall have the power to fix, from time to time, such just and equitable rates as may be deemed advisable for supplying the inhabitants of the City and others with water, with electricity for light, heat, and power; and with such other utility services as the City may provide.

Section 11.03. Utility charges—Collections.

The Council shall provide, by ordinance or resolution for the collection of all public utility charges made by the City. With respect to water, the City shall have all the power granted to cities by Public Act No. 178 of 1939 (MCL 123.161 et seq.). When any person or persons, or any firm or corporation, shall fail or refuse to pay to the City any sums due on utility bills, service or services upon which such delinquency exists may be shut off or discontinued and such delinquent sums shall be a lien upon the property and collected as provided for the collection of City taxes. Suit may be instituted by the City for the collection of the same in any court of competent jurisdiction.

Section 11.04. Accounts.

Separate accounts, distinct from any other City accounts, shall be kept for each public utility owned or operated by the City in such manner as to show the true and complete financial result of such City ownership or operation, or both, including all assets, liabilities, revenues and expenses. They shall show as nearly as possible, the value of any service furnished to or rendered by any such public utility by or to any City department. The Council shall annually cause a report to be made, showing the financial results of such City ownership or operation, or both, which report shall give for each utility, the information specified in this section, and such further information as the Council shall deem expedient. Such report shall be on file in the office of the Clerk for public inspection.

ARTICLE XII. STREETS AND PUBLIC GROUNDS*

***State law reference**—Recording of street openings and vacations in platted areas, MCL 560.256; city control of highways, Mich. Const. art. VII, §§ 16, 29; major street system of city, MCL 247.656; local street system of city, MCL 247.658.

Section 12.01. Supervision of public ways.

(a) The Council shall have supervision and control of all public highways, bridges, streets, avenues, alleys, sidewalks and public grounds within the City, and shall cause the same to be kept in repair, and free from nuisance.

(b) The City shall not be liable in damages sustained by any person in such City either to his person or property by reason of any defective street, sidewalk, crosswalk, or public highway, situated in the city, or by reason of any obstruction, ice, snow or other encumbrance upon such street, sidewalk, crosswalk or public highway situated in the City unless such person shall serve, or cause to be served, within one hundred and twenty (120) days after such injury shall have occurred, a notice in writing upon the City Clerk, which notice shall set forth substantially the time when and place where such injury took place, the manner in which it occurred, and the extent of such injury as far as the same has become known, and that the person receiving such injury intends to hold the City liable for such damages as may have been sustained by him. Such notice shall also give the names and addresses of the witnesses known at the time of such notice by the claimant. Such notice shall be in writing and under oath.

(c) No person shall bring any action for such injuries against the City for any such damages until such claim shall have been filed with the City Clerk and until the Council shall have been given opportunity to act thereon, either by allowing or refusing to allow such claim.

(d) It shall be a sufficient bar and answer in any court to any action or proceeding for the collection of any demand or claim against the City under this section that the notice of injury and verified proof of claim as in this section required were not presented and filed within the time and

in the manner as herein provided.
State law reference—Permissible for city to regulate public ways, MCL 117.4h.

Section 12.02. Requirement of public dedication.

The City shall not be responsible for the care, improvement or repair of any street or alley laid out or dedicated to public use by the proprietors of any lands which had not been actually accepted, worked and used by the public as a street or alley before its incorporation as a city, nor for the improvement and repair or [of] any street or alley laid out or dedicated by any such proprietor after such incorporation, unless the dedication shall have been accepted and confirmed by the Council by an ordinance or resolution especially passed for that purpose.

Section 12.03. Maintenance of public ways.

The Council shall have authority to lay out, open, widen, extend, straighten, alter, close, vacate or abolish any highway, street or alley in the City whenever they shall deem the same a public improvement; and if in so doing it shall be necessary to take or use private property, the same may be acquired by purchase, gift, condemnation, lease or otherwise of private property. The expense of such improvement may be paid by special assessments upon the property adjacent to or benefited by such improvement, or in the discretion of the Council, a portion of such costs and expenses may be paid by special assessment, and the balance from the general street fund.
State law reference—Permissible improvement of public streets, MCL 117.4h.

Section 12.04. Vacation of streets and alleys.

When the Council shall deem it advisable to vacate, discontinue or abolish any street, alley, or other public ground, or any part thereof, they shall by resolution so declare, and in the same resolution shall appoint a time, not less than four weeks thereafter when they will meet and hear objections thereto. Notice of such meeting with a copy of said resolution shall be published for not less than four weeks before the time appointed for such meeting, in one of the newspapers published or circulated in the City. Objections to such proposed action of the Council may be filed with the City Clerk in writing, and if any such shall be filed, the street, alley or public ground, or any part thereof, shall not be vacated or discontinued, except by a concurring vote of two-thirds of the Councilmen elect.

Section 12.05. Recording dedication or vacation of streets.

Whenever the Council shall by resolution or other enactment, open any new street, highway, or alley, or vacate any street, highway, or alley or any portion of the same, or extend, widen, or change the name of any existing street, highway, or alley, it shall be the duty of the City Clerk within thirty days after the adoption as [of] such resolution or other enactment to forward to the auditor general of the State of Michigan and record with the register of deeds, a certified copy of the same, together with his certificate, giving the name or names of plat, subdivision or addition

affected by such resolution or other enactment and such resolution, ordinance or other enactment shall have no force or effect until so recorded.

Section 12.06. Easement for public utilities.

Whenever the Council shall determine that it is necessary for the health, welfare, comfort and safety of the people of the City to discontinue an existing street or alley, as platted, it may by resolution, ordinance or other enactment, vacating such street or alley, reserve therein an easement for public utility purposes within the right-of-way of any street or alley so vacated.

ARTICLE XIII. GENERAL PROVISIONS

Section 13.01. Prohibitions.

Section 13.02. Charter amendment.

Section 13.03. Separability.

Section 13.01. Prohibitions.

(a) Activities prohibited.

(1) No person shall be appointed to or removed from, or in any way favored or discriminated against with respect to any City position or appointive City administrative office because of race, sex, political or religious opinions or affiliations.

(2) No person shall willfully make any false statement, certificate, mark, rating or report in regard to any test, certification or appointment under the personnel provisions of this charter or the rules and regulations made thereunder, or in any manner commit or attempt to commit any fraud preventing the impartial execution of such provisions, rules and regulations.

(3) No person who seeks appointment or promotion with respect to any City position or appointive City administrative office shall directly or indirectly give, render or pay any money, service or other valuable thing to any person for or in connection with his test, appointment, proposed appointment, promotion or proposed promotion.

(b) Penalties. Any person who by himself or with others willfully violates any of the provisions of paragraphs (1) through (3) shall be guilty of a misdemeanor and upon conviction thereof shall be punishable by a fine of not more than one hundred dollars ($100.00) or by imprisonment for not more than ninety days or both. Any person convicted under this section shall be ineligible for a period of five years thereafter to hold any City office or position and, if an officer or employee of the city, shall immediately forfeit his office or position.

Section 13.02. Charter amendment.

Amendments to this charter may be framed and proposed in a manner prescribed by the laws of the State of Michigan.
State law reference—Authority of city to amend charter, Mich. Const. art. VII, § 22; mandatory procedures for revision of charter, MCL 117.18 et seq.

Section 13.03. Separability.

If any provision of this charter is held invalid, the other provisions of the charter shall not be affected thereby. If the application of the charter or any of its provisions to any person or circumstance is held invalid, the application of the charter and its provisions to other persons or circumstances shall not be affected thereby.

ARTICLE XIV. TRANSITIONAL PROVISIONS

Section 14.01. Officers and employees.

Section 14.02. Departments, offices and agencies.

Section 14.03. Pending matters.

Section 14.04. State and municipal laws.

Section 14.05. First elections under this charter.

Section 14.01. Officers and employees.

(a) Rights and privileges preserved. Nothing in this charter except as otherwise specifically provided shall affect or impair the rights or privileges of persons who are City officers or employees at the time of its adoption.

(b) Continuance of office or employment. Except as specifically provided by this charter, if at the time this charter takes full effect a City administrative officer or employee holds any office or position which is or can be abolished by or under this charter, he shall continue in such office or position until the taking effect of some specific provision under this charter directing that he vacate the office or position.

(c) Personnel system. An employee holding a City position at the time this charter takes full effect, who was serving in that same or a comparable position at the time of its adoption, shall not be subject to competitive tests as a condition of continuance in the same position but in all other respects shall be subject to the personnel system provided for in section 5.02.

Section 14.02. Departments, offices and agencies.

(a) Transfer of powers. If a City department, office or agency is abolished by this charter, the powers and duties given it by law shall be transferred to the City department, office or agency designated in this charter or, if the charter makes no provision, designated by the City Council.

(b) Property and records. All property, records and equipment of any department, office or agency existing when this charter is adopted shall be transferred to the department, office or agency assuming its powers and duties, but, in the event that the powers or duties are to be discontinued or divided between units or in the event that any conflict arises regarding a transfer, such property, records or equipment shall be transferred to one or more departments, offices or agencies designated by the Council in accordance with this charter.

Section 14.03. Pending matters.

All rights, claims, actions, orders, contracts and legal or administrative proceedings shall continue except as modified pursuant to the provisions of this charter and in each case shall be maintained, carried on or dealt with by the City department, office or agency appropriate under this charter.

Section 14.04. State and municipal laws.

(a) In general. All City ordinances, resolutions, orders and regulations which are in force when this charter becomes fully effective are repealed to the extent that they are inconsistent or interfere with the effective operation of this charter or of ordinances or resolutions adopted pursuant thereto. To the extent that the constitution and laws of the State of Michigan permit, all laws relating to or affecting this City or its agencies, officers or employees which are in force when this charter becomes fully effective are superseded to the extent that they are inconsistent or interfere with the effective operation of this charter or of ordinances or resolutions adopted pursuant thereto.

Section 14.05. First elections under this charter.

The first election of officers under this charter shall be held on the first Tuesday after the first Monday in November, 1989, at which election there shall be elected four (4) councilmen who shall hold office for terms as set forth in section 3.10(c) [3.01(c)]. The second election of Councilmen under this charter shall be held on the first Tuesday after the first Monday in November, 1991, at which election there shall be elected four (4) Councilmen who shall be the three holdover Councilmen and the Councilman who was elected to the two-year term as provided for in Section 3.01(b) [3.01(c)]. The nomination and election of officers at the above specified elections shall be in accordance with the provisions of this charter. Thereafter, all City elections for the election of officers of the City shall be held upon the dates specified therefor in this charter. The terms specified in this section are for the purpose of bridging the transition from the schedule of terms of office in the prior charter of the City and those herein provided.

CHARTER COMPARATIVE TABLE

This table shows the location of the sections of the basic Charter and any amendments thereto.

Ordinance Number	Date	Section this Charter
01-10	11- 6-2001(Res.)	3.05
01-11	11- 6-2001(Res.)	3.06
06-05	5- 2-2006(Res.)	6.05

Chapter 1

GENERAL PROVISIONS

Sec. 1-1. Designation and citation of Code.

The ordinances embraced in this and the following chapters shall constitute and be designated as the "Code of Ordinances, City of Potterville, Michigan," and may be so cited. Such ordinances may also be cited as the "Potterville City Code."
(Code 1972, § 11-1; Code 2006, § 1-1)
State law reference—Authority to codify ordinances, MCL 117.5b.

Sec. 1-2. [1] Definitions and rules of construction.

The following definitions and rules of construction shall apply to this Code and to all ordinances and resolutions unless the context requires otherwise:

Generally. When provisions conflict, the specific shall prevail over the general. All provisions shall be liberally construed so that the intent of the city council may be effectuated. Words and phrases shall be construed according to the common and approved usage of the language, but technical words, technical phrases and words and phrases that have acquired peculiar and appropriate meanings in law shall be construed according to such meanings.

Agencies, officers. Any reference to any local, state or federal agency or officer shall include any successor agency or officer.

Charter. The term "Charter" means the Charter of the City of Potterville, Michigan.

City. The term "city" means the City of Potterville, Michigan.

City council, council. The terms "city council" and "council" mean the city council of the City of Potterville, Michigan.

Civil infraction. The term "civil infraction" means an act or omission prohibited by law which is not a crime and for which civil sanctions may be ordered.

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[1] **Sec. 1-2. Definitions and rules of construction.** Additional definitions are suggested as indicated. Note that since these definitions apply to the code as a whole, definitions throughout the code that duplicate those in this section will be stricken or deleted without comment. Note also that the rules of construction in this section and in the charter regarding number, tense, gender, etc. will be applied during the editing phase of this project.

Code. The term "Code" means the Code of Ordinances, City of Potterville, Michigan, as designated in section 1-1.

Common and technical terms. Except as otherwise provided in this section, words and phrases shall be construed according to the common usage of the language, provided, however, that technical words and phrases and such others as may have acquired a special meaning in the law shall be construed according to such technical or special meaning.

Computation of time. In computing a period of days, the first day is excluded and the last day is included. If the last day of any period or a fixed or final day is a Saturday, Sunday or legal holiday, the period or day is extended to include the next day that is not a Saturday, Sunday or legal holiday.

Conjunctions. In a provision involving two or more items, conditions, provisions or events, which items, conditions, provisions or events are connected by the conjunction "and," "or" or "either…or," the conjunction shall be interpreted as follows:

(1) The term "and" indicates that all the connected terms, conditions, provisions or events apply.

(2) The term "or" indicates that the connected terms, conditions, provisions or events apply singly or in any combination.

(3) The term "either…or" indicates that the connected terms, conditions, provisions or events apply singly, but not in combination.

Corporate limits. Wherever in this Code an act is prohibited, declared unlawful or required to be performed, directly or by implication, such references shall imply "within the corporate limits of the city'.

County. The term "county" means Eaton County, Michigan.

Crime. The term "crime" means an act or omission forbidden by law that is not designated as a civil infraction and that is punishable upon conviction by imprisonment, fine not designated as a civil fine, or other penal discipline or any combination thereof.

Delegation of authority. A provision that authorizes or requires a city officer or city employee to perform an act or make a decision authorizes such officer or employee to act or make a decision through subordinates.

[2]Fee schedule. Fee schedule means the official consolidated list of rates and amounts of city fees and charges as determined from time to time by the city council. The fee schedule is on file in the office of the city clerk.

Gender. Words importing the masculine shall extend and be applied to the feminine and neuter genders.

Health department, department of public health. The terms "health department" and "department of public health" mean the county health department.

Health officer. The term "health officer" means the director of the county health department.

Highway. The term "highway" includes any street, alley, highway, avenue or public place or square, bridge, viaduct, tunnel, underpass, overpass or causeway, dedicated or devoted to public use.

Includes, including. The terms "includes" and "including" are terms of enlargement and not of limitation or exclusive enumeration, and the use of the terms does not create a presumption that components not expressed are excluded.

Joint authority. A grant of authority to three or more persons as a public body confers the authority on a majority of the number of members as fixed by statute or ordinance.

May. The term "may" is to be construed as being permissive and not mandatory.

May not. The term "may not" states a prohibition.

MCL. The abbreviation "MCL" means the Michigan Compiled Laws, as amended.

Month. The term "month" means a calendar month.

Must. The term "must" is to be construed as being mandatory.

Number. The singular includes the plural and the plural number includes the singular.

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[2] **Sec. 1-2. Definitions—Fee schedule.** I recommend the use of a separate fee schedule that is not published with the code but adopted by reference and kept "on file". If the city elects to use such a schedule, MCC editorial staff will replace all fee amounts throughout the code with "amount provided in the city fee schedule" or a similar phrase. The city can prepare its own fee schedule, to be amended and readopted from time to time as necessary. If MCC prepares the schedule, there is a set-up fee of $200 per schedule page. Fee schedules generally run from 5-10 pages.

Oath, affirmation, sworn, affirmed. The term "oath" includes an affirmation in all cases where an affirmation may be substituted for an oath. In similar cases, the term "sworn" includes the term "affirmed."

Officers, departments, etc. References to officers, departments, boards, commissions or employees are to city officers, city departments, city boards, city commissions and city employees.

Ordinance. "Ordinance" means legislative acts of the city that are general and permanent in nature.

Owner. The term "owner," as applied to property, includes any part owner, joint owner, tenant in common, tenant in partnership, joint tenant or tenant by the entirety of the whole or part of such property. With respect to special assessments, however, the owner shall be considered to be the person who appears on the assessment roll for the purpose of giving notice and billing.

Person. The term "person" means any individual, partnership, corporation, association, club, joint venture, estate, trust, limited liability company, or governmental unit, and any other group or combination acting as a unit, and the individuals constituting such group or unit.

Personal property. The term "personal property" means any property other than real property.

Preceding, following. The terms "preceding" and "following" mean next before and next after, respectively.

Premises. The term "premises," as applied to real property, includes land and structures.

Property. The term "property" means real and personal property.

Public acts. References to public acts are references to the Public Acts of Michigan. (For example, a reference to Public Act No. 279 of 1909 is a reference to Act No. 279 of the Public Acts of Michigan of 1909.) Any reference to a public act, whether by act number or by short title, is a reference to the act as amended.

Real property, real estate, land, lands. The terms "real property," "real estate," "land" and "lands" include lands, tenements and hereditaments.

Reasonable Time. In all cases where provision is made for an act to be done or notice to be given within a reasonable time, it shall be deemed to mean such time only as may be necessary for the prompt performance of such act or the giving of such notice.

Resolution. The word "resolution" means a legislative act of the city of a special or temporary character.

Roadway. The term "roadway" means that portion of a street improved, designed or ordinarily used for vehicular traffic.

Shall. The term "shall" is to be construed as being mandatory.

Sidewalk. The term "sidewalk" means any portion of the street between the curb, or the lateral line of the roadway, and the adjacent property line, intended for the use of pedestrians.

Signature, subscription. The terms "signature" and "subscription" include a mark when the person cannot write.

State. The term "state" means the State of Michigan.

Street. The term "street" means any street, alley, highway, avenue, or public place or square, bridge, viaduct, tunnel, underpass, overpass or causeway, dedicated or devoted to public use.

Swear. The term "swear" includes affirm.

Tenses. The present tense includes the past and future tenses. The future tense includes the present tense.

Week. The term "week" means seven consecutive days.

Written. The term "written" includes any representation of words, letters, symbols or figures.

Year. The term "year" means 12 consecutive months.
(Code 1972, §§ 12-1, 12-2; Code 2006, § 1-2)
State law reference—Definitions and rules of construction applicable to state statutes, MCL 8.3 et seq.

Sec. 1-3. Catchlines of sections; history notes; references.

(a) 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 are not titles of such sections, or of any part of the section, nor unless expressly so provided shall they be so deemed when any such section, including the catchline, is amended or reenacted.

(b) The history or source notes appearing in parentheses after sections in this Code have no legal effect and only indicate legislative history. Charter references, cross references and state law

references that appear in this Code after sections or subsections, or that otherwise appear in footnote form, are provided for the convenience of the user of the Code and have no legal effect.

(c) Unless specified otherwise, all references to chapters or sections are to chapters or sections of this Code.
(Code 2006, § 1-3)
State law reference—Catchlines in state statutes, MCL 8.4b.

Sec. 1-4. Effect of repeal of ordinances.

(a) Unless specifically provided otherwise, the repeal of a repealing ordinance does not revive the ordinance originally repealed or impair the effect of any saving provision in it.

(b) The repeal or amendment of an ordinance does not affect any punishment or penalty incurred before the repeal took effect, nor does such repeal or amendment affect any rights, privileges, suit, prosecution or proceeding pending at the time of the amendment or repeal.
(Code 2006, § 1-4)
State law reference—Effect of repeal of state statutes, MCL 8.4.

Sec. 1-5. Amendments to Code; effect of new ordinances; amendatory language.

(a) All ordinances adopted subsequent to this Code that amend, repeal or in any way affect this Code may be numbered in accordance with the numbering system of the Code and printed for inclusion in the Code. Portions of this Code repealed by subsequent ordinances may be excluded from this Code by omission from reprinted pages affected thereby.

(b) Amendments to provisions of this Code may be made with the following language: "Section (chapter, article, division or subdivision, as appropriate) of the Code of Ordinances, City of Potterville, Michigan, is amended to read as follows:…."

(c) If a new section, subdivision, division, article or chapter is to be added to the Code, the following language may be used: "Section (chapter, article, division or subdivision, as appropriate) of the Code of Ordinances, City of Potterville, Michigan, is created to read as follows:…."

(d) All provisions desired to be repealed should be repealed specifically by section, subdivision, division, article or chapter number, as appropriate, or by setting out the repealed provisions in full in the repealing ordinance.
(Code 1972, § 14-1; Code 2006, § 1-5)

Sec. 1-6. Supplementation of Code.

(a) Supplements to this Code shall be prepared and printed whenever authorized or directed by the city. A supplement to this Code shall include all substantive permanent and general parts of ordinances adopted during the period covered by the supplement and all changes made thereby in the Code. The pages of the supplement shall be so numbered that they will fit properly into the Code and will, where necessary, replace pages that have become obsolete or partially obsolete. The new pages shall be so prepared that, when they have been inserted, the Code will be current through the date of the adoption of the latest ordinance included in the supplement.

(b) In preparing a supplement to this Code, all portions of the Code that have been repealed shall be excluded from the Code by the omission thereof from reprinted pages.

(c) When preparing a supplement to this Code, the person authorized to prepare the supplement may make formal, nonsubstantive changes in ordinances included in the supplement, insofar as necessary to do so in order to embody them into a unified code. For example, the person may:

(1) Arrange the material into appropriate organizational units.

(2) Supply appropriate catchlines, headings and titles for chapters, articles, divisions, subdivisions and sections to be included in the Code, and make changes in any such catchlines, headings and titles, or in any such catchlines, headings and titles already in the Code.

(3) Assign appropriate numbers to chapters, articles, divisions, subdivisions and sections to be added to the Code.

(4) Where necessary to accommodate new material, change existing numbers assigned to chapters, articles, divisions, subdivisions or sections.

(5) Change the words "this ordinance," or similar words, to "this chapter," "this article," "this division," "this subdivision," "this section" or "sections _____ to _____" (inserting section numbers to indicate the sections of the Code that embody the substantive sections of the ordinance incorporated in the Code).

(6) Make other nonsubstantive changes necessary to preserve the original meaning of the ordinances inserted in the Code.
(Code 2006, § 1-6)

Sec. 1-8. Severability.

If any provision of this Code or its application to any person or circumstance is held invalid or unconstitutional, the invalidity or unconstitutionality does not affect other provisions or applications of this Code that can be given effect without the invalid or unconstitutional provision or application, and, to this end, the provisions of this Code are severable.
(Code 1972, § 13-1; Code 2006, § 1-8)

State law reference—Severability of state statutes, MCL 8.5.

Sec. 1-#. Conflicting provisions.

(a) If the provisions of different chapters conflict with each other, the provisions of each individual chapter shall control all issues arising out of the events and persons intended to be governed by that chapter.

(b) If the provisions of different sections of the same chapter conflict with each other, the provision which is more specific in its application to the events or persons raising the conflict shall control over the more general provision.

(c) If any of the provisions hereof conflict, and the conflict cannot be resolved by application of paragraphs (a) and (b) of this section, the more stringent regulation shall apply and the specific provision shall prevail over the general.

Sec. 1-9. Provisions deemed continuation of existing ordinances.

The provisions of this Code, insofar as they are substantially the same as legislation previously adopted by the city relating to the same subject matter, shall be construed as restatements and continuations thereof and not as new enactments.
(Code 2006, § 1-9)
State law reference—Similar provisions as to state statutes, MCL 8.3u.

Sec. 1-10. Code does not affect prior offenses or rights.

Nothing in this Code or the ordinance adopting this Code affects any offense or act committed or done, any penalty or forfeiture incurred or any contract or right established before the effective date of this Code. The adoption of this Code does not authorize any use or the continuation of any use of a structure or premises in violation of any city ordinance on the effective date of this Code.
(Code 2006, § 1-10)

Sec. 1-11. Certain ordinances not affected by Code.

(a) Nothing in this Code or the ordinance adopting this Code affects the validity of any ordinance or portion of any ordinance:

(1) Annexing property into the city or describing the corporate limits.

(2) Deannexing property or excluding property from the city.

(3) Promising or guaranteeing the payment of money or authorizing the issuance of bonds or other instruments of indebtedness.

(4) Authorizing or approving any contract, deed or agreement.

(5) Granting any specific right or franchise, or establishing the procedure for granting a right or franchise.

(6) Making or approving any appropriation or budget.

(7) Providing for the duties of city officers or employees not codified in this Code.

(8) Providing for salaries or other employee benefits.

(9) Adopting or amending a comprehensive plan.

(10) Levying or imposing any special assessments.

(11) Dedicating, establishing, naming, locating, relocating, opening, paving, widening, repairing or vacating any street, sidewalk or alley.

(12) Establishing the grade of any street or sidewalk.

(13) Dedicating, accepting or vacating any plat or subdivision.

(14) Not codified in this Code that levies, imposes or otherwise relates to taxes, exemptions from taxes and fees in lieu of taxes.

(15) Pertaining to zoning.

(16) That is temporary, although general in effect.

(17) That is special, although permanent in effect.

(18) The purpose of which has been accomplished.

(b) The ordinances or portions of ordinances designated in subsection (a) of this section continue in full force and effect to the same extent as if published at length in this Code.
(Code 2006, § 1-11)

Sec. 1-7. [3] General penalty; continuing violations.

[3] **Sec. 1-7. General penalty; continuing violations.** Since this section applies to the code as whole, throughout the code section that merely state that this section applies will be stricken or deleted without further comment. Also, see

(a) In this section, the term "violation of this Code" means any of the following:

(1) Doing an act that is prohibited or made or declared unlawful, an offense or a violation by ordinance or by rule or regulation authorized by ordinance.

(2) Failure to perform an act that is required to be performed by ordinance or by rule or regulation authorized by ordinance.

(3) Failure to perform an act if the failure is prohibited or is made or declared unlawful, an offense or a violation by ordinance or by rule or regulation authorized by ordinance.

(b) Any provision of this Code that is made or declared to be a misdemeanor, civil infraction or municipal civil infraction is a violation of this Code.

(c) In this section, the term "violation of this Code" does not include the failure of a city officer or city employee to perform an official duty unless it is specifically provided that the failure to perform the duty is to be punished as provided in this section.

(d) Except as specifically provided otherwise by state law, this Code, or other city ordinance, all violations of this Code are municipal civil infractions. Except as otherwise provided by state law, this Code, or other city ordinance, a person convicted of a violation of this Code that is a municipal civil infraction shall be punished by a fine as set out in the following schedule:

(1) For all civil infractions not specifically identified in subsections (2) through (4) of this subsection, the fine shall be $100.00.

(2) For violations of chapter 12, article II, pertaining to junk and blight, the fine shall be $175.00.

(3) For second offenses, the civil fines set forth in subsections (1) and (2) of this subsection shall be doubled.

(4) For third offenses, or more, the fine shall be $500.00.

(e) Except as otherwise provided by state law, this Code, or other city ordinance, a person convicted of a violation of this Code that is a misdemeanor shall be punished by a fine not to exceed $500.00 and costs of prosecution, or by imprisonment for a period of not more than 90 days, or by both such fine and imprisonment. However, unless otherwise provided by law, a person convicted of a violation of this Code which substantially corresponds to a violation of

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the traffic chapter with regarding to penalties until the adopted state MVC. Move those penalties into this section?

state law that is a misdemeanor for which the maximum period of imprisonment is 93 days is punishable by a fine not to exceed $500.00 and costs of prosecution, or by imprisonment for a period of not more than 93 days, or by both such fine and imprisonment.

(f) Except as otherwise provided by law or ordinance, with respect to violations of this Code that are continuous with respect to time, each day that the violation continues is a separate offense. As to other violations, each violation constitutes a separate offense.

(g) The imposition of a penalty does not prevent suspension or revocation of a license, permit or franchise or other administrative sanctions.

(h) Violations of this Code that are continuous with respect to time are a public nuisance and may be abated by injunctive or other equitable relief. The imposition of a penalty does not prevent injunctive relief or civil or quasi-judicial enforcement.

(i) Applicable costs as authorized by statute and this Code, shall be in addition to the penalties specified in this section.

(Code 1972, § 15-1; Code 2006, § 1-7; Ord. No. 166, § 15-1, 7-15-1997)

State law reference—Penalty for ordinance violations, MCL 117.4i(10), 117.4l.

Chapter 2

ADMINISTRATION*

***State law reference**—Home rule cities, MCL 117.1 et seq.; Freedom of Information Act, MCL 15.231 et seq.; Open Meetings Act, MCL 15.261 et seq.

ARTICLE I. IN GENERAL

Secs. 2-1—2-30. Reserved.

ARTICLE II. CITY COUNCIL

Sec. 2-51. Compensation.

(a) *Mayor.* The mayor shall receive an annual stipend in the amount of $300.00. This amount may be paid in a lump sum or in installments as the council shall direct by resolution. In addition, for each regular or special council meeting actually attended, and each workshop session actually attended, the mayor shall receive additional compensation in the amount of $25.00 per meeting. Such payments for meetings shall be made in quarterly installments or more often as the council shall direct by resolution.

(b) *Councilmembers.* Each councilmember shall receive an annual stipend in the amount of $125.00. This amount may be paid in a lump sum or in installments as the council shall direct by resolution. In addition, for each regular and special meeting actually attended and each workshop session actually attended, each councilmember shall receive additional compensation in the amount of $20.00 per meeting. The payments for meetings shall be made in quarterly installments or more often as the council shall direct by resolution.

(c) *Meetings and workshop on same date.* Whenever a council meeting and workshop occur on the same date, the mayor and councilmembers are entitled to receive compensation for one meeting only and shall not receive compensation for having attended two meetings.
(Code 2006, §§ 2-51, 2-52, 2.53; Ord. No. 186, §§ 17.1, 17.2, 17.3, 2-12-2001; Ord. No. 07-218, §§ 17.1, 17.2; 12-27-2007; Ord. No. 2016-242, §§ 1, 2, 10-20-2016; Ord. No. 2016-243, §§ 1, 2, 11-17-2016)

Secs. 2-54—2-80. Reserved.

ARTICLE III. OFFICERS AND EMPLOYEES*

State law reference—Standards of conduct and ethics, MCL 15.341 et seq.; conflicts of interest as to contracts, MCL 15.321 et seq.; political activities by public employees, MCL 15.401 et seq.;

legal defense of public employees, MCL 691.1408; incompatible offices, MCL 15.181 et seq.; nondiscrimination in employment, MCL 37.2102.

Sec. 2-101. City manager authority and duties.

(a) *Generally.* The city manager shall see that all laws, ordinances, rules and regulations adopted by the city council and the provisions of this Code are properly enforced. He shall attend all meetings of the city council, regular and special. During the absence or disability of the city manager, an acting city manager shall be appointed in accordance with section 4.03 of the Charter. If the city manager is unable to attend an event or meeting or official function, the manager shall appoint a designee to represent him in his absence. Such shall be done in accordance with this section and the manager shall notify mayor or deputy mayor.

(b) *Appointment and supervisions of department heads.* All administrative officers are responsible to the city manager for the effective administration of their respective departments and offices, and all activities assigned to them. He shall employ or appoint all officers and employees except as otherwise provided by the Charter or this Code. The city manager may set aside any action taken by any administrative officer other than the city attorney or the city clerk and may supersede any officer other than the city attorney or the city clerk in the functions of his office.

(c) *Preparation of personnel system.* The city manager shall prepare personnel rules and shall refer such rules to the city council for its review. The city council, by resolution, may adopt them, with or without amendment. The personnel rules shall comply, but shall not be limited by, the provisions of section 5.02 of the Charter.
(Code 2006, §§ 2-101, 2-102, 2-103; Ord. No. 141, §§ 19-1, 19-2, 19-3, 10-12-1992; Ord. No. 2016-242, § 3, 10-20-2016; Ord. No. 2016-243, § 3, 11-17-2016)

Sec. #. Ethics and standards of conduct.

City employees and elected officials shall comply with all obligations imposed on them by the Political Activities of Public Employees Act, ~~Act 169 of 1976,~~ MCL 15.401 et seq.; the Contracts of Public Servants with Public Entities Act, ~~Act 317 of 1968,~~ MCL 15.321 et seq. and the Standards of Conduct for Public Officers and Employees Act, ~~Act 196 of 1973,~~ MCL 15.341 et seq.
(Ord. No. 2014-239, § 2, 12-8-2014)

Secs. 2-104—2-130. Reserved.

ARTICLE IV. BOARDS, COMMISSIONS AND SIMILAR BODIES

DIVISION 1. GENERAL

Sec. 10-31. Housing commission.

Pursuant to ~~Public Act No. 18 of the Extra Session of 1933~~ MCL 125.651 et seq. the city has created a commission in and for the city to be known as the "Potterville Housing Commission." (Ord. No. 98, § 1, 3-21-1977)

State law reference—Municipal housing commissions, MCL 125.653 et seq.

[4]DIVISION 2. PLANNING COMMISSION

State law reference—City planning, MCL 125.31 et seq.; Michigan Planning Enabling Act, MCL 125.3801 et seq.

Sec. 26-38. Purpose.

the city hereby determines that it is necessary for the best interests of the city to confirm the establishment of the city planning commission pursuant to the Michigan Planning Enabling Act, ~~Public Act 33 of 2008,~~ MCL 125.3801 et seq. (MPEA), and to provide for its composition, powers, and duties.
(Ord. No. 10-222, § 2(26-38), 6-8-2010)

Sec. 26-39. Establishment

(A) Pursuant to the MPEA, the city confirms the establishment of the city planning commission which was formerly established under the Municipal Planning Act, ~~Public Act 285 of 1931,~~ MCL 125.31 et seq.

(B) All official actions taken by the planning commission that was constituted before the effective date of this article are hereby approved, ratified, and reconfirmed.

(C) Members of the planning commission as of the effective date of this article shall continue to serve for the remainder of their existing terms so long as they continue to meet all of the eligibility requirements for planning commission membership under the MPEA.
(Ord. No. 10-222, § 2(26-39), 6-8-2010)

State law reference—Authority to establish, MCL 125.653.

Sec. 26-40. Appointment, eligibility and terms of members

(A) The planning commission shall consist of five members. Members shall be appointed by the mayor, subject to a majority vote of the members of city council. Members shall be qualified electors of the city, except that two members may be individuals who are not qualified electors of the city.

[4] **Div. 2. Planning Commission.** The charter refers to this as the planning board.

(B) The planning commission's membership shall be representative of important segments of the city, such as the economic, governmental, educational, and social development of the city, in accordance with the major interests as they exist in the city, such as agriculture, natural resources, recreation, education, public health, government, transportation, industry, and commerce. The membership shall also be representative of the entire geography of the city to the extent practicable.

(C) The city manager or a person designated by the city manager, if any, the mayor, one or more members of the city council, or any combination thereof, may be appointed to the planning commission as ex officio members. Not more than one-third of the members of the planning commission may be ex officio members. The term of an ex officio member of a planning commission shall be as follows:

(1) The term of a mayor shall correspond to his term as mayor.

(2) The term of a city manager shall expire with the term of the mayor that appointed him as the city manager.

(3) The term of a member of city council shall expire with his term on the city council.

(F) Except for ex officio members, elected officers or employees of the city are not eligible to be members of the planning commission.

(G) Except for ex officio members, the term of each member shall be three years. However, of the members of the planning commission, other than ex officio members, first appointed, a number shall be appointed to one-year or two-year terms such that, as nearly as possible, the terms of one-third of all the planning commission members will expire each year.
(Ord. No. 10-222, § 2(26-40), 6-8-2010)
State law reference—Similar provisions, MCL 125.654.

Sec. 26-41. Removal; conflicts of interest; vacancies.

(A) The city council may remove a member of the planning commission for misfeasance, malfeasance, or nonfeasance in office upon written charges and after a public hearing.

(B) Before casting a vote on a matter on which a member may reasonably be considered to have a conflict of interest, the member shall disclose the potential conflict of interest to the planning commission. The member is disqualified from voting on the matter if so provided by the bylaws or by a majority vote of the remaining members of the planning commission. Failure of a member to disclose a potential conflict of interest as required by this subsection constitutes malfeasance in office.

(C) The planning commission shall define "conflict of interest" for purposes of this section in its bylaws.

(D) The city council shall fill all vacancies for the unexpired term in the same manner as provided for an original appointment. A member shall hold office until his successor is appointed.
(Ord. No. 10-222, § 2(26-41), 6-8-2010)
State law reference—Similar provisions, MCL 125.654.

Sec. 26-42. Compensation.

The city council may, by resolution, provide for the compensation of members of the planning commission. The planning commission may adopt bylaws relative to compensation and expenses of its members and employees for travel when engaged in the performance of activities authorized by the city council, including, but not limited to, attendance at conferences, workshops, educational and training programs, and meetings. Planning commission remuneration shall constitute $40.00 for chair and $35.00 for other members per meeting and may be amended by resolution of city council.
(Ord. No. 10-222, § 2(26-42), 6-8-2010; Ord. No. 2016-242, § 26, 10-20-2016; Ord. No. 2016-243, 11-17-2016)
State law reference—Compensation etc., MCL 125.655.

Sec. 26-43. Bylaws; officers; meetings; records; annual written report.

(A) The planning commission shall adopt bylaws for the transaction of business.

(B) The planning commission shall elect its chairperson and secretary from among its members and create and fill other officers as it considers advisable. *Ex officio* members shall not be eligible to serve as chairperson. The term of each officer shall be one year, with opportunity for reelection as provided in the planning commission's bylaws.

(C) The planning commission shall hold not less than four regular meetings each year and by resolution shall determine the time and place of the meetings. Unless the bylaws provide otherwise, a special meeting of the planning commission may be called by the chairperson or by two other members, upon written request to the secretary. Unless the bylaws provide otherwise, the secretary shall send written notice of a special meeting to planning commission members not less than 48 hours before the meeting.

(D) The planning commission shall keep a public record of its resolutions, transactions, findings, and determinations.

(E) The planning commission shall make an annual written report to the city council concerning its operations and the status of planning activities, including recommendations regarding actions by the city council related to planning and development.
(Ord. No. 10-222, § 2(26-43), 6-8-2010)
State law reference—Similar provisions, MCL 125.655.

Sec. 26-44. Adoption of Master Plan

The planning commission shall make and approve a master plan as a guide for development within the city in accordance with the MPEA.
(Ord. No. 10-222, § 2(26-44), 6-8-2010)

Sec. 26-45. Zoning powers.

Pursuant to MCL 125.3883, the city confirms the transfer of all powers, duties, and responsibilities provided for zoning boards or zoning commissions by the former City and Village Zoning Act, ~~Public Act 207 of 1921,~~ MCL 125.581 et seq.; the Michigan Zoning Enabling Act, ~~Public Act 110 of 2006,~~ MCL 125.3101 et seq., or other applicable zoning statutes to the planning commission formerly established under the Municipal Planning Act, ~~Public Act 285 of 1931,~~ MCL 125.31 et seq.
(Ord. No. 10-222, § 2(26-45), 6-8-2010)

ARTICLE V. FINANCE

State law reference—Revised Municipal Finance Act, MCL 141.2101 et seq.; Uniform Budgeting and Accounting Act, MCL 141.421 et seq.; deposit of public moneys, MCL 211.43b; designation of public fund depositories, MCL 129.11 et seq.; general powers of city to levy taxes for public purposes, Mich. Const. art. XII, § 21.

DIVISION 1. GENERALLY

Secs. 2-208—2-230. Reserved.

~~[5]DIVISION 2. COST RECOVERY FOR CLEANUP OF HAZARDOUS MATERIALS~~

~~[6]DIVISION 3. FIRE RUN CHARGES~~

DIVISION 2. BUDGET STABILIZATION FUND

State law reference—Budget stabilization funds, MCL 141.441 et seq.

Sec. 2-231. Creation.

The city has established a budget stabilization fund which shall be separate and distinct from the city's general fund. Appropriations to the fund and expenditures from the fund shall be made as

[5] **Div. 2. Cost recovery for cleanup of hazardous materials.** This division has been moved to the environment chapter.

[6] **Div. 3. Fire Run Charges.** This division has been moved to the fire protection chapter.

provided in this division and shall comply with the requirements of ~~Public Act No. 30 of 1978~~ MCL 141.441 et seq.
(Code 2006, § 2-231; Ord. No. 03-206, § 1(17-1), 6-9-2003)
State law reference—Creation authorized, MCL 141.442.

Sec. 2-232. Purposes.

The budget stabilization fund is created for the following purposes:

(1) To cover a general fund deficit, when the city's annual audit reveals such a deficit.

(2) To prevent a reduction in the level of public services or in the number of employees at any time in a fiscal year when the city's budgeted revenue is not being collected in an amount sufficient to cover budgeted expenses.

(3) To prevent a reduction in the level of public services or in the number of employees when, in preparing the budget for the next fiscal year, the city's estimated revenue does not appear sufficient to cover estimated expenses.

(4) To cover expenses arising because of a natural disaster, including a flood, fire, or tornado. However, if federal or state funds are received to offset the appropriations from the fund, that money shall be returned to the fund.
(Code 2006, § 2-232; Ord. No. 03-206, § 1(17-2), 6-9-2003)

Sec. 2-233. Appropriations to the fund.

The city council may appropriate all or part of a surplus in the general fund, which results from an excess of revenue in comparison to expenses, to the budget stabilization fund. The appropriations shall be made by ordinance or resolution, adopted by a two-thirds vote of the members elected or serving on the city council.
(Code 2006, § 2-233; Ord. No. 03-206, § 1(17-3), 6-9-2003)
State law reference—Similar provision, MCL 141.443.

Sec. 2-234. Tax increase prohibition.

The city shall not impose additional taxes producing revenue in excess of that needed for its estimated budget in order to provide money to be appropriated to the budget stabilization fund.
(Code 2006, § 2-234; Ord. No. 03-206, § 1(17-4), 6-9-2003)

Sec. 2-235. Consideration of reduced state tax money.

In considering whether the city's revenue is sufficient to cover its expenses, a reduction in the amount of money received for the fiscal year from any source in comparison to the amount of

money received for the previous fiscal year, including a reduction in the allocation of state tax money, shall be considered.
(Code 2006, § 2-235; Ord. No. 03-206, § 1(17-5), 6-9-2003)
State law reference—Similar provision, MCL 141.444.

Sec. 2-236. Investment.

The money in the budget stabilization fund may, from time to time, be invested as permitted by law. All earnings on the money from the budget stabilization fund shall be returned to the general fund of the city.
(Code 2006, § 2-236; Ord. No. 03-206, § 1(17-6), 6-9-2003)
State law reference—Similar provision, MCL 141.443.

Sec. 2-237. [7] Limits on budget stabilization fund.

The amount of money in the budget stabilization fund shall not exceed either 15 percent of the city's most recent general fund budget, as originally adopted, or 15 percent of the average of the city's five most recent general fund budgets, as amended, whichever is less. Monies in the budget stabilization fund in excess of the aforementioned limitations shall be appropriated in the city's next general fund budget but shall not be appropriated to the budget stabilization fund.
(Code 2006, § 2-237; Ord. No. 03-206, § 1(17-7), 6-9-2003)
State law reference—Similar provision, MCL 141.443.

Sec. 2-238. Prohibitions on uses of funds.

The money in the budget stabilization fund shall not be appropriated for the acquisition, construction or alteration of a facility as part of a general capital improvements program.
(Code 2006, § 2-238; Ord. No. 03-206, § 1(17-8), 6-9-2003)
State law reference—Similar provision, MCL 141.445.

[7] **Sec. 2-237. Limits on budget stabilization fund.** MCL 141.443 provides: "The amount of money in the fund shall not exceed either **20%** of the municipality's most recent general fund budget, as originally adopted, or **20%** of the average of the municipality's 5 most recent general fund budgets, as amended, whichever is less."

Chapter 4

ANIMALS

State law reference—Authority to adopt animal control ordinance, MCL 287.290; MSA 12.541; crimes related to animals and birds, MCL 750.49 et seq., MSA 28.244 et seq.; wildlife conservation, MCL 324.40101 et seq.; cruelty to animals, MCL 750.50.

ARTICLE I.

Sec. 4-1. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Dangerous dog means a dog that bites or attacks a person, or a dog that bites or attacks and cause serious injury or death to another dog while the other dog is on the property or under the control of its owner. The term does not include the following:

(1) A dog that bites or attacks a person who is knowingly trespassing on the property of the animal's owner.

(2) A dog that bites or attacks a person who provokes or torments the animal.

(3) A dog that is responding in a manner that an ordinary and reasonable person would conclude was designed to protect a person if that person is engaged in a lawful activity or is the subject of an assault.

Poultry means all domestic fowl, chickens, ducks, and turkeys.

Fowl means live guineas, pea fowl, pheasants, and other game birds possessed or being reared under authority of a breeder's license pursuant to ~~part 427 (breeders and dealers) of the natural resources and environmental protection act, Act No. 451 of the Public Acts of 1994, being sections~~ MCL 324.42701 to 324.42714.

Kennel shall be construed as an establishment wherein any combination of four or more cats or dogs are confined and kept for sale, boarding, breeding, or training purposes, for remuneration

Livestock means horses, stallions, colts, geldings, mares, sheep rams, lambs, bulls, bullocks, steers, heifers, cows, calves, mules, jacks, jennets, burros, goats, kids, and swine, and fur-bearing animals being raised in captivity.

Pet a domestic or tamed animal or bird kept for companionship or pleasure and treated with appropriate care.

Owner when applied to the proprietorship of a dog means every person having a right of property in the dog, and every person who keeps or harbors the dog or has it in his care, and every person who permits the dog to remain on or about any premises occupied by him.

Kennel any establishment wherein or whereon four or more dogs are kept for the purpose of breeding, sale, or sporting purposes.

Cattery any establishment wherein or whereon five or more cats are kept for organized shows, breeding, or rodent control.

Continuous barking means barking, howling, yelping for a period of time in excess of 15 minutes.

(Ord. No. 230, § 4-1, 6-21-2012; Ord. No. 2016-243, § 6, 11-17-2016)

Sec. 4-8. [8] Prohibited animals

(a) *Only household pets may be kept in city.* Except as otherwise provided in this chapter, no person shall keep or house any animal, bird, or reptile within the city except dogs, cats, canaries or other animals which are commonly kept and housed inside dwellings as household pets.

(b) *Nuisance animals; exceptions.* No person shall harbor or keep any animal or bird which causes annoyance or disturbance within the city limits, by making sounds common to its species or otherwise, or which endangers the safety of any person or property. Petitions for exception to this subsection may be submitted to and will be considered by the animal committee and a permit maybe required.

(c) *Bees.* No person shall keep, harbor or raise bees in the city.

(d) *Large livestock.* Horses, stallions, colts, geldings, mares, sheep rams, lambs, bulls, bullocks, steers, heifers, cows, calves, mules, jacks, jennets, burros, goats, kids, and swine are prohibited in the city.

(e) *Poisonous or venomous species.* It is unlawful to keep within the city any animal, reptile, insect, or other creature that has poisonous venom which if injected into a human being, would result in severe pain, suffering, illness, or death.

(Ord. No. 230, § 4-8, 6-21-2012)

[8] **Sec. 4-8. Prohibited animals.** What animal committee?

Sec. 4-7. [9] Chickens and ducks.

(a) *Permit for keeping required; term; fee.* The owner of single-family dwelling in the city who wants to keep chickens or ducks shall obtain a permit from the city prior. Application shall be made to the city clerk with a fee to be determined by resolution of city council. The principal use of the property for which the permit is sought must be single-family residential. Permits expire five years after the date of issuance.

(b) *Waiver for 4-H members.* A permit waiver will be issued to children that are members of 4H if they have a letter from their 4-H leader. A permit waiver under this subsection applies only to the named child and only for fowl actually used in the 4-H project. The waiver is for the permit requirement only. All other restrictions of this section on the keeping of such fowl shall apply.

(c) *Private restrictions barring fowl.* Notwithstanding the issuance of a permit under this section, private restrictions on the use of property shall remain enforceable and take precedence over a permit. Private restrictions include but are not limited to deed restrictions, condominium master deed restrictions, neighborhood association by-laws, and covenant deeds. A permit issued to a person whose property is subject to private restrictions that prohibits the keeping of fowl is void. The interpretation and enforcement of the private restriction is the sole responsibility of the private parties involved.

(d) *Standards, specifications and prohibitions.*

(1) No more than four ducks, chickens or combination thereof may be kept a single property under a permit issued in accordance with this section. The four fowl may not include any rooster, geese, or peafowl.

(2) The poultry shall be provided with a covered enclosure and must be kept in the covered enclosure or an adjoining fenced enclosure at all times. Fenced and covered enclosures are subject to inspection by the zoning administrator.

(3) A person shall not keep poultry in any location on the property other than in the backyard.

(4) No covered enclosure or fenced enclosure shall be located closer than five feet to any property line of an adjacent property, or closer than 20 feet to any occupied residential structure on an adjacent property.

[9] **Sec. 4-7. Chickens and ducks.** Parts of this section have been rewritten for improved clarity and brevity.

(5) All enclosures for the keeping of chickens shall be so constructed or repaired as to prevent rats, mice, feral cats or other rodents from being harbored underneath, within, or within the walls of the enclosure.

(6) All feed and other items associated with the keeping of poultry that are likely to attract or become infested with or infected by rats, mice, or other rodents shall be protected so as to prevent rats, mice or other rodents from gaining access to or coming into contact with them. All areas where feed and other items associated with the keeping of poultry are subject to inspection by the zoning administrator.

(7) If poultry is butchered, the procedure must be conducted out of the sight of the public, within a garage or building. Stringing chickens on a line outdoors is prohibited. ~~If a person does not have a proper place to process their chickens then they must take the chickens to a processor. Contact phone numbers may be available at City Hall.~~

(8) A person who has been issued a permit shall submit it for examination upon demand by any police officer or the zoning administrator.

(e) *Violations and penalties.* Violation of any provisions of this section may result in revocation of the permit issued hereunder in addition to applicable penalties. Violations of this section constitute civil infractions. Each day a violation exists shall constitute a separate offense.

~~The owner of single-family dwelling who wants to keep chickens or ducks in the city shall obtain a permit from the city prior to acquiring the poultry. Application shall be made to the city clerk with a fee to be determined by resolution of city council. A permit waiver will be issued to a child that is a member of 4H if they have a letter from the child's 4-H leader, this waiver is only for a child that is raising fowl for their 4H project, a waiver will not be issued if the household is raising a flock. Maximum limit 1 household can have is 4 fowl (combination of ducks and chickens). Permits expire and become invalid five years after the date of issuance. A person who wishes to continue keeping poultry shall obtain a new permit on or before the expiration date of the previous permit. Application for a new permit shall be pursuant to the procedures and requirements that are applicable at the time the person applies for a new permit.~~
(Ord. No. 230, § 4-7, 6-21-2012; Ord. No. 2016-242, § 9, 10-20-2016; Ord. No. 2016-243, § 9, 11-17-2016)

Sec. 4-2. Minimum standards of animal care.

Every owner or caregiver of an animal shall be required to provide the animal with the minimum standard of care set forth in this article, which means the provision of sufficient food, water, shelter, sanitary conditions, exercise, and veterinary medical attention in order to maintain an animal in a state of good health. Appropriate and sufficient care must include at least the following:

(1) *Sufficient food and water.* Every owner or caregiver of an animal shall provide, on a

daily basis, the animal with sufficient good and wholesome food and water.

(2) *Cleanliness*. Every owner or caregiver of animals shall keep all animals in a clean, sanitary and healthy manner and not confined so as to force to stand, sit or lie in their own excrement.

(3) *Shelter*. Every owner or caregiver of animals shall provide all animals with proper shelter and protection from the weather.

(4) *Veterinary care.* The owner or caregiver of a diseased or injured animal shall provide the animal with appropriate veterinary care and shall segregate the diseased animal from other animals to prevent transmittal of disease.

(5) *Abuse prohibited.* No person shall overwork, torture, torment, deprive of necessary sustenance, cruelly beat, mutilate, poison or cruelly kill any animal or bird.

(6) *Abandonment and neglect prohibited.* No owner or caregiver of an animal shall abandon or neglect any animal. An animal is deemed abandoned or neglected if the owner or caregiver fails to properly maintain the animal.

(7) *Poisoning prohibited.* No person shall throw or deposit a poisonous substance on any exposed public or private place where it endangers or is likely to endanger any animal or bird.

(8) *Disfigurement prohibited.* No person, except a licensed veterinarian, shall crop an animal's ears or dock an animal's tail.

(9) *Leaving unattended prohibited.* No animal shall be left without proper attention and care for more than 24 consecutive hours.

(10) *Alcohol and drug administration.* No person shall give an animal any alcoholic beverage or prescription drug, unless prescribed by a veterinarian.

(11) *Intentional exposure to nature animal enemies.* No person shall knowingly allow animals that are natural enemies, temperamentally unsuited, or otherwise incompatible, to be quartered together or so near each other as to cause injury, fear or torment.

(12) *Proper exercise and adequate rest periods.* Working animals shall be given adequate rest periods with water and shade provided. Confined or retrained animals shall be given proper exercise.

(Ord. No. 230, § 4-2, 6-21-2012)

Sec. 4-3. Kennel construction and minimum operating requirements.

A kennel facility shall be constructed as to prevent the public or stray dogs from obtaining entrance thereto and gaining contact with the animals lodged in the kennel. Kennel operators within the city comply with the licensing and operational requirements of ~~Any persons who keep or operate a kennel are subject to follow the~~ MCL 287.270.
(Ord. No. 230, § 4-3, 6-21-2012; Ord. No. 2016-142, § 7, 10-20-2016; Ord. No. 2016-243, § 7, 11-17-2016)
State law reference—Operation of kennel—licensure, fees, metal tags, inspections, MCL 287.270; kennel tags, MCL 287.271.

Sec. 4-9. Enforcement officials; violations and penalties.

(a) *County enforcement personnel.* The chief animal control officer and his designees, the county sheriff and county deputies are the county officials authorized to issue municipal civil infraction citations and violation notices for violations of this article.

(b) *City enforcement personnel.* The city police department and the city zoning administrator may also issue civil infraction citations when they personally observe a violation. They also may issue a civil infraction citations and notices after investigation, if there is reasonable cause to believe that a violation has occurred and the issuance is approved by the prosecuting attorney.

(c) *Prosecution and penalties.* Violations of this chapter that are also violation of state law may be prosecuted under either. If processed as violations of this chapter, unless specifically stated otherwise, violations shall be deemed to be municipal civil infractions subject to the procedure and the penalties provided in ____[10] of this Code. Violations of this chapter declared to be misdemeanors or prosecuted as a state law violations shall be subject to misdemeanor penalties as provided in section 1-___. ~~Municipal Civil Infraction Citations: A person who violates this article shall be deemed responsible for a municipal civil infraction, the penalty which, shall be a civil fine plus any cost, damages, expenses, and other sanctions, as authorized under Chapter 87 of 1961 PA 236, as amended, being MCL 600.8701 et seq., and other applicable laws.~~

~~[11]Service of Municipal Civil Infractions: Municipal civil infractions should be served personally if possible. If personal service cannot readily be obtained, municipal civil infractions may be served by first class mail. When served by mail, the defendant's correct name and address shall be confirmed prior to mailing.~~
~~Municipal Civil Infraction Citations - A municipal civil infraction citation shall contain:~~

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[10] **EDITOR**—The first blank will be a cross reference to the article in the offenses chapter that addresses municipal infractions. The section blank is a cross reference to the general penalty provision in chapter 1.

[11] **Sec. 4-9. Enforcement officials; violations and penalties.** Stricken as duplicative of municipal infraction provisions now in law enforcement chapter.

~~A description of the violation;~~
~~The time within which the alleged violator must contact the bureau for purposes of admitting or denying responsibility;~~
~~The address and telephone number of the bureau;~~
~~Further, the citation shall inform the alleged violator that he may do one of the following:~~
~~Admit responsibility for the municipal civil infraction within the time specified for appearance and pay the specified fine by mail or in person;~~
~~Admit responsibility for the municipal civil infraction "with explanation" within the time specified for appearance by mail or in person, or by representation; or~~
~~Deny responsibility for the municipal civil infraction and requesting either an informal or formal hearing in the matter.~~
~~Establishment of municipal civil infractions violations bureau: The municipal civil infraction violations bureau for disposition of municipal civil infractions is the county 56A District Court Office, 1045 Independence Boulevard, Charlotte, Michigan.~~
(Ord. No. 230, § 4-9, 6-21-2012; Ord. No. 2016-242, § 11(4-37), 10-20-2016; Ord. No. 2016-243, § 10, 11-17-2016)

ARTICLE II. DOGS*

***State law reference**—Dog Law of 1919, MCL 287.266 et seq.

Sec. 4-4. [12] Dog control requirements.

(a) *Duty of owner or keeper.* Any person housing, harboring or feeding a dog in the city shall be deemed the lawful owner thereof and shall be responsible for compliance with the requirement of this section and with all applicable requirements of the Dog Law of 1919, MCL 287.266 et seq.

(b) *Running at large.* It is unlawful to permit a dog to run at large or unrestrained on public property, including city parks. It is also unlawful for the owner or keeper of any dog to permit or allow such dog to run or roam at large in the city away from the premises or enclosure of the owner or keeper of such dog, and not held properly on a leash.

(c) *Restraint required when on public property.* No person owning or in control of any dog shall allow the dog to enter upon any public sidewalk, street, or any other public property unless the dog is being held by a person with a leash, except as may be otherwise permitted by park rules. A first violation of this subsection shall be subject to a fine of $25.00 provided that the violation resulted in no physical harm. The second and all subsequent and all subsequent violations within a calendar year shall be subject to penalties for civil infractions as provided in section 1-__. ~~Where notice or citation of infraction is given to animal owners neglecting to lawfully employ a leash, first offenses within a calendar year, resulting in no physical harm, shall incur a fine of $25. Subsequent infractions shall be fined pursuant to general provisions.~~

[12] **Sec. 4-4. Dog control requirements.** Sections are rewritten for clarity and brevity.

(d) *Night confinement required.* Every dog between sunset of each day and sunrise of the following day shall be confined upon the premises of its owner or custodian, except when the dog is otherwise under the reasonable control of a responsible ~~some~~ person.

(e) *Confinement in front yard restricted.* No dog shall be kept, restrained, confined, or housed in the front yard of any single-family or two-family residence unless attended by a person who is also present in the front yard.

(f) *Destruction of property; trespassing.* It is unlawful for an owner or keeper to allow his dog to create a nuisance in any manner including, but not limited to, damage to or destruction of private property or trespassing on private property. ~~person to own, keep or have charge of any dog that by the destruction of property, or trespassing on others' property, becomes a nuisance~~. ~~Nuisance constitutes~~ Any action or occurrence which substantially interferes with an individual's ~~the~~ reasonable use or enjoyment of ~~another individual's~~ his property or which harms the community at large constitutes a nuisance under this subsection.

~~(g)~~ *Removal of feces.* Any person who owns, harbors, keeps, or is in charge of a dog that defecates on public property or on the private property of another without permission shall immediately remove and discard the feces in a sanitary manner. Feces may be placed in a bag designed for that purpose and deposited in a container, if any, provided and maintained in a city park designated for such purpose. ~~No person owning, harboring, keeping or in charge of any dog shall cause, suffer, or allow the dog to soil, defile, defecate, or to commit any nuisance on any public thoroughfare, sidewalk, passageway, bypass, play area, park, or any place where people congregate or walk, or upon any public property whatsoever, or upon any private property without permission of the owner of the property unless: The person who owns, harbors, keeps, or is in charge of a dog shall immediately remove all droppings deposited by such dog by a sanitary method. The person shall possess a container of sufficient size to collect and remove above-mentioned dog droppings and exhibit the container, if requested by any official empowered to enforce this section. The droppings removed from the afore-mentioned areas shall be disposed of by the person owning, harboring, keeping, or in charge of such dog in a sanitary method on the property of the person owning, harboring, or in charge of the dog or in an appropriate container provided and maintained in a city park designated for such purpose.~~

(h) *Barking.* No owner of a dog shall permit continuous barking which disturbs another person.
(Code 1972, §§ 54-1, 54-2, 54-5, 54-8; Code 2006, §§ 4-31, 4-32, 4-33, 4-35; Ord. No. 230, §§ 4-4, 4-31, 4-32, 4-33, 4-35, 6-21-2012; Ord. No. 2016-142, § 8, 10-20-2016; Ord. No. 2016-243, § 8, 11-17-2016)

State law reference—Supervision of dogs, MCL 287.264; injuries by dogs and liability of owners, MCL 287.351; trespass by dogs, MCL 287.279; leash requirements, MCL 287.262.

~~[13]Sec. 4-31. Ownership.~~
~~Any person housing, harboring or feeding a dog in the city shall be deemed the lawful owner thereof and shall be responsible for the dog.~~
~~(Code 1972, § 54-2; Code 2006, § 4-31; Ord. No. 230, § 4-31, 6-21-2012)~~
~~Sec. 4-32. Permitting dog to run at large.~~
~~It is unlawful for the owner or keeper of any dog to permit or allow such dog to run or roam at large away from the premises or enclosure of the owner or keeper of such dog, and not held properly on a leash, within the limits of the city.~~
~~(Code 1972, § 54-4; Code 2006, § 4-32; Ord. No. 230, § 4-32, 6-21-2012)~~
~~Sec. 4-33. Confinement at night.~~
~~Every dog between sunset of each day and sunrise of the following day shall be confined upon the premises of its owner or custodian, excepting when the dog is otherwise under the reasonable control of some person.~~
~~(Code 1972, § 54-5; Code 2006, § 4-33; Ord. No. 230, § 4-33, 6-21-2012)~~
~~Sec. 4-35. Destruction of property; trespassing.~~
~~It is unlawful for any person to own, keep or have charge of any dog that by the destruction of property or trespassing on others' property becomes a nuisance.~~
~~(Code 1972, § 54.8; Code 2006, § 4-35; Ord. No. 230, § 4-35, 6-21-2012)~~

Sec. 4-5. [14] License and tag required; procedure.

(a) Dogs four months old or older must be licensed by the city as provided in this section and must at all times wear a collar with an attached identifying tag of a type approved by the state department of agriculture. No person shall remove the collar or license tag from the dog without the owner's permission. This section does not apply to hunting dogs while engaged in lawful hunting and accompanied by the owner.

(b) On or before June 1 of each year, the owner of a dog four months or older shall apply in writing for a city dog license. The owner of a dog that attains the age of four months after June 1 shall have 30 days from the date the dog attains the age of four months to obtain a license as required by this section.

(c) The application for a license shall contain the breed, sex, color, markings, and the address of the previous owner of the dog.

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[13] **Sec. 4-31, 4-32, 4-33, 4-35.** These four sections (and others) existed as duplicates of section 4-4 when this chapter was updated in 2016. The update failed to address the duplication, so section 4-4 shown above had 2016 provisions and sections 4-31, 4-32, 4-33, 4-35 had similar provisions dated from 2012. I have stricken the 2012 duplicates in favor of the 2016 inadvertent and indirect amendment of them as shown in section 4-4 above.

[14] **Sec. 4-5. License and tag required; procedure.** Section is rewritten for clarity and brevity.

(d) The application for license shall be accompanied by a valid certificate of vaccination signed by a licensed veterinarian evidencing vaccination of the dog for rabies with a vaccine approved by the federal department of agriculture. The license fee established by the county shall also be submitted with the application.

(e) Owners may apply for a license at City Hall between January 1 and February 28. Thereafter, the application must be made at the appropriate county office.

~~It is unlawful for any person to own or harbor a dog four months old or older unless the dog is licensed To own any dog four (4) months old or older that does not at all times wear a collar with an identifying tag approved by the Director of the Michigan Department of Agriculture attached as provided, except when engaged in lawful hunting accompanied by its owner; of (c) To remove any collar and license tag from a dog, except the owner.~~
~~License Application: On or before June 1 of each year, the owner of a dog 4 months or older shall apply in writing for a license for each dog owned or kept by the owner. The application for a license shall be accompanied by proof of vaccination of the dog for rabies by a valid certificate of vaccination for rabies, with a vaccine licensed by the United States Department of Agriculture, signed by an accredited veterinarian. The owner of a dog that attains the age of four (4) months after June 1st shall have (30) days to obtain a license. The application for a license shall contain the breed, sex, color, markings, and the address of the previous owner of the dog.~~
~~Owners may apply for a license at City Hall starting January 1 through February 28, after which all licenses must be applied for at the county.~~
~~License Fees: The license fees are set by the county~~
(Ord. No. 230, § 4-5, 6-21-2012)
State law reference—Licensure and control of dogs, MCL 287.262; identification and location of unlicensed dogs, MCL 287.277.

Sec. 4-6. [15] Dangerous dogs.

It is unlawful for any person owning, possessing or having charge of any dog known to be a dangerous dog to persons or property to permit or allow the dog to be at large in the city at any time.

~~(b) As used in this section, the term "dangerous dog" means a dog that bites or attacks a person, or a dog that bites or attacks and causes serious injury or death to another dog while the other dog is~~

[15] **Sec. 4-34. Dangerous dogs.** See preceding footnote regarding duplication in the animal chapter. The same applies here. Section 4-6 and 4-34 both existed as duplicates in the prior code. The only difference is that these two sections were not amended by the 2016 ordinance. Duplication is stricken as shown and, in addition, the definition of dangerous dog is moved to the definitions section of this chapter.

~~on the property or under the control of its owner. However, a dangerous dog does not include any of the following:~~

~~(1) A dog that bites or attacks a person who is knowingly trespassing on the property of the animal's owner.~~

~~(2) A dog that bites or attacks a person who provokes or torments the animal.~~

~~(3) A dog that is responding in a manner that an ordinary and reasonable person would conclude was designed to protect a person if that person is engaged in a lawful activity or is the subject of an assault.~~

(Code 1972, § 54-6; Code 2006, §§ 4-6, 4-34; Ord. No. 230, §§ 4-6, 4-34, 6-21-2012)

State law reference—Dangerous animals, MCL 287.321 et seq.

~~Sec. 4-6. Dangerous dogs~~

~~It is unlawful for any person owning, possessing, or having charge of a dog known to be dangerous dog to persons or property to permit or allow the dog to be at large in the city at any time.~~

~~(b) As used in this section, the term "dangerous dog" means a dog that bites or attacks a person, or a dog that bites or attacks and causes serious injury or death to another dog while the other dog is on the property or under the control of its owner. However, a dangerous dog does not include any of the following:~~

~~(1) A dog that bites or attacks a person who is knowingly trespassing on the property of the animal's owner.~~

~~(2) A dog that bites or attacks a person who provokes or torments the animal.~~

~~(3) A dog that is responding in a manner that an ordinary and reasonable person would conclude was designed to protect a person if that person is engaged in a lawful activity or is the subject of an assault.~~

~~(Code 1972, 54-6; state law Reference - Dangerous Animals, MCL 287.321; Ord. No. 230, § 4-6, 6-21-2012)~~

Sec. 4-36. Seizure of dogs in violation.

(a) Any peace officer or any special officers appointed by the city manager or designee shall have authority to catch and take into his control each and every dog running at large within the limits of the city and as soon as practicable make arrangements to transfer control of the animal to county animal control.

(b) In cases where a sworn complaint of the existence of a dangerous animal held on private property have been made, any peace officer or any special officers appointed by the city council shall have authority to catch and take into their control each and every such dangerous animal on such property and, as soon as practicable make arrangements to transfer control of the animal to county animal control.

(Code 1972, § 54.9; Code 2006, § 4-36; Ord. No. 230, § 4-36, 6-21-2012; Ord. No. 2016-242, § 10, 10-20-2016)

Chapter 6

BUILDINGS AND CONSTRUCTION

State law reference— Stille-DeRossett-Hale Single State Construction Code Act, MCL 125.1501 et seq.; dangerous buildings, MCL 125.538 et seq.

Sec. 6-31. Construction code enforcement; designation of flood prone hazard areas.

(a) Pursuant to the provisions of ~~Public Act No. 230 of 1972~~ the Stille-DeRossett-Hale Single State Construction Code Act, MCL 125.1501 et seq., the city hereby designates the county building department as the enforcing agency to discharge the responsibilities of the city under such act, including specifically Appendix G, Flood-Resistant Construction, of the Michigan Building Code. The county has assumed responsibility for the administration and enforcement of such act throughout the corporate limits of the city commencing December 1, 1989, and continuing.

(b) The federal emergency management agency flood insurance study titled "Eaton County, Michigan—All Jurisdictions" and dated November 26, 2010. The flood insurance rate map panel numbers 26045C, 0200E, 0213E, 0325E, 0326E, dated November 26, 2010, are adopted by reference for the purpose of administration of the state construction code and declared to be part of section 1612.3 of the Michigan Building Code, and to provide the content of the "flood hazards" section of Table R301.2(1) of the Michigan Residential Code.
(Code 2006, § 6-31; Ord. No. 131, § 61-1, 11-13-1989; Ord. No. 10-225, § 1(1—3), 11-18-2010)

Sec. 5-35. [16] Swimming pool standards and specifications.

(a) *Fencing.* Pools in the city shall be surrounded by fencing that is at least four feet high. The space between the bottom of the fence and the ground must be two inches or less. In all other respects, pool fencing shall comply with the Michigan Residential Code. ~~According to the Michigan Residential Code, fencing is required to surround your pool and be a minimum of 4 feet high, with the space between the bottom of the fence and the ground 2 inches or less.~~

(b) *Gates.* All entrances to the pool area must open outward, away from the pool. Each gateway must have a self-closing and self-latching device attached to it.

(c) *Access ladders.* Access ladders leading to the pool must be removable or must be locked in a position so they cannot be used by children to reach the water.

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[16] **Sec. 5-35. Swimming pool standards and specifications.** The sewer charge exemption regrading the filling of swimming pools has been placed in the utilities chapter.

(d) *Electrical requirements.* Power outlets used to supply pool equipment must be at least five feet from the inside walls of the pool. The outlet must be a single plug type, have a locking design, and must have ground-fault protection.

(e) *Above-ground pool location.* An above-ground pool must be situated at least six feet from a side or rear lot line, except that on corner lots ~~or outside lot lines~~, the pool must ten feet from lot lines. It is recommended that the pool be no closer than ten feet to any building. Pools are not allowed in the front yard.

(f) *Permit required for installation of above-ground pool.* Building permits are necessary for any above-ground pool that is two feet deep or more to ensure all safety requirements are met.
(Ord. No. 13-235, §§ 5-31—5-35, 7-18-2013)

Chapter 8

BUSINESSES

ARTICLE I. IN GENERAL

Sec. 24-1. Peddlers and solicitors.

(a) *Peddling defined.* As used in this section, peddling means the act of traveling by foot, wagon, motor vehicle or any other type of conveyance from door to door, house to house, place to place, or street to street, or remaining in one place, carrying, conveying or transporting food products, goods, wares, merchandise, magazines or any other product, for the purposes of offering such products for immediate sale. Any person who engages in such acts shall be known as a peddler.

(b) *Soliciting defined.* As used in this section, soliciting means the act of going from door to door, house to house, place to place, or street to street, or remaining in one place, for the purpose of soliciting orders for the sale of goods, wares and merchandise, or personal property of any nature whatsoever for immediate or future delivery, or for services to be furnished or performed immediately or in the future. Such term includes the act of soliciting for or receiving funds or contributions of any kind from the public, including solicitation of funds based upon the representation that the funds will be used for a charitable purpose. Any person who engages in such acts shall be known as a solicitor. Newspaper carriers and persons traveling on a regularly established route at the request, expressed or implied, of their customers, shall not be considered to be engaged in the act of soliciting under the terms of this chapter.

(c) *Registration and vehicle license required.* It is unlawful for any person to engage in soliciting or peddling within the city without first registering with the city clerk and showing the city clerk a photo identification. Such photo identification shall be carried while soliciting or peddling and shown to anyone upon request. Furthermore, it is unlawful for any person to operate as a solicitor or peddler within the township without first having obtained a license for each vehicle or piece of equipment used in connection with such soliciting or peddling.
Code 2006, §§ 24-1, 24-2)
State law reference—Public Safety Solicitation Act, MCL 14.301 et seq.; Charitable Organizations and Solicitations Act, MCL 400.271 et seq.; transient merchants, MCL 445.371 et seq.

Sec. 8-197. Marihuana businesses and establishments prohibited.

Pursuant to MCL 333.27956, part of the Michigan Regulation and Taxation of Marihuana Act, 333.27951 et seq., the city prohibits marihuana businesses and establishments within its boundaries.
(Ord. No. 2019-245, art. I, 10-26-2019)

ARTICLE II. USED MOTOR VEHICLE DEALERSHIPS

State law reference—Dealers and wreckers must be licensed, MCL 257.248 et seq.

Sec. 8-101. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

B-3 commercial district means the corresponding district established by city zoning regulations.

Established place of business means premises actually and continuously occupied by a used motor vehicle dealer in the transaction of his business.

Junker means any motor vehicle which has been disassembled, dismantled, or damaged to the extent that it cannot operate under its own power and which requires major repairs or the installation of major parts to render it operable.

Junkyard means premises where junkers are stored or displayed or parts thereof disassembled, dismantled, or removed.

Used motor vehicle means every self-propelled vehicle which has been sold, bargained, exchanged, given away or title transferred from the person who first obtained an official certificate of title.

Used motor vehicle dealer means every person engaged in the business of selling, or disposing of, used motor vehicles. Such term shall include persons who sell, offer for sale, or dispose of used vehicles, title to which is in another person.
(Code 2006, § 8-101)

Sec. 8-102. Records.

Every used motor vehicle dealer shall maintain the records required by ~~section 251 of Public Act No. 300 of 1945~~ MCL 257.251, which records shall be open to inspection by any police officer of the city during reasonable business hours.
(Code 2006, § 8-102; Ord. No. 03-203, § 87-7, 2-10-2003)

Sec. 8-103. Maintenance of place of business.

(a) All sites for which a license shall have been granted under the provisions of this article shall be maintained in a neat, clean and orderly manner.

(b) No motor vehicle, trailer, semitrailer, trailer coach, or any other type of vehicle shall be parked in such a manner, or in such a place, as to prevent free and unobstructed vision to motorists driving from adjacent streets, alleys or private driveways onto intersecting streets.

(c) No used motor vehicles may be stored or displayed for sale on the premises unless located within the area designated on the application as the display area for the used motor vehicles.

(d) The motor vehicles shall be displayed in rows so that motor vehicles may be easily moved into and out of the display area.
(Code 2006, § 8-103; Ord. No. 03-203, § 87-8, 2-10-2003)

Sec. 8-104. Display of unsafe vehicles.

It shall be a violation of this article to display or expose for sale any used motor vehicle which is in such state of disrepair, in such mechanical condition, or without required equipment, as to be unsafe for operation on the public highways, or which would constitute a violation of state law if the vehicle were operated upon a public highway. The presence of such a motor vehicle upon the premises shall be deemed prima facie display or exposure for the purpose of sale.
(Code 2006, § 8-104; Ord. No. 03-203, § 87-9, 2-10-2003)

Sec. 8-105. Repair and servicing of vehicles.

The repair or servicing of motor vehicles, except as to minor repairs strictly incidental to the operation of a used motor vehicle business, shall be prohibited.
(Code 2006, § 8-105; Ord. No. 03-203, § 87-10, 2-10-2003)

Sec. 8-106. Vehicle registration and title transfer.

When a used motor vehicle dealer holds a used motor vehicle for resale and operates the vehicle only for purposes incident to resale and displays thereon the registration plates issued for such vehicle or when a used motor vehicle dealer does not drive such vehicle or permit it to be driven upon the highways, except for demonstration purposes incident to a resale, the dealer shall not be required to obtain transfer of registration of such vehicle or forward the certificate to the appropriate state agency, but such dealer shall retain and have in his immediate possession at all times such assigned certificate of title and upon transferring his title or interest to another person shall execute and acknowledge an assignment and warranty of title upon the certificate of title and deliver the same to the person to whom such transfer is made.
(Code 2006, § 8-106; Ord. No. 03-203, § 87-11, 2-10-2003)

Sec. 8-107. Penalties.

A violation of any provision of this article shall be a municipal civil infraction.
(Code 2006, § 8-107; Ord. No. 03-207, § 87-13, 6-9-2003)

Secs. 8-108—8-130. Reserved.

DIVISION 2. LICENSE

Sec. 8-131. Required.

No person shall engage in or carry out the business of used motor vehicle dealer unless that person has a valid used motor vehicle dealer license issued by the city pursuant to the provisions of this article for each and every separate office or place of business conducted by such person. (Code 2006, § 8-131; Ord. No. 03-203, § 87-3, 2-10-2003)

Sec. 8-132. Application.

Every applicant for a license to maintain or operate a used motor vehicle dealership shall file an application under oath with the city clerk's office upon a form provided by the city and pay a nonrefundable application investigation fee. Such fee shall be set by city council resolution and shall be renewed annually. The application shall contain the following information:

(1) The location, mailing address and all telephone numbers where the business is to be conducted.

(2) The name and residence address of each applicant.

a. If the applicant is a corporation, the names and residence addresses of each of the officers and directors of the corporation and of each stockholder owning more than ten percent of the stock of the corporation, the address of the corporation itself, if different from the address of the establishment, and the name and address of a resident agent in the county.

b. If the applicant is a partnership or limited liability company, the names and residence addresses of each of the partners or members and the organization itself, if different from the address of the dealership, and the name and address of a resident agent in the county.

(3) The two previous addresses, if any, immediately prior to the present address of the applicant.

(4) Proof that the applicant is at least 18 years of age.

(5) All criminal convictions other than misdemeanor traffic violations, including the dates of convictions, nature of the crimes and place convicted.

(6) The site upon which such business is to be conducted, and whether it is to be an established place of business.

(7) The length of time such dealer has been in business as a used motor vehicle dealer continuously prior to the application.

(8) The date and number of licenses from the secretary of state, authorizing the conduct of a business in used motor vehicles, and sales tax license number. No license shall be issued to any person not currently licensed by the secretary of state under ~~Public Act No. 300 of 1949~~ MCL 257.1 et seq. or who does not possess a sales tax license issued by the state department of revenue.

(9) The application shall state whether or not the applicant, in addition to the conducting of a used motor vehicle business, proposes to engage in the conducting of any other type of business on the premises for which a license is sought; and it shall particularly state whether or not the applicant proposes to operate a public garage, and whether he proposes to store or display junkers or operate a junkyard.

(10) A description of the site which meets the requirements of this article and the city zoning code, showing the location on the premises of the office, the location of the cars to be displayed for sale, and customer parking.
(Code 2006, § 8-132; Ord. No. 03-203, § 87-4, 2-10-2003; Ord. No. 03-207, § 87-4, 6-9-2003)

Sec. 8-133. Investigation; issuance.

the city clerk shall submit the application for a license under this article to the zoning administrator, police chief, and city manager. The zoning administrator shall determine if the premises is located in the proper zone and meets the requirements of the zoning code. The police chief shall determine if the license from the state is current and in force and shall determine if the criminal history is accurate. the city manager, or his designee, shall determine if the site meets the requirements of this article. If the city officials, within 30 days of application, indicate that the application meets with the requirements of this article and the zoning code, the license shall be issued.
(Code 2006, § 8-133; Ord. No. 03-203, § 87-5, 2-10-2003)

Sec. 8-134. Established place of business and paved display area required.

(a) No license shall be granted to any person who does not have at the time of application an established place of business, or unless he furnishes satisfactory evidence to the city clerk that, if a license is issued, such established place of business is immediately procurable.

(b) The display area for its automobiles shall be on a paved surface (asphalt or concrete), separate from the area reserved for parking for its customers. The asphalt shall have a minimum depth of two inches.
(Code 2006, § 8-134; Ord. No. 03-203, § 87-6, 2-10-2003)

Sec. 8-135. Revocation.

Any license issued under the terms of this article may be suspended or revoked for any of the following reasons after due notice and a hearing before the city council:

(1) Revocation by the secretary of state of the dealer's license issued by the secretary of state.

(2) Where the licensee is a corporation or partnership, any stockholder, officer, director or partner of the licensee has been guilty of any act or omission which would be cause for suspending or revoking a license issued to such stockholder, officer, director or partner as an individual.

(3) Two or more violations of the provisions of this article in any one-year period.

(4) The licensee, or principal stockholder, partner or member, is convicted of a felony.
(Code 2006, § 8-135; Ord. No. 03-203, § 87-12, 2-10-2003)

ARTICLE III. GARAGE SALES

Sec. 28-32. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Family means two or more persons related by blood, marriage or adoption, or a group not to exceed two persons not related by blood or marriage, occupying a single premises and living as a single housekeeping unit.

Front yard means the open space extending the full width of the lot, the depth of which is the minimum horizontal distance between the front lot line and the nearest point of the building.

Garage sale means and includes the public sale of any new or used tangible personal property which is conducted at a private residence in a residentially zoned district and which is advertised by any means, and shall include, by example and not by way of limitation, all sales entitled "garage sale," "yard sale," "lawn sale," "attic sale," or "rummage sale," when conducted on a private residence and shall not include the sale of a single automobile by means of a "for-sale" sign in the window.
(Code 2006, § 28-31; Ord. No. 100, § 1, 7-11-1977; Ord. No. 13-236, § 28-32, 7-18-2013)

Sec. 28-31. Purpose and intent

It is the intent of this article to regulate and control the holding of garage and yard sales, as they may become nuisances and safety hazards if not so regulated, and so that residential areas do not become commercialized through a proliferation of such sales and similar commercial activity.

(Ord. No. 13-236, § 28.31, 7-18-2013)

Sec. 28-35. [17] Exceptions.

The provisions of this article shall not apply to the following persons or sales:

(1) Persons selling goods pursuant to a court order license to sell.

(2) Persons acting in accordance with their duties as public officials.

(3) Any person selling or advertising for sale items of personal property which are each specifically named or described in the advertisement for sale and which separate items do not exceed five in number.

(Code 2006, § 28-35; Ord. No. 100, § 6, 7-11-1977)

Sec. 28-33. Number and manner of conduct of sales restricted; signs.

No person or family shall conduct any garage sale within the city except pursuant to the following regulations:

(1) *Number of sales annually.* No more than two garage sales may be conducted at any residential premises within any one calendar year without express approval of the planning commission.

(2) *Time and length of sale.* No garage or yard sale shall continue later than one-half hour after sunset nor begin prior to 8:00 a.m. No garage sale may be conducted, nor any goods publicly displayed, for a period of more than 72 consecutive hours.

(3) *Wholesale sales; sales of free samples.* No wholesale sales shall be made at any garage or yard sale. No salesmen's or free samples or the like shall be sold at any garage or yard sales.

(4) *Sign location; removal after sale.* All signs posted must be removed within 24 hours after the close of the garage sale. No signs shall be posted on city property or on telephone or light poles. All garage sale signs must comply with city sign and zoning regulations. ~~follow the provision of the zoning ordinance appendix 1-4 section 19.07~~

(5) *Traffic obstruction.* No garage or yard sale shall be situated so as to obstruct traffic, nor shall any sale patrons park their vehicles so as to obstruct traffic

[17] Sec. 28-35. Exceptions. This section was not addressed in amending ordinances so it is unclear whether it was intentionally retained or intended to be repealed. Please advise.

(6) *Excessive noise.* Excessive noise emanating from the area of the garage or yard sale is expressly prohibited.

(Code 2006, § 28-32; Ord. No. 100, § 2, 7-11-1977; Ord. No. 13-236, §§ 28-33, 28-36, 7-18-2013)

Sec. 28-34. Permit required; display.

It is unlawful for any person to conduct a garage sale in the city without first filing with the clerk the information specified in this article and obtaining from such clerk a permit to do so, to be known as a garage sale permit. Each permit issued under this article must be prominently displayed on the premises upon which the garage sale is conducted throughout the entire period of the permitted sale.

(Code 2006, § 28-33; Ord. No. 100, § 3, 7-11-1977; Ord. No. 13-236, § 28-34, 7-18-2013)

Sec. 28-35. Information required.

The information to be filed with the clerk pursuant to this article shall be as follows:

(1) The name of the person conducting the sale.

(2) The name of the owner of the property on which the sale is to be conducted, and the consent of the owner if the applicant is other than the owner.

(3) The location at which the sale is to be conducted.

(4) The number of days of the sale.

(5) The date and nature of any past sale.

(6) The relationship or connection the applicant may have had with any other person conducting the sale and the dates of such sale.

(7) Whether or not the applicant has been issued any other vendor's license by any local, state, or federal agency.

(8) A sworn statement or affirmation by the person signing that the information therein given is full and true and known to him to be so.

(Code 2006, § 28-34; Ord. No. 100, § 4, 7-11-1977)

[18] ARTICLE IV. MASSAGE ESTABLISHMENTS

[18] **Art. IV. Massage Establishments.** Consider adopting Mich. Adm. Rules R338.751, prohibited conduct, and R338.752, client records.

State law reference—Massage therapy, MCL 333.17951 et seq.; therapist licensing preempted by state law, MCL 333.17967.

DIVISION 1. GENERALLY

Sec. 8-31. Definitions.

The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

Apprentice or student means any person who, under the guidance of an instructor in a massage school or in a massage establishment, is being trained or instructed in theory, method or practice of massage therapy.

Employee means any individual who is paid by the operator or customer for performing any service for the operator or customer at the licensed location.

Instructor means any person who gives lessons or teaches theory, method or practice of massage therapy.

Massage establishment means any place or establishment where a massage is offered or performed, whether as the primary or secondary purpose of a business.

Massage school means any accredited or licensed public or private community college, college, university, vocational school, or occupational school that meets the minimum standards and curriculum, in compliance with ~~section 16148 of Public Act No. 368 of 1978~~ MCL 333.16148:

Massage therapist means any individual engaged in the practice of massage therapy.

Operator means any person who owns, manages, supervises or is any way in the charge of the operations of a massage establishment or massage school.

Practice of massage therapy means the application of a system of structured touch, pressure, movement and the holding to the soft tissue of the human body in which the primary intent is to enhance or restore the health and well-being of the client. The term "practice of massage therapy" includes complementary methods, including the external application of water, heat, cold, lubrication, salt scrubs, body wraps or other topical preparations; and electromechanical devices that mimic or enhance the actions possible by the hands. The term does not include medical diagnosis; practice of physical therapy; high-velocity, low-amplitude thrust to a joint; electrical stimulation; application of ultrasound; of prescription of medicines.
(Ord. No. 13-239, § 8-31, 7-18-2013)

Sec. 8-32. [19] License required; minimum age for licensure.

Any person who owns, conducts, manages or is in charge of an existing or proposed massage establishment or massage school shall obtain a license from the city. ~~It is hereby declared to be unlawful for any person to engage in the business of a massage establishment school as, defined herein, without first obtaining a license as provided in this chapter.~~ No license shall be issued under this article to any applicant unless applicant be over 18 years of age.
(Ord. No. 13-239, § 8-32, 7-18-2013)

Sec. 8-39. [20] Exception to instructor license requirement.

This requirements of this article regarding instructor's licenses ~~section~~ shall not apply to licensed individuals engaged in the personal performance of the duties of their respective profession including physicians, surgeons, chiropractor, osteopaths, physical therapists, registered nurses, athletic trainers of any organized athletic team or an individual operating under the direct personal supervision of such licensed person, or a massage therapist, who meet one or more of the following criteria:

(1) Proof of graduation from a school of massage licensed by the state.

(2) Official certified transcripts verifying completion of at least 300 hours of message training from an American college or university, plus three references from massage therapists who are professional members of a recognized message association.

(3) Certificate of professional membership in the American Massage Therapy Association, International Myomassethics Federation or any other recognized message therapy association with equivalent professional membership standards.

(Ord. No. 13-239, § 8-39, 7-18-2013)

Sec. 8-33. [21] Contents of license application; amendments.

(a) In addition to the information required when applying for a business license, the application for a massage establishment or massage school license shall contain the following information:

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[19] **Sec. 8-32. License required.** Duplicative and unnecessary text is stricken.

[20] **Sec. 8-39. Exception to instructor license requirement.** I have limited this exceptionthe instructor license since the business license would be required regardless of the credentials of the owner, correct?

[21] **Sec. 8-33. Contents of license application; amendments**. There are no provisions in this chapter addressing what is generally required in business license applications. Also, in subsection (a)(4)and (a)(5), would it be better to simply list the state license number of each therapist?

(1) Name and address of the applicant and the name and address of the owner of the massage establishment or massage school. If a partnership, the name and address of each partner thereof. If a corporation, the name and address of the local officials, managing employees and the resident agent of such corporation.

(2) Whether applicant has ever been convicted of a violation of this chapter or has ever been convicted of any felony.

(3) The place where the massage establishment or massage school is to be established.

(4) A list of the formal training in massage completed by each masseur/masseuse employed in the establishment with dates of completion or award of degree.

(5) A listing of the massage-related experience of each masseur or masseuse.

(b) If any information provided in the application changes, the licensee shall inform the city clerk, city fire chief, city zoning official and the city police chief of such changes.
(Ord. No. 13-239, § 8-33, 7-18-2013)

Sec. 8-34. Procedure; investigations and submission to city council; hours of operation.

(a) The application for license shall be made in duplicate, both copies of which shall be filed with the city clerk. The city clerk shall notify the following city officials to make the investigation indicated:

(1) The city police chief will investigate the applicant’s criminal history to determine if the applicant is without a felony.

(2) The city zoning administrator shall ascertain from an investigation of the location where applicant proposes to operate a massage establishment or massage school whether such operation would be violate any building or zoning law or regulation.

(3) The city fire chief shall determine from an investigation of the location where applicant proposes to operate such massage establishment or massage school whether such operation would violate any fire safety ordinance or statute.

(b) Upon the city clerk's determination that the applicant meets the requirements contained in this chapter, and upon receipt of approvals from the city police chief, city zoning official and the city fire chief, the city clerk shall submit one copy of the application to the city council with a clerk's recommendation of approval.

(c) The city council shall approve or deny the license application. The hours of operation shall be set by the city council and be listed on the license granted to any applicant. The hours of operations may be modified by the council on its own motion, or subject to the council's discretion in response to a request by the applicant or licensee.
(Ord. No. 13-239, § 8-34, 7-18-2013)

Sec. 8-35.[22] License fee.

The annual license fee for each instructor shall be $10.00. The annual license fee for an owner/operator and for each massage establishment and massage school shall be $50.00. In the event that a massage establishment and massage school are being operated at the same address, only one fee of $50.00 shall be charged.
(Ord. No. 13-239, § 8-35, 7-18-2013)

Sec. 8-36.[23] Display of license; transfer of location or ownership.

(a) Display of license. The license granted by the city shall be displayed in plain view of all patrons together with the license/proof of graduation from a school of massage licensed by the state.

(b) New Location. If a licensee shall move his place of business to another location within the city, the license may be transferred to the new location upon application to the city clerk, giving street and number of new location, and the approval thereof being given by the city police chief, city zoning official and the city fire chief and city council. ~~(should this new location require a new fee).~~

(c) New Owner. When the business of a licensee is sold or transferred, the licensee or licenses of such licensee may be transferred to the new owner or transferee upon application to the city clerk giving new owner or transferee name with the consent of the city police chief, city zoning official and the city fire chief and city council.
(Ord. No. 13-239, § 8-36, 7-18-2013)

Sec. 8-37.[24] Penalties and other remedies.

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[22] **Sec. 8-35. License fee.** Is the first annual fee submitted with the license application?

[23] **Sec. 8-36. Display of license; transfer of location or ownership.** See stricken text which appears to be a staff question. Are there fees associated with these license and location changes?

[24] **Sec. 8-37. Penalties and other remedies.** Section is rewritten to eliminate unnecessary text.

Violations of this article are misdemeanors punishable as provided in section 1-__. A second violation shall also be grounds for revocation of any license issued under this article.

~~It is unlawful for any person to knowingly allow the use of any place, business, establishment or premises owned, operated, leased or managed by him to be used in the violation of any provisions of this section or any other ordinances of the city or any state law.~~
~~It shall be a misdemeanor for any person to violate any provisions of this section or to aid, assist or abet another to violate such provisions, rules or regulations.~~
~~In addition to any other penalty provided under this section, any licensee hereunder who shall be convicted a second time of a violation of any of the provisions in this chapter shall upon such second conviction forfeit any and all rights or privileges granted or conferred by any license issued by virtue of this chapter.~~
(Ord. No. 13-239, § 8-37, 7-18-2013)

Sec. 8-38. Enforcement; inspections.

(a) The city clerk shall have the authority to request the assistance of any department designated by the city manager in order to enforce these rules and regulations.

(b) Every establishment being operated as a massage establishment or massage school shall be open for inspection by duly authorized representative of any city department concerned with the licensing and supervising of such establishment during operating hours for the purpose of enforcing any of the provisions of this chapter or other ordinances or regulation of the city relating to the public health, safety and welfare.

(c) It is unlawful for any person to refuse entry to premises in which a massage establishment or massage school is being operated, by duly authorized city, county and state representative for the purpose of making lawful inspections.
(Ord. No. 13-239, § 8-38, 7-18-2013)

Sec. 8-40. Maintenance of premises.

(a) Every establishment shall be kept clean and in a sanitary condition at all times. All tables and surfaces on which the practice of massage therapy is performed shall be covered by a permanent, washable material.

(b) The premises used for a massage establishment shall be well-lighted and ventilated. They shall be kept clean and the furniture and equipment shall be maintained in a safe and sanitary condition. There shall be adequate supply of running hot and cold water during business hours. Bathing devices shall be thoroughly cleaned before the use of each patron.
(Ord. No. 13-239, § 8-40, 7-18-2013)

Sec. 8-41. Advertising restricted.

It is unlawful for any person to advertise the offering of the practice of massage therapy unless the advertised establishment is duly licensed.
(Ord. No. 13-239, § 8-41, 7-18-2013)

Sec. 8-42. Scope of service.

(a) No apprentice or student shall perform the practice of massage therapy unless in the presence and under the supervision of an instructor.

(b) Service in massage establishments licensed under this section shall be limited to exercise, baths and the practice of massage therapy. Medical treatment of any kind shall not be given to any patron without a prescription from a licensed physician. The use of any medical or electrical devices other than heat lamps and sunray lamps is prohibited.

(c) The private parts of patrons must be covered when in the presence of an employee, massage therapist. Any contact with a patron's genital areas are prohibited.
(d) (Ord. No. 13-239, § 8-42, 7-18-2013)

Sec. 8-43. - Disease control.

(a) No person who has any visible symptoms of a communicable disease, such as a rash, discharge, or fever may be attended by a licensee under this section or any person engaged in the practice of massage therapy.

(b) Each applicant for an apprentice or student certificate of registration, employee or applicant for an instructor's or operator's license under this section or a renewal thereof, shall present to the city clerk a certificate from a register physician, certifying that he is free from communicable disease. A current certificate shall also be provided prior to the renewal of any license. If the city council receives information that any individual defined in section 34-1 may no longer be free of a communicable disease then the council may in its discretion direct that such individual terminate the presence at the licensed establishment shall be a basis for the immediate suspension of the license and closure of the business until compliance is obtained.

(c) The skin of the hands of those attending patrons shall be clean and in healthful condition, and the nails shall be kept short. The hands shall be washed thoroughly before providing the patron any service. A minimum of one separate wash basin shall be provided in each massage establishment for the use of employees of any such establishment. There shall be provided, at each wash basin, sanitary towels placed in permanently installed dispensers.
(Ord. No. 13-239, § 8-43, 7-18-2013)

Sec. 8-44. Minors.

(a) The practice of massage therapy shall not be performed on any individual under the age of 18 years, and it shall be the obligation of the operator and its employees to ascertain the age of any individual requesting massage therapy, and if such individual is unable to provide proof of age of 18 or older, it shall be a violation of this section to provide the practice of massage therapy for or on behalf of this individual. Unless the person under the age of 18 is accompanied by a parent or guardian during the massage/treatment and signs a waiver, this provision shall not apply.

(b) No person under the age of 18 years old shall enter or remain, nor shall the owner or operator allow any such person to enter or remain, on the premises of a massage establishment at any time.

(c) No person operating a massage school or massage establishment, nor any instructor, shall permit training of an apprentice or student who has not attained the age of 18 years.

(d) It is unlawful for any person to falsify his age in order to obtain training as an apprentice of student in a massage school or massage establishment.
(Ord. No. 13-239, § 8-44, 7-18-2013)

Sec. 8-45. Linens, wearing apparel, etc.

(a) All robes, towels, blankets and linens furnished for the use of one patron shall be thoroughly laundered before being offered to another.

(b) Nontransparent uniforms or garments covering the torso shall be worn by the instructor, operator, massage therapist, employee or apprentice while attending patrons, which shall be of washable material, and shall be kept in clean condition. The sleeves shall not reach below the elbow.
(Ord. No. 13-239, § 8-45, 7-18-2013)

Sec. 8-46. Areas for the practice of massage therapy restricted.

(a) The practice of massage therapy shall not be performed in a massage establishment or massage therapy school in a private room which is closed to other persons by means of a door containing any latch or locking device. However, reasonable measures may be used to offer privacy to patrons such as partitions, stalls, curtains and the like.

(b) No massage establishment shall be conducted in direct connection with living quarters.
(Ord. No. 13-239, § 8-46, 7-18-2013)

Sec. 8-47. Students prohibited from the practice of massage therapy upon each other.

Students at a massage school shall be prohibited from performing the practice of massage therapy on each other
(Ord. No. 13-239, § 8-47, 7-18-2013)

Sec. 8-48. Protection of patron.

Any person providing any service to a patron shall exercise every precaution for the safety of such patron. They shall watch for early signs of fatigue or weakness and immediately discontinue whatever form of service is being given upon the appearance of such signs.
(Ord. No. 13-239, § 8-48, 7-18-2013)

Secs. 8-49—8-100. Reserved.

Chapter 10

EMERGENCY MANAGEMENT AND SERVICES

State law references—Emergency Management Act, MCL 30.401 et seq.; police and fire protection, MCL 41.801 et seq.; expenses for reimbursement for emergency response, MCL 769.1f; environmental remediation, MCL 324.20101 et seq.; appointed emergency manager, MCL 141.1549 et seq.

(Reserved)

Chapter 12

ENVIRONMENT

State law reference—Natural resources and environmental protection act, MCL 324.101 et seq.; liability for costs and damages of pollution remediation, MCL 324.20126; recovery of environmental response activity costs and damages, MCL 324.20126a.

ARTICLE I. IN GENERAL

(Reserved)

[25] ARTICLE II. HAZARDOUS MATERIALS CLEANUP COSTS

Sec. 2-181. Purpose.

In order to protect the citizens within the city from the dangers associated with a hazardous materials release, and in order to ensure that the cost of responding to a hazardous materials release is borne by the parties responsible for such release, the city hereby authorizes the imposition of charges to recover reasonable and actual costs incurred by the Potterville-Benton Township Fire Department in responding to calls for assistance in connection with such hazardous materials release.
(Code 2006, § 2-181; Ord. No. 00-188, § 52-20, 2-12-2001)

Sec. 2-182. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Fire department means the Potterville-Benton Township Fire Department.

Hazardous material includes, but is not limited to, a combustible liquid, an explosive, toxics, and corrosives. It also includes those materials declared to be hazardous under rules and regulations established by the federal environmental protection agency or the state department of environmental quality.

Release means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, leaching, dumping, or disposing into and about the environment.

[25] **Div 2. Cost recovery for cleanup of hazardous materials.** This division has been moved here from the administration chapter.

Responsible party means any individual, firm, corporation, association, partnership, unincorporated association, governmental entity, or other legal entity that is responsible for a release of a hazardous material, either actual or threatened, or that is an owner, tenant, occupant, or party in control of property onto which or from which hazardous materials release.
(Code 2006, § 2-182; Ord. No. 00-188, § 52-21, 2-12-2001)

Sec. 2-183. Imposition of charges.

When the fire department responds to a call for assistance in connection with a hazardous materials release, all costs or expenses incurred by the fire department in responding to such call shall be imposed upon the responsible party. Those costs and expenses include:

(1) All personnel-related costs incurred by the fire department as a result of responding to the hazardous materials incident. Such costs may include, but are not limited to, fire personnel wages and reimbursement costs paid to volunteer firefighters.

(2) Other expenses incurred by the fire department in responding to the hazardous materials incident, including, but not limited to the rental of machinery and equipment, the purchase of water, and replacement costs related to disposable personal protective equipment, extinguishing agents, and other supplies.

(3) Charges to the fire department imposed by any local, state, or federal government entities related to the hazardous materials incident.

(4) Costs incurred in accounting for all hazardous material incident-related expenditures, including billing and collection costs.

(5) All other costs or expenses incurred by the fire department as a result of responding to the hazardous materials incident.

(Code 2006, § 2-183; Ord. No. 00-188, § 52-22, 2-12-2001)

Sec. 2-184. Billing procedures.

(a) Following the response by the fire department to a hazardous materials release, or where the fire department responded to a call for assistance where a hazardous materials release was reasonably believed to have occurred, the fire chief shall submit a detailed listing of all known costs and expenses to the responsible party for payment. The invoice shall demand full payment within 30 days of receipt of the statement.

(b) Any additional costs or expenses that become known to the fire department following the transmittal of the statement to the responsible party shall be billed in the same manner on a subsequent statement to the responsible party.

(c) For any amounts due that remain unpaid after 30 days, the fire department shall impose a late charge of one percent per month, or for each fraction of a month.
(Code 2006, § 2-184; Ord. No. 00-188, § 52-23, 2-12-2001)

Sec. 2-185. Collection of charges; cumulative remedies.

(a) The charges assessed under this article shall constitute a lien on the property for which the fire service charges were incurred and the charges may be collected pursuant to the procedure as set forth at section 2-204.

(b) Notwithstanding subsection (a) of this section, the city may maintain proceedings in any court of competent jurisdiction to collect any monies remaining unpaid and shall have any and all other remedies provided by law for the collection of such charges.
(Code 2006, § 2-185; Ord. No. 00-188, § 52-24, 2-12-2001, Ord. No. 2016-242, § 4, 10-20-2016; Ord. No. 2016-243, § 4, 11-17-2016)

Chapter 14

FIRE PREVENTION AND PROTECTION

State law reference—State fire prevention code, MCL 29.1 et seq.; crimes related to fires, MCL 750.240 et seq.; crimes related to explosives and bombs, MCL 750.200 et seq.; explosives act, MCL 29.41 et seq.

ARTICLE I. IN GENERAL

(Reserved)

ARTICLE II. FIRE DEPARTMENT

DIVISION 1. GENERALLY

(Reserved)

[26]DIVISION 2. FIRE RUN CHARGES

Sec. 2-201. Purpose.

This division is adopted for the purpose of providing financial assistance to the city and the Township of Benton in the operation of a fire department from those receiving direct benefits from the fire protection service. It is the further purpose of this division to provide for full funding of the fire department operation which remains, in part, an at-large governmental expense based upon the general benefits derived by all property owners within the township and the city from the existence of a joint fire department and its availability to extinguish fires within the city and township and perform other emergency services.
(Code 2006, § 2-201; Ord. No. 03-205, § 52-5.1, 4-14-2003)

Sec. 2-202. Charges established.

(a) The following charges shall be due and payable to the city fire department from a recipient of any of the following enumerated services:

(1) Automotive fire	$500.00
(2) Rubbish fire	500.00
(3) Grass fire	500.00
(4) Grass fire set by trains	500.00
(5) House fire	500.00

[26] **Div. 3. Fire Run Charges.** This division has been moved here from the administration chapter.

(6) Fire in a commercial establishment	500.00
(7) Fire in an industrial or manufacturing establishment	500.00
(8) Fire in a multi-family building	500.00
(9) Hotel or motel fire	500.00
(10) Aircraft fire	500.00
(11) Train fire	500.00
(12) Truck fire	500.00
(13) Forest fire	500.00
(14) Other services not specifically enumerated	250.00-500.00
(15) Lift Assist	250.00

(b) All fire runs made where the fire was caused by actions which under ordinance would require a permit and no permit was obtained shall be charged twice the rate established.

(b) The charges set forth in this section may be amended by resolution of the city council upon recommendation by the city manager.
(Code 2006, § 2-202; Ord. No. 03-205, § 52-5.2, 4-14-2003, Ord. No. 2016-242, § 5, 10-20-2016; Ord. No. 2016-243, § 5, 11-17-2016)

Sec. 2-203. Exemptions.

The following properties and services shall be exempt from the charges set forth in section 2-202:

(1) False alarms regarding any property located within the city or township except after four false alarms occur to the same property within a 60-day period. At that point, all false alarms occurring shall be charged in accordance with the charges in section 2-202 for the structures existing on the premises for the next 12 months.

(2) Fire service performed outside the jurisdiction of the fire department under a mutual aid contract with an adjoining municipality.
(Code 2006, § 2-203; Ord. No. 03-205, § 52-5.3, 4-14-2003)

Sec. 2-204. Charges to constitute lien; enforcement of lien.

The charges imposed by this division shall constitute a lien on the property for which the fire service charges were incurred, including both real and personal property, and if not paid within three months after the charge is due, the official in charge of the collection thereof shall, prior to May 1 of each year, certify to the tax assessing officer of the city and township the facts of such delinquency, whereupon such officers shall enter such delinquent charges affecting the property within their jurisdictions upon the next general tax roll as a charge against the premises and the liens thereupon shall be enforced in the same manner as provided by law for delinquent and unpaid taxes.

(Code 2006, § 2-204; Ord. No. 03-205, § 52-5.4, 4-14-2003)

Sec. 2-205. Additional methods of collection.

Notwithstanding section 2-204, the City of Potterville-Township of Benton Fire Administrative Board shall be empowered to maintain proceedings in any court of competent jurisdiction to collect any monies remaining unpaid and shall have any and all other remedies provided by law for the collection of such charges.
(Code 2006, § 2-205; Ord. No. 03-205, § 52-5.5, 4-14-2003)

Sec. 2-206. Charges not exclusive.

The rates and charges imposed by this division shall not be exclusive of the charges that may be made by the city and township for the costs and expenses of maintaining a fire department, but shall only be supplemental thereto. Charges may additionally be collected by the city or township through general taxation after a vote of the electorate approving such charges or by a special assessment established under the state statutes pertinent thereto. General fund appropriations may also be made to cover such additional costs and expenses.
(Code 2006, § 2-206; Ord. No. 03-205, § 52-5.6, 4-14-2003)

Sec. 2-207. Service benefitting more than one person or property.

When a particular service rendered by the joint fire department directly benefits more than one person or property, the owner of each property so benefitted and each person so benefitted where property protection is not involved shall be liable for the payment of the full charge for such service outlined in this division. The interpretation and application of this section is delegated to the fire chief, subject only to appeal, within the time limits for payment, to the City of Potterville-Township of Benton Fire Administrative Board. This section shall be administered so that charges shall only be collected from the recipients of the service.
(Code 2006, § 2-207; Ord. No. 03-205, § 52-5.7, 4-14-2003)

ARTICLE III. FIRE REGULATIONS

DIVISION 1. GENERALLY

Sec. 14-31. [27] Fire code adopted.

Pursuant to the authority of the city under ~~provisions of section (k) of Public Act No. 279 of 1909~~ MCL 17.3(k), ~~the home rule cities act,~~ and for the purpose of prescribing regulations governing conditions hazardous to life and property from fire and explosion, the city has adopted by reference,

[27] **Sec. 14-31. Fire code adopted.** Does the city wish to specify the edition? The most current is 2018.

as though fully set forth in this section, the Fire Code, (NFPA1), published by the National Fire Prevention Association~~, as modified in this article, and as so adopted shall be known as the Potterville fire code~~, subject to the following amendments and modifications:

(1) Section 101.1. Title. These regulations shall be known as the fire code of the city, hereinafter referred to as section ___ of this Code. ~~"this code."~~

(2) Section 109.3. Violation Penalties. Persons who shall violate a provision of this code or shall fail to comply with any of the requirements thereof, or who shall erect, install, alter, repair, or perform work in violation of the approved construction documents or directives of the code official, or of a permit or certificate used under the provisions of this code, shall be guilty of a municipal civil infraction punishable by a fine of not more than $500.00. Each day the violation continues shall be deemed a separate offense.

(3) Section 109.3.1. Abatement of Violation. In addition to the imposition of penalties herein described, the code official is authorized to institute appropriate action to prevent unlawful construction or to restrain, correct, or abate a violation; or to prevent illegal occupancy of a structure or premises; or to stop an illegal act, con-duct of businesses, or occupancy of a structure on or about any premises.

(4) Section 111.4. Failure to Comply. Any per-son who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be liable to pay a fine of not less than $100.00 or more than $500.00.

(5) Section. 307.6. It is unlawful to burn rubbish or trash.

(6) The limits referred to in certain sections of the c of the city are hereby established as follows:

a. Section 3204.3.1.1: The limits as established by the state office of fire safety.

b. Section 3404.2.9.5.2: The limits as established by the state office of fire safety.

c. Section 3406.2.4.4: The limits as established by the state office of fire safety.

d. Section 3804.2: The limits as established by the state office of fire safety.

(Code 2006, §§ 14-31—14-33; Ord. No. 03-205, §§ 52-1—52-3, 4-14-2003; Ord. No. 14-236, 2-28-2014)

State law reference—State fire prevention code, MCL 29.1 et seq.; local rules must be consistent with state code, MCL 29.31; crimes relating to fires, MCL 750.200 et seq.

Secs. 14-34—14-60. Reserved.

[28]DIVISION 2. FIREWORKS

State law reference—Michigan Fireworks Safety Act, MCL 28.451 et seq.; regulation of novelties by local governments, MCL 28.453; regulation of fireworks by local governments, MCL 28.457.

Sec. 14-61.2[29]. Definitions

The following words and phrases when used in this chapter shall have the meanings respectively ascribed to them in this section, except where the context otherwise requires.

"APA Standards 87-1" means standard for construction and approval for transportation of fireworks, novelties, and theatrical pyrotechnics as published by the American Pyrotechnics Association.

Consumer fireworks means fireworks devices that are designed to produce visible effects by combustion and that are required to comply with the construction, chemical composition and labeling regulations promulgated by the federal consumer product safety commission under 16 CFR Parts 1500 and 1507 and that is listed in APA Standard 87-1, 3.1.2, 3.1.3, or 3.5. ~~As defined in HB 4293 & 4294~~ Consumer fireworks does not include low-impact fireworks.

Display fireworks means large fireworks devices that are explosive materials intended for use in fireworks displays and designed to produce visible or audible effects by combustion, deflagration, or detonation, as provided in 27 CFR 555.11, 49 CFR 172, and APA Standard 87-1, 4.1. ~~16 CFR 1500 and 1507, 49 CFR 172 and APA Standard 87-1 As defined in HB 4293 & 4294~~

Firework or fireworks means any composition or device, except for a starting pistol, a flare gun, or a flare, designed for the purpose of producing a visible or audible effect by combustion, deflagration, or detonation. Fireworks consist of consumer fireworks, low-impact ~~low-grade~~ fireworks, articles pyrotechnic, display fireworks, homemade fireworks, and special effects. ~~As defined in HB 4293 & 4294~~

Low-impact fireworks means ground and handheld sparkling devices as that phrase is defined under APA Standard 87-1, 3.1, 3.1.1.1 to 3.1.1.8, and 3.5. ~~one or more of the following: (i) ground and handheld sparking devices as that phrase is defined under APA Standard 87-1 3.1; (ii) novelties as defined under APA Standard 87-1 3.2; (iii) toy plastic or paper caps for toy pistols, (iv) toy pistols, toy cannons, toy canes, toy trick noisemakers, and toy guns, (v) flitter sparklers, and (vi) toy snakes. As defined in HB 4293 & 4294~~

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[28] **Div 2. Fireworks.** Much of this article is stricken due to the limitation on local regulation found in MCL 28.457.

[29] **Sec. 14-61.2. Definitions.** Definitions are conformed MCL 28.452. Also, note that the state definition of APA Standard 87-1 specifies the 2001 edition.

Minor means any individual who is less than 18 years of age

National holiday means the following legal public holidays:

1) New Year's Day, January 1

2) Birthday of Martin Luther King, the third Monday in January

3) Washington's birthday, the third Monday in February

4) Memorial Day, the last Monday in May

5) Independence Day, July 4

6) Labor Day, the first Monday in September

7) Columbus Day, the second Monday in October

8) Veterans Day, November 11

9) Thanksgiving Day, the fourth Thursday in November

10) Christmas Day, December 25

(Ord. No. 13-234, § 14-61.2, 6-20-2013)

Sec. 14-62. Exceptions to article provisions.

The possession, transportation, sale or use of blank cartridges or blank cartridge pistols for show or theater or for the training or exhibiting of dogs, or for signal purposes or athletic events or by railroads, or for the use by the militia or any organization of war veterans, shall be permitted notwithstanding the other provisions of this article.
(Code 2006, § 14-62; Ord. No. 03-205, § 52-4.2, 4-14-2003)

~~Sec. 14-63. Manufacture, sale, distribution and possession.~~
~~Except as otherwise permitted by state law, no person shall manufacture, sell, expose for sale, keep with intent to sell, distribute, transport, or possess any fireworks within the city.~~
~~(Code 2006, § 14-63; Ord. No. 03-205, § 52-4.3, 4-14-2003)~~

Sec. 14-64. [30] Ignition, discharge and use of consumer fireworks.

[30] **Sec. 14-64. Ignition, discharge and use of consumer fireworks.** Conformed to MCL 28.457. With the exception of New Year's Eve, the MCL 28.457 allows

A person shall not ignite, discharge or use consumer fireworks, except on the day preceding, the day of, or the day after a national holiday from 8:00 a.m. until 12:00 midnight and during the following additional times:

(1) On December 31 from 8:00 a.m. until 1:00 a.m. on January 1.
(2) On the Saturday and Sunday immediately preceding Memorial Day from 8:00 a.m. until midnight.
(3) On June 29 to July 5 from 8:00 a.m. until midnight on each of those days.
(4) On the Saturday and Sunday immediately preceding Labor Day from 8:00 a.m. until midnight.

(Code 2006, § 14-64; Ord. No. 03-205, § 52-4.4, 4-14-2003; Ord. No. 13-234, § 14-64, 6-20-2013)

~~**Sec. 14-65. Sale to minors.**~~

~~Notwithstanding any other law, regulation or ordinance, it is unlawful to sell, offer to sell, distribute, give or furnish any fireworks to any person under the age of 18 years.~~

~~(Code 2006, § 14-65; Ord. No. 03-205, § 52-4.5, 4-14-2003)~~

~~**Sec. 14-65.2 Possession of consumer firework by minor.**~~

~~A minor shall not possess consumer fireworks.~~

~~(Ord. No. 13-234, § 14-65.2, 6-20-2013)~~

~~**Sec. 14-66. Storage.**~~

~~The storage of fireworks at the site of a wholesaler, dealer, retailer, or jobber shall be regulated pursuant to the provisions of the state fireworks law, section 243d of Public Act No. 358 of 1968 (MCL 750.243d), which section, and any subsequent amendments, are hereby incorporated by reference and made a part of this Code.~~

~~(Code 2006, § 14-66; Ord. No. 03-205, § 52-4.6, 4-14-2003)~~

~~**Sec. 14-67. Labeling and packaging; seizure.**~~

~~All fireworks which are possessed, stored, sold, displayed, or distributed within the city shall be properly labeled and packaged as required by regulations of the state department of agriculture and the U.S. Consumer Product Safety Commission. Any fireworks which are improperly labeled, stored, or packaged are hereby declared to be contraband and subject to immediate seizure and destruction by the fire marshal and police chief, in addition to any other penalty provided in this Code.~~

~~(Code 2006, § 14-67; Ord. No. 03-205, § 52-4.7, 4-14-2003)~~

Sec. 14-68. Permit for public displays.

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use to continue only until 11:45 p.m. I have left the city's midnight cutoff in place.

(a) Grant; transferability. the city council may, upon receipt of written application, grant a permit for the supervised public display of fireworks by fair associations, amusement parks, or other organizations or groups approved by the city council, or permits for outdoor pest control or agricultural purposes. Applications for permits shall be made in writing on forms provided by the director of the department of state police, or by the police chief, and shall designate a competent operator approved by the police chief. The display shall be of such a character and so located, discharged or fired so as, in the opinion of the chief, after proper investigation, not to be hazardous to property or endanger any person. No permit granted under this section shall be transferable.

(b) Bond or certificate of public liability insurance. The permittee shall furnish a bond or certificate of public liability insurance in an amount deemed adequate by the police chief for the payment of all damages which may be caused to persons or property by reason of the permitted display.
(Code 2006, § 14-68; Ord. No. 03-205, § 52-4.8, 4-14-2003)

Sec. 14-69. Determination of violation; seizure.

If a police officer determines that a violation of this article has occurred, the officer may seize the consumer fireworks as evidence of the violation.
(Ord. No. 13-234, § 14-69, 6-20-2013)

Sec. 14-70. [31] Penalty.

Violations of this article are subject to a fine of $1,000.00, $500.00 of which shall be remitted by the city to law enforcement agency responsible for enforcing this article. ~~A violation of this article is a civil infraction, punishable by a fine of up to $500.00 plus the cost of prosecution. Following final disposition of a finding of responsibility for violating this article the city may dispose of or destroy any consumer fireworks retained as evidence in that prosecution. In addition to any other penalty a person that is found responsible for a violation of this article shall be required to reimburse the city for the cost of storing, disposing of or destroying consumer fireworks that were confiscated for a violation of this article~~
(Ord. No. 13-234, § 14-70, 6-20-2013)

[31] **Sec. 14-70. Penalty.** This penalty, and the disposition of it, is mandated by MCL 28.457. Should the enforcing agency be the city police department? Should the mandated portion actually be remitted (as stated in the statute) or simply earmarked for the department?

Chapter 16

HEALTH AND PUBLIC WELFARE

(Reserved)

Chapter 18

HUMAN RELATIONS

State law reference—Elliott-Larsen Civil Rights Act, MCL 37.2101 et seq.; housing discrimination, MCL 37.2501 et seq.

(Reserved)

Chapter 20

LAW ENFORCEMENT

State law reference—Commission on law enforcement standards act, MCL 28.601 et seq.; minimum employment standards, MCL 28.609.

ARTICLE I. IN GENERAL

(Reserved)

ARTICLE II. POLICE DEPARTMENT

(Reserved)

ARTICLE III. [32] MUNICIPAL CIVIL INFRACTIONS

***State law reference**—Municipal ordinance violations bureau, MCL 600.8396 et seq.; Revised Judicature Act of 1961, MCL 600.101 et seq.; municipal civil infractions, MCL 600.8701 et seq.

Sec. 18-31. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Authorized city official means a police officer or other personnel of the city authorized by section 18-37 to issue municipal civil infraction citations or municipal civil infraction violation notices.

Bureau means the city municipal ordinance violations bureau as established by this article.

Civil infraction means and references the violation of a particular statute for which the penalty is minor, such as a parking infraction.

Municipal civil infraction action means a civil action in which the defendant is alleged to be responsible for a municipal civil infraction.

[32] **Art. III. Municipal Civil Infractions.** I would like to see this article and the general penalty section from chapter 1 brought together. Consider a new article in the administration chapter 2 that contains both.

Municipal civil infraction citation means a written complaint or notice prepared by an authorized city official, directing a person to appear in court regarding the occurrence or existence of a municipal civil infraction violation by the person cited.

Municipal civil infraction violation notice means a written notice prepared by an authorized city official, directing a person to appear at the city municipal ordinance violations bureau and to pay the fine and costs, if any, prescribed for the violation by the schedule of civil fines adopted by the city, as authorized under ~~sections 8396 and 8707(6) of the act~~ MCL 600.8396 and MCL 600.8707(6)).

(Code 2006, § 18-31; Ord. No. 181, § 15-2, 4-10-2000; Ord. No. 2016-242, § 16, 10-20-2016; Ord. No. 2016-243, § 16, 11-17-2016)

State law reference—Similar definitions, MCL 600.8701.

Sec. 18-32. Warning letters and commencement of action.

(a) Prior to commencing a municipal civil infraction action, an authorized city official may send a warning letter by regular or certified mail to the alleged violator advising the recipient of the alleged municipal civil infraction and directing the alleged violation be corrected within 30 days of the date the warning letter was issued, or within a designated time of up to 30 days. If the authorized city official determines that the recipient has made substantial progress to correct the violation within the initially specified timeframe, the period to correct the violation may be extended in writing. If the violation is not corrected within the initially specified timeframe, the authorized city official may commence a municipal civil infraction action or issue a violation notice as permitted by this article. Nothing in the section shall be construed to require a warning letter prior to commencing a civil infraction action or issuing a violation notice.

(b) A municipal civil infraction action may be commenced for any violation of this Code designated by this Code as a municipal civil infraction upon the issuance by an authorized city official of a municipal civil infraction citation directing the alleged violator to appear in court or a municipal civil infraction violation notice directing the alleged violator to appear at the city municipal ordinance violation bureau.

(Code 2006, § 18-32; Ord. No. 181, § 15-3, 4-10-2000; Ord. No. 2016-242, § 17, 10-20-2016; Ord. No. 2016-243, § 17, 11-17-2016)

State law reference—Similar provisions, MCL 600.8703.

Sec. 18-33. Issuance and service of citations.

Municipal civil infraction citations shall be issued and served by authorized city officials as follows:

(1) The time for appearance specified in a citation shall be within a reasonable time after the citation is issued.

(2) The place for appearance specified in a citation shall be the district court for the county.

(3) Each citation shall be numbered consecutively and shall be in a form approved by the state court administrator. The original citation shall be filed with the district court. Copies of the citation shall be retained by the city and issued to the alleged violator as provided by ~~section 8705 of the act~~ MCL 600.8705.

(4) A citation for a municipal civil infraction signed by an authorized city official shall be treated as made under oath if the violation alleged in the citation occurred in the presence of the official signing the complaint and if the citation contains the following statement immediately above the date and signature of the official: "I declare under the penalties of perjury that the statements above are true to the best of my information, knowledge and belief."

(5) An authorized city official who witnesses a person commit a municipal civil infraction shall prepare and subscribe, as soon as possible and as completely as possible, an original and required copies of a citation.

(6) An authorized city official may issue a citation to a person if:

a. Based upon investigation, the official has reasonable cause to believe that the person is responsible for a municipal civil infraction; or

b. Based upon investigation of a complaint by someone who allegedly witnessed the person commit a municipal civil infraction, the official has reasonable cause to believe that the person is responsible for an infraction and the prosecuting attorney or city attorney approves in writing the issuance of the citation.

(7) Municipal civil infraction citations shall be served by an authorized city official as follows:

a. Except as otherwise provided by this section, an authorized city official shall personally serve a copy of the citation upon the alleged violator.

b. If the municipal civil infraction action involves the use or occupancy of land, a building, or other structure, a copy of the citation does not need to be personally served upon the alleged violator, but may be served upon an owner or occupant of the land, building, or structure by posting the copy on the land or attaching the copy to the building or structure. In addition, a copy of the citation shall be sent by first class mail to the owner of the land, building, or structure at the owner's last known address.

(Code 2006, § 18-33; Ord. No. 181, § 15-4, 4-10-2000)

State law reference—Similar provisions, MCL 600.8707.

Sec. 18-34. Citation contents.

(a) A municipal civil infraction citation shall contain the name and address of the alleged violator, the municipal civil infraction alleged, the place where the alleged violator shall appear in court, the telephone number of the court, and the time at or by which the appearance shall be made.

(b) Further, the citation shall inform the alleged violator that he may do one of the following:

(1) Admit responsibility for the municipal civil infraction by mail, in person, or by representation, at or by the time specified for appearance.

(2) Admit responsibility for the municipal civil infraction with explanation by mail by the time specified for appearance, or in person, or by representation.

(3) Deny responsibility for the municipal civil infraction by doing either of the following:

a. Appearing in person for an informal hearing before a judge or district court magistrate, without the opportunity of being represented by an attorney, unless a formal hearing before a judge is requested by the city.

b. Appearing in court for a formal hearing before a judge, with the opportunity of being represented by an attorney.

(c) The citation shall also inform the alleged violator of the following:

(1) That if the alleged violator desires to admit responsibility with explanation in person or by representation, the alleged violator must apply to the court in person, by mail, by telephone, or by representation within the time specified for appearance and obtain a scheduled date and time for an appearance.

(2) That if the alleged violator desires to deny responsibility, the alleged violator must apply to the court in person, by mail, by telephone, or by representation within the time specified for appearance and obtain a scheduled date and time to appear for a hearing, unless a hearing date is specified on the citation.

(3) That a hearing shall be an informal hearing unless a formal hearing is requested by the alleged violator or the city.

(4) That at an informal hearing the alleged violator must appear in person before a judge or district court magistrate, without the opportunity of being represented by an attorney.

(5) That at a formal hearing the alleged violator must appear in person before a judge with the opportunity of being represented by an attorney.

(d) The citation shall contain a notice in boldface type that the failure of the alleged violator to appear within the time specified in the citation or at the time scheduled for a hearing or appearance is a misdemeanor and will result in entry of a default judgment against the alleged violator on the municipal civil infraction.

(e) All issued citations/notices shall bear a boldfaced heading or subject line clearly identifying the document as a citation. All issued notices shall bear a boldfaced heading or subject line clearly identifying the document.
(Code 2006, § 18-34; Ord. No. 181, § 15-5, 4-10-2000; Ord. No. 2016-242, § 18, 10-20-2016; Ord. No. 2016-243, § 18, 11-17-2016)
State law reference—Similar provisions, MCL 600.8709.

Sec. 18-35. Municipal ordinance violations bureau.

(a) Established. the city hereby establishes a municipal ordinance violations bureau as authorized under ~~section 8396 of the act~~ MCL 600.8396 to accept admissions of responsibility for municipal civil infractions in response to municipal civil infraction violation notices issued and served by authorized city officials, and to collect and retain civil fines and costs as prescribed by this Code or any ordinance.

(b) Location; supervision; employees; adoption of rules and regulations. The bureau shall be located at the city office and is under the supervision and control of the city manager. The manager, subject to the approval of the city board, shall adopt rules and regulations for the operation of the bureau and appoint any necessary qualified city employees to administer the bureau.

(c) Disposition of violations. The bureau may dispose only of municipal civil infraction violations for which a fine has been scheduled by section 1-7(d) and for which a municipal civil infraction violation notice (as compared with a citation) has been issued. The fact that a fine has been scheduled for a particular violation shall not entitle any person to dispose of the violation at the bureau. Nothing in this article shall prevent or restrict the city from issuing a municipal civil infraction citation for any violation or from prosecuting any violation in a court of competent jurisdiction. No person shall be required to dispose of a municipal civil infraction violation at the bureau, and a person may have the violation processed before a court of appropriate jurisdiction. The unwillingness of any person to dispose of any violation at the bureau shall not prejudice the person or in any way diminish the person's right, privileges, and protection accorded by law.

(d) Bureau limited to accepting admissions of responsibility. The scope of the bureau's authority shall be limited to accepting admissions of responsibility for municipal civil infractions and collecting and retaining civil fines and costs as a result of those admissions. The bureau shall not

accept payment of a fine from any person who denies having committed the offense or who admits responsibility only with explanation, and in no event shall the bureau determine, or attempt to determine, the truth or falsity of any fact or matter relating to an alleged violation.

(e) Municipal civil infraction violation notices. Municipal civil infraction violation notices shall be issued and served by authorized city officials under the same circumstances and upon the same persons as provided for citations as provided in section 18-33. In addition to any other information required by this article or any other ordinance, the notice of violation shall indicate the time by which the alleged violator must appear at the bureau, the methods by which an appearance may be made, the address and telephone number of the bureau, the hours during which the bureau is open, the amount of the fine scheduled for the alleged violation, and the consequences for failure to appear and pay the required fine within the required time.

(f) Appearance; payment of fines and costs. An alleged violator receiving a municipal civil infraction violation notice shall appear at the bureau and pay the specified fine and costs at or by the time specified for appearance in the municipal civil infraction violation notice. An appearance may be made by mail, in person, or by representation.

(g) Procedure where admission of responsibility not made or fine not paid. If an authorized city official issues and serves a municipal ordinance violation notice and if an admission of responsibility is not made and the civil fine and costs, if any, prescribed by the schedule of fines for the violation are not paid at the bureau, a municipal civil infraction citation may be filed with the district court and a copy of the citation may be served by first class mail upon the alleged violator at the alleged violator's last known address. The citation shall comply in all particulars with the requirements for citations as provided by sections 8705 and 8709 of the act (MCL 600.8705, 600.8709), and shall fairly inform the alleged violator how to respond to the citation. (Code 2006, § 18-35; Ord. No. 181, § 15-6, 4-10-2000)

Sec. 18-36. Schedule of civil fines.

(a) A schedule of fines payable to the municipal ordinance violations bureau for admissions of responsibility by persons served with municipal ordinance violation notices is established in section 1-7(d).

(b) A copy of the schedule, as amended from time to time, shall be posted at the bureau.

(c) Unless another penalty is expressly provided for by this section or by any other city ordinance for the violation of any particular provision or section, every person found responsible by the judge or district court magistrate for a violation of any provision of a city ordinance designated as a municipal civil infraction shall pay a civil fine of not more than $500.00 plus costs, damages, and expenses as follows:

(1) A person found responsible by the judge or district court magistrate for any violation of a city ordinance charged as a municipal civil infraction shall pay the stipulated civil fine and costs to be determined by the court or magistrate, which may include all expenses, direct and indirect (including attorney fees) to which the city has been put in connection with the municipal civil infraction, up to the entry of the judgment. Costs of not less than $9.00 or more than $500.00 shall be ordered.

(2) In addition to ordering the defendant to pay a civil fine, costs, damages, and expenses, the judge or district court magistrate may issue such writs or injunctive orders as necessary to abate a nuisance as provided by ~~section 2940 of the act~~ MCL 600.2940, or issue any judgment, writ or order necessary to enforce the city ordinance as provided by ~~section 8302 of the act~~ MCL 600.8302.

(3) If a defendant fails to comply with an order or judgment issued pursuant to this section within the time prescribed by the court, the court may proceed under ~~sections 8729 and 8731 of the act~~ MCL 600.8729 and 600.8731). A defendant who fails to answer a citation or notice to appear in court for a municipal civil infraction is guilty of a misdemeanor and shall be punished by a fine of not more than $500.00 and costs of prosecution or by imprisonment for not more than 90 days, or both such fine and imprisonment.

(4) If a defendant does not pay a civil fine or costs or expenses or an ordered installment payment within 30 days after the date on which payment is due in a municipal civil infraction action brought for a violation involving the use or occupation of land or a building or other structure, the city may obtain a lien against the land, building or structure involved in the violation by recording a copy of the court order requiring payment of the fine, costs, and expenses with the county register of deeds containing the legal description of the property, which lien may be recorded and enforced in the manner provided by ~~section 8731 of the act~~ MCL 600.8731.

(5) In a municipal civil infraction action involving the use or occupancy of land or a building or other structure, a copy of the citation need not be personally served upon the alleged violator but may be served upon an owner or occupant of the land, building, or structure by posting the copy on the land or attaching the copy to the building or structure. In addition, a copy of the citation shall be sent by first class mail to the owner of the land, building, or structure at the owner's last known address.

(6) Each act of violation and every day upon which a violation shall occur shall constitute a separate offense.
(Code 2006, § 18-36; Ord. No. 181, § 15-7, 4-10-2000)

Sec. 18-37. Persons authorized to issue violation notices.

Any city police officer or county sheriff or deputy sheriff, the city building official, the city zoning administrator, and the city manager and his designees are authorized to issue municipal civil infraction citations or municipal civil infraction violation notices under this article. (Code 2006, § 18-37; Ord. No. 181, § 15-8, 4-10-2000)

Chapter 22

NUISANCES

State law reference—Public nuisances and abatement, MCL 600.3801 et seq.

ARTICLE I. IN GENERAL

(Reserved)

ARTICLE II. REFUSE, JUNK AND BLIGHT

***State law reference**—Abandoned vehicles, MCL 257.252 et seq.; littering, MCL 324.8901 et seq.

Sec. 12-31. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Blighted structure includes, without limitation, any dwelling, garage, or outbuilding, or any factory, shop, store, office building, warehouse or any other structure or part of a structure, which because of fire, wind, or other natural disaster, or physical deterioration, is no longer habitable as a dwelling, nor useful for the purpose for which it may have been intended.

Building materials include, without limitation, lumber, brick, concrete or cinderblocks, lumbering materials, electrical wiring or equipment, heating ducts or equipment, shingles, mortar, concrete, or cement, nails, screws, or any other materials used in constructing any structure.

Junk includes, without limitation, parts of machinery or motor vehicles, broken and unusable furniture, stoves, refrigerators or other appliances, remnants of wood, metal or any other cast-off material of any kind, whether or not the same could be put to any reasonable use.

Junk motor vehicles include, without limitation, any vehicle which is not licensed for use upon the highways of the state for a period in excess of 30 days, and shall also include, whether licensed or not, any motor vehicle which is inoperative for any reason for a period in excess of 30 days. There is excepted from this definition unlicensed, but inoperative, vehicles which are kept as the stock in trade of a regularly licensed and established dealer of new or used automobiles or other motorized vehicles.

Person includes all natural persons, firms, copartnerships, and corporations and all associations of natural persons, incorporated or unincorporated, whether acting by themselves, or by a servant, agent or employee. All persons who violate any of the provisions of this article, whether as

owner, occupant, lessee, agent, servant, or employee, shall, except as otherwise provided in this article, be equally liable as principals.

Trash, rubbish and refuse include any and all forms of debris not otherwise classified in this section.
(Code 1972, § 53-2; Code 2006, § 12-31)

Sec. 12-32. Purpose.

The purpose of this article is to combat the storage or accumulation of refuse, trash, rubbish, junk, junk vehicles, or building materials and the maintenance of blighted structures upon any private property within the city which tends to result in blighted and deteriorated neighborhoods, the spread of vermin and disease, and increase in criminal activity, and, therefore, is contrary to the public peace, health, safety and general welfare of the community.
(Code 1972, § 53-3; Code 2006, § 12-32)

Sec. 12-33. Dumping or storing trash on street or other public place.

No person shall dump, place or keep any trash, refuse or rubbish of any kind upon any street or public place of the city, unless the trash, refuse or rubbish is in a container for the purpose of rubbish collection by the city or by recognized rubbish collectors.
(Code 1972, § 53-4; Code 2006, § 12-33)

Sec. 12-34. Dumping or storing materials harboring vermin.

No person shall dump, place or keep any trash, refuse or rubbish of any kind, building materials or other materials upon any lot or premises in the city in a manner as to, or which does, harbor rats or other vermin or which serves as a breeding place for mosquitoes or other noisome insects; provided, however, that the prohibitions of this section shall not prevent the placing of building materials upon any lot or premises for the purposes of the building of any structure which is in the course of construction or is to be built within 90 days after such materials are placed upon the premises.
(Code 1972, § 53.5; Code 2006, § 12-34)

Sec. 12-35. Accumulation of trash or junk on private property.

It is unlawful for any person to store or to permit the storage or accumulation of trash, rubbish, junk, or junk vehicles on any private property in the city except within a completely enclosed building or upon the premises of a properly zoned licensed or approved junk dealer, junk buyer, dealer in used auto parts, or dealer in secondhand goods or junk.
(Code 1972, § 53-6; Code 2006, § 12-35)

Sec. 12-36. Blighted structures.

It is unlawful for any person to keep or maintain any blighted or vacant structure, dwelling, garage, outbuilding, factory, shop, store, or warehouse unless the same is kept securely locked, and the windows kept glazed or neatly boarded up and otherwise protected to prevent entrance thereto by unauthorized persons, or unless such structure is in the course of construction in accordance with a valid building permit issued by the city, and unless such construction is completed within a reasonable time.
(Code 1972, § 53-7; Code 2006, § 12-36)

Sec. 12-37. Storage of building materials.

It is unlawful for any person to store or permit the storage or accumulation of building materials on any private property, except in a completely enclosed building or except where such building materials are part of the stock in trade or business located on the property, or except when such materials are being used in the construction of a structure on the property in accordance with a valid building permit issued by the city, and unless such construction is complete within a reasonable time.
(Code 1972, § 53.8; Code 2006, § 12-37)

Sec. 12-38. Removal of junk vehicles by city; exception for vehicle awaiting repair; extensions.

(a) The mayor, city clerk or enforcement officer or the duly authorized representative of such officials may remove or cause to be removed any junk vehicle or parts thereof from any unenclosed private property after having notified, in writing, the owner or occupant of such property of his intention to do so at least 48 hours prior to such removal. Such junk vehicles or parts thereof shall be removed and disposed of in accordance with the law; the owner of blighted property may be billed for any associated costs.

(b) As an exception to the 30-day time limit established in the definition of junk vehicle, an inoperable vehicle may remain upon the premises of a motor vehicle repair garage for a period of 120 days rather than 30 days, with an extension of an additional 30-day period upon presentation to the enforcing officer of written proof that the offending vehicle is involved in insurance claims litigation or a similar matter and additional time is required for settlement before a vehicle can be moved.

(c) The cost of hauling away and disposing of the junk vehicles or parts thereof may be charged to the person who appears as owner or party in interest upon the last local tax assessment records of the city and shall be collected in the same manner as other taxes are collected.

(d) The city shall have a lien upon such lands for such expense, which shall be enforced in the same manner prescribed by state law providing for the enforcement of tax liens.

(e) Removal by the designated enforcement official pursuant to this section shall not excuse

or relieve any person of the obligation imposed by this article to keep his property free from storage or accumulation of junk vehicles or parts thereof, nor from the penalties for violation thereof.

(f) A resident may petition the city council to extend the 30-day time limit for remove of a junk vehicle. The city council may grant an extension only in exceptional circumstances, and in granting an extension may impose other requirements, such as requiring that it be enclosed within a building, requiring that it be covered by a manufactured car cover, and designating the location on the property in which the automobile may be stored. the city council, in granting an extension of time, may not grant an extension in excess of 120 days.
(Code 1972, §§ 53-9, 53-11; Code 2006, §§ 12-38, 12-39; Ord. No. 2016-242, § 12, 10-20-2016; Ord. No. 2016-243, 11-17-2016)

Secs. 12-40—12-60. Reserved.

ARTICLE III. NOXIOUS WEEDS*

***State law reference**—Noxious weeds, MCL 247.61 et seq.

Sec. 12-61. Cutting required.

(a) No person who is the owner, possessor, or occupier of lands within the city shall fail to cut down or pull out all ragweed (Ambrosia elatior L.), Canada thistle (Circum arvense), doddlers (any species of Cuscute), mustards (charlock, black mustard, and Indian mustard, species of Brassica or Sinapis), wild carrot (Cancus ca- rote), poison ivy (Rhus toxicondendron), poison sumac (Rhus vernix), or other noxious weeds, or any weed or grass, the height of which is ~~12~~ eight inches or greater, growing thereon or on the parkway adjacent to the streets or alleys of the city, as often in each year as shall be sufficient to prevent them from going to seed, and to prevent ragweed from going to blossom.

(b) No person shall release or cause to be released into the storm drainage system any substance not composed entirely of storm drain water, including, but not limited to, grass clippings, yard waste, animal waste, or any other non-water substance. Violations shall be subject to enforcement of general provisions.
(Code 2006, § 12-61; Ord. No. 104, § 53-11.1, 8-14-1978; Ord. No. 2016-242, § 13, 10-20-2016; Ord. No. 2016-243, § 13, 11-17-2016)

Sec. 12-62. Declaration of nuisance.

The noxious weeds described in section 12-61, or any tree, shrub, or plant, including weeds, which endangers public property or the health or safety of the public, are hereby declared to be a public nuisance.
(Code 2006, § 12-62; Ord. No. 104, § 53-11.2, 8-14-1978)

Sec. 12-63. Notice to abate.

The building inspector shall give written notice to the owner or occupier of the premises upon which such nuisance is located, or which adjoins that portion of a street or alley where such nuisance is located, to remove, trim, or dispose of the same within five days after service of such written notice.
(Code 2006, § 12-63; Ord. No. 104, § 53-11.3, 8-14-1978)

Sec. 12-64. Abatement by city upon failure to comply with notice.

If, at the expiration of the time limit in the notice provided for in section 12-63, the owner has not complied with the requirements thereof, the building inspector shall take such steps as, in his judgment, may be necessary to abate such nuisance. The cost of such abatement shall be charged against the premises, and the owner thereof, in accordance with the provisions of chapter 30.
(Code 2006, § 12-64; Ord. No. 104, § 53-11.4, 8-14-1978)

Sec. 12-65. Emergency abatement.

The building inspector may abate any public nuisance under this article without giving notice if the public health or safety requires immediate attention. The cost of abating such nuisance may be charged against the premises, and the owner thereof, in accordance with the provisions of chapter 30.
(Code 2006, § 12-65; Ord. No. 104, § 53-11.5, 8-14-1978)

Sec. 12-66. Right of entry.

The building inspector and his authorized representatives are hereby empowered to enter upon any premises in the city for the purpose of destroying noxious weeds under the provisions of this Code, and no person shall molest or interfere with the building inspector or his authorized representatives while he or they are engaged in destroying noxious weeds as provided in this article.
(Code 2006, § 12-66; Ord. No. 104, § 53-11.6, 8-14-1978)

Secs. 12-67—12-90. Reserved.

ARTICLE IV. NOISE*

***State law reference**—Motor vehicle mufflers, MCL 257.707 et seq.

Sec. 12-91. Purpose.

The making and creation of loud, unnecessary or unusual noises within the limits of the city is a condition which has existed for some time and the extent and volume of such noises is increasing. The making, creation or maintenance of such loud, unnecessary, unnatural or unusual noises which are prolonged, unusual and unnatural in their time, place and use affect and are a detriment to public health, comfort, convenience, safety, welfare and prosperity of the residents of the city. The necessity and the public interest for the provisions and prohibitions contained and enacted in this article is declared as a matter of legislative determination and public policy, and such provisions are in pursuance of and for the purpose of securing and promoting the public health, comfort, convenience, safety, welfare and prosperity and the peace and quiet of the city and its inhabitants.
(Code 2006, § 12-91; Ord. No. 145, § 55.1, 11-8-1993)

Sec. 12-92. Prohibited noise.

(a) It is unlawful for any person to create, assist in creating, permit, continue, or permit the continuance of any excessive, unnecessary, or unusually loud noise, or any noise which either annoys or disturbs a reasonable person of normal sensitivities or injuries, or endangers the comfort, repose, health, peace or safety of others within the city.

(b) The following acts, among others, are declared to be loud, disturbing, injurious and unnecessary and unlawful noises in violation of this section, but this enumeration shall not be deemed to be exclusive. Each such act which either continues or is repeated more than one-half hour beyond its inception shall be considered and may be prosecuted as a separate violation of this article.

(1) Horns and signal devices. The sounding of and horn or signal device on any automobile, motorcycle, bus, train, or other vehicle while not in motion, except as a danger signal or to give warning of intent to get into motion, or, if in motion, only as a danger signal after or as brakes are being applied and decelerating of the vehicle has begun; the creation by means of such signal devices of any unreasonably loud or harsh sounds; and the sounding of any signal device for any unreasonable or unnecessary period of time, not to exceed 15 minutes.

(2) Radios, phonographs, and musical instruments. The playing of any radio, phonograph, television set, amplified or unamplified musical instrument, loud-speaker, tape recorder, compact disc player, or other such electronic sound-producing devices, in such a manner or with volume at any time or place so as to annoy or disturb the quiet, comfort or repose of persons in any office or in any dwelling, hotel, hospital, or other type of residence, or of any persons in the vicinity. The operation of any such musical instrument or electronic sound- producing device in such a manner as to be plainly audible at a distance of 50 feet from the vehicle in which it is located shall be prima facie evidence of a violation of this section.

(3) Shouting and whistling. Yelling, shouting, hooting, whistling, singing, or the making of

any loud noises on the public streets, between the hours of 11:00 p.m. and 7:00 a.m., or the making of any such noise at any time or place so as to annoy or disturb the quiet, comfort, or repose of persons in any dwelling, hotel, hospital, or other type of residence, or in any office, or of any persons in the vicinity, unless warning of imminent danger.

(4) Hawking. The hawking of goods, merchandise, or services in a loud or disturbing manner.

(5) Animal and bird noises. The keeping of any animal or bird which, by causing frequent or long continued noise, shall disturb the comfort or repose of any person. Such noise may not exceed 15 minutes.

(6) Whistles or sirens. The blowing of any whistles or sirens, except to give notice of the time to begin or stop work or as a warning of fire or danger.

(7) Engine exhaust. The discharge into the open air of the exhaust of any steam engine, or stationary internal combustion engine, except through a muffler or other device which effectively prevents loud or explosive noises therefrom.

(8) Construction noises. The erection (including excavation therefor), demolition, alteration, or repair of any building, and the excavation of streets and highways on Sundays, and other days, except between the hours of 7:00 a.m., and 8:00 p.m., unless a permit or authorization is first obtained from the city manager.

(9) Devices to attract attention. The use of any drum, loudspeaker, amplifier, or other instrument or device for the purpose of attracting attention for any purpose.

(Code 2006, § 12-92; Ord. No. 145, § 55.2, 11-8-1993; Ord. No. 13-238, 7-18-2013; Ord. No. 2016-242, § 14, 10-20-2016; Ord. No. 2016-243, § 14, 11-17-2016)

Sec. 12-93. Exceptions.

None of the terms or prohibitions of this article shall apply to or be enforced against:

(1) Any city-owned vehicles engaged in business of the city.

(2) Excavations or repairs of bridges, streets or highways by or on behalf of the city or the state, during the night season, when the public welfare and convenience renders it impossible to per- form such work during the day.

(3) Special events (such as musical or theatric performances) where the Council or City manager has given written permission.

(Code 2006, § 12-93; Ord. No. 145, § 55.3, 11-8-1993; Ord. No. 2016-242, § 15, 10-20-2016; Ord. No. 2016-243, § 15, 11-17-2016)

Sec. 12-94. Abatement of nuisances.

Whenever any nuisance caused by unlawful noise prohibited in this article shall be found on any premises or in any streets, or elsewhere in the city, contrary to this article, the mayor and police chief or police officers are each hereby respectively authorized in their reasonable discretion to cause the same to be summarily abated in such reasonable manner as they may think best, acting personally or through their duly authorized representatives.
(Code 2006, § 12-94; Ord. No. 145, § 55.4, 11-8-1993)

Chapter 24

OFFENSES

State law reference—Michigan penal code, MCL 750.1 et seq.

ARTICLE I. IN GENERAL

Sec. 20-1. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Public place means any street, alley, park, or public building, any place of business or assembly open to or frequented by the public, and any other place which is open to the public view, or to which the public has access.
(Code 1972, § 81.1; Code 2006, § 20-1; Ord. No. 03-210, § 81.1, 10-13-2003)

Sec. 20-2. Penalty.

Violation of the provisions of this chapter shall be deemed a misdemeanor.
(Code 1972, § 81.3; Code 2006, § 20-2; Ord. No. 03-210, § 81.3, 10-13-2003)

Secs. 20-3—20-30. Reserved.

ARTICLE III. OFFENSES AFFECTING GOVERNMENTAL FUNCTIONS

Sec. 20-31. [33] Assaulting or obstructing police officer or firefighter.

It is unlawful for any person to assault, obstruct, resist, hinder, or oppose any member of the police force, any police officer, or any firefighter in the discharge of his duties as such.
(Code 1972, § 81.2(19); Code 2006, § 20-31; Ord. No. 03-210, § 81.2(19), 10-13-2003)
State law reference—Obstruction of police or government officers, MCL 750.479; assault, MCL 750.81 et seq.; disobedience to firefighter at fire, MCL 750.241.

[33] **Sec. 20-31. Assaulting or obstructing police officer or firefighter.** Assault or obstruction or an officer is a felony under MCL 750.479 and 750.81d. A first conviction of MCL 750.478a, intimidation, hindrance or obstruction of public employee, is a misdemeanor.

Sec. 20-32. [34] Summoning police department, fire department or ambulance service without cause.

It is unlawful for any person to summon, as a joke or prank or otherwise without good reason therefor, by telephone or otherwise, the police or the fire department or any public or private ambulance to go to any address where the service called for is not needed.
(Code 1972, § 81.2(22); Code 2006, § 20-32; Ord. No. 03-210, § 81.2(22), 10-13-2003)
State law reference—False report of crime, MCL 750.411a; false fire alarms, MCL 750.240.

Sec. 20-33. [35] Making false report causing evacuation or closing of public building.

It is unlawful for any person to make a false report, by telephone or otherwise, to any public official which may be reasonably expected to cause the evacuation or closing of a building or place open to the public.
(Code 1972, § 81.2(27); Code 2006, § 20-33; Ord. No. 03-210, § 81.2(27), 10-13-2003)
State law reference—False police reports, MCL 750.411a.

Sec. 20-34. Impersonating public officer.

It is unlawful for any person to falsely impersonate a police officer, firefighter or housing, building or zoning code enforcer for the purpose of gaining entry to private property, or access to private records or access to public records which would not otherwise be subject to public disclosure under the law.
(Code 1972, § 81.2(28); Code 2006, § 20-34; Ord. No. 03-210, § 81.2(28), 10-13-2003)
State law reference—Falsely impersonating public officers, MCL 750.215.

Secs. 20-35—20-60. Reserved.

ARTICLE III. OFFENSES AGAINST THE PERSON

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[34] **Sec. 20-32. Summoning police department, fire department or ambulance service without cause.** MCL 750.411a prohibits making an intentionally makes a false report of the commission of a crime, or intentionally causing a false report of the commission of a crime to be made, to a peace officer, police agency of this state or of a local unit of government, 9-1-1 operator, or any other governmental employee or contractor or employee of a contractor who is authorized to receive reports of a crime, knowing the report is false." Adapt this language to replace this section?

[35] **Sec. 20-33. Making false report causing evacuation or closing of public building.** This false report would be covered under the broader language of the preceding section. Combine?

Sec. 20-61. [36] **Window peeping.**

No person shall be found looking into the windows or doors of any house, apartment or other residence in the city in such a manner as would be likely to interfere with the occupant's reasonable expectation of privacy and without the occupant's express or implied consent.
(Code 1972, § 81.2(4); Code 2006, § 20-61; Ord. No. 03-210, § 81.2(4), 10-13-2003)
State law reference—Window peeper deemed a disorderly person, MCL 750.167(1)(c).

Sec. 20-62. Accosting, molesting others.

It is unlawful for any person to accost, molest, or otherwise assault either by touching or by word of mouth, or by sign or motion, any person in any public place with intent to interfere with or abuse that person.
(Code 1972, § 81.2(8); Code 2006, § 20-62; Ord. No. 03-210, § 81.2(8), 10-13-2003; Ord. No. 2016-242, § 19, 10-20-2016; Ord. No. 2016-243, § 19, 11-17-2016)
State law reference—Assaults, MCL 750.81.

Sec. 20-63. [37] **Jostling or crowding others; obstructing passage.**

It is unlawful for any person to jostle or roughly crowd persons in any street, alley, park, or public building, or conduct oneself in any public place so as to obstruct the free and uninterrupted passage of the public.
(Code 1972, § 81.2(12); Code 2006, § 20-63; Ord. No. 03-210, § 81.2(12), 10-13-2003)
State law reference—Similar provisions, MCL 750.167(1)(l).

Sec. 20-64. [38] **Failure to support family.**

It is unlawful for any person to refuse or neglect to support his family, if he shall have sufficient ability to do so.
(Code 1972, § 81.2(25); Code 2006, § 20-64; Ord. No. 03-210, § 81.2(25), 10-13-2003)

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[36] **Sec. 20-61. Window peeping.** As noted in the state law reference, window peeping is identified as disorderly conduct under MCL 750.167. Several other sections as noted also fall under that statute section. Would the city prefer to replace these disorderly conduct sections with the disorderly person statute language? Note: If so, we should omit begging and vagrancy since the begging subsection was found unconstitutional in 2013.

[37] **Sec. 20-63. Jostling or crowding others; obstructing passage.** As noted in the state law reference, this behavior is identified as disorderly conduct under MCL 750.167. See footnote to section 20-61.

[38] **Sec. 20-64. Failure to support family**. As noted in the state law reference, failure to support is identified as disorderly conduct under MCL 750.167. See section 20-61 footnote.

State law reference—Relief and support of poor persons, MCL 401.1 et seq.; person refusing or neglecting to support family deemed a disorderly person, MCL 750.167(1)(a).

Sec. 20-65. Malicious use of service provided by telecommunications service provider.

(a) It is unlawful to maliciously use any service provided by a telecommunications service provider with intent to terrorize, frighten, intimidate, threaten, harass, molest, or annoy another person, or to disturb the peace and quiet of another person by any of the following:

(1) Threatening physical harm or damage to any person or property in the course of a conversation or message through the use of a telecommunications service or device.

(2) Falsely and deliberately reporting by message through the use of a telecommunications service or device that a person has been injured, has suddenly taken ill, has suffered death, or has been the victim of a crime or an accident.

(3) Deliberately refusing or failing to disengage a connection between a telecommunications device and another telecommunications device or between a telecommunications device and other equipment provided for the transmission of messages through the use of a telecommunications service or device.

(4) Using vulgar, indecent, obscene, or offensive language or suggesting any lewd or lascivious act in the course of a conversation or message through the use of a telecommunications service or device.

(5) Repeatedly initiating a telephone call and, without speaking, deliberately hanging up or breaking the telephone connection as or after the telephone call is answered.

(6) Making an unsolicited commercial telephone call that is received between the hours of 9:00 p.m. and 9:00 a.m. For the purpose of this section, the term "an unsolicited commercial telephone call" means a call made by a person or recording device, on behalf of a person, soliciting business or contributions.

(7) Deliberately engaging or causing to be engaged the use of a telecommunications service or device of another person in a repetitive manner that causes interruption in telecommunications service or prevents the person from utilizing his telecommunications service or device.

(b) As used in this section, the terms "telecommunications," "telecommunications service," and "telecommunications device" mean those terms as defined in MCL 750.540c.
(Code 1972, § 81.2(26); Code 2006, § 20-65; Ord. No. 03-210, § 81.2(26), 10-13-2003)
State law reference—Similar provisions, MCL 750.540e.

Secs. 20-66—20-90. Reserved.

ARTICLE IV. OFFENSES AGAINST PROPERTY

Sec. 20-91. Damaging or removing property.

It is unlawful for any person to willfully destroy or damage or in any manner deface, destroy, or injure any property not his own, or any publicly owned building, bridge, fire hydrant, alarm box, streetlight, street sign, or shade tree, or mark or post handbills on or in any manner mar the walls of any public building or any fence, tree, or pole within the city, or take or meddle with any property belonging to the city or remove such property from the building or place where it may be kept, placed, standing, or stored, without authority from the city manager or other official custodian of such property.
(Code 1972, § 81.2(7); Code 2006, § 20-91; Ord. No. 03-210, § 81.2(7), 10-13-2003)
State law reference—Malicious mischief generally, MCL 750.377a et seq.

Sec. 20-92. Urinating, defecating or spitting on public or private property.

It is unlawful for any person to urinate, defecate, or spit on any street, sidewalk, alley, park, parkway, parking lot or structure, or public carrier, or upon any public building or place of public assemblage or upon any other public or private property of another open to public view, or upon any private property of another without the consent of the owner, except where an approved sanitary facility is provided and used.
(Code 1972, § 81.2(9); Code 2006, § 20-92; Ord. No. 03-210, § 81.2(9), 10-13-2003)

Sec. 20-93. Trespassing in garden or orchard.

It is unlawful for any person to enter any enclosed or unenclosed vegetable garden or orchard located within the city without the consent of the owner or tenant, or his agent, and there cut down, injure, damage, destroy, eat or carry away any portion of such garden, including any growing thing, crop, tree, timber, grass, seed, soil, fertilizer, water supply, tool, implement, fence or any other protective device or any other thing used for the development, cultivation, maintenance and use of such gardens or orchards.
(Code 1972, § 81.2(20); Code 2006, § 20-93; Ord. No. 03-210, § 81.2(20), 10-13-2003)
State law reference—Mischief generally, MCL 750.377 et seq.; trespass, MCL 750.552.

Sec. 20-94. Prowling.

It is unlawful for any person to prowl about any alley or the private premises of any other person, without authority or the permission of the owner of such premises.
(Code 1972, § 81.2(21); Code 2006, § 20-94; Ord. No. 03-210, § 81.2(21), 10-13-2003; Ord. No. 2016-242, § 20, 10-20-2016; Ord. No. 2016-243, § 20, 11-17-2016)

Secs. 20-95—20-120. Reserved.

ARTICLE V. OFFENSES AGAINST PUBLIC PEACE*

***State law reference**—Riots and unlawful assemblies, MCL 752.541 et seq.; jostling or roughly crowding, MCL 750.167(1)(l); disturbing public places, MCL 750.170; disorderly intoxication, MCL 750.167(1)(c).

Sec. 20-121.[39] Intoxication in public place.

It is unlawful for any person to be intoxicated in a public place and to endanger directly the safety of another person or property.
(Code 1972, § 81.2(1); Code 2006, § 20-121; Ord. No. 03-210, § 81.2(1), 10-13-2003)
State law reference—Similar provisions, MCL 750.167(1)(e).

Sec. 20-122.[40] Begging or soliciting alms.

(a) Definitions. The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

> Accosting means approaching or speaking to someone in such a manner as would cause a reasonable person to fear imminent bodily harm or the commission of a criminal act upon the person, or upon property in his immediate possession.
>
> Ask, beg and solicit mean and include the spoken, written or printed word or such other acts as are conducted in furtherance of the purpose of obtaining alms.
>
> Forcing oneself upon the company of another means continuing to request, beg or solicit alms from a person after that person has made a negative response, blocking the passage of the individual addressed or otherwise engaging in conduct which could reasonably be construed as intended to compel or force a person to accede to demands.

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[39] **Sec. 20-121. Intoxication in public place.** As noted in the state law reference, public intoxication is identified as disorderly conduct under MCL 750.167. See section 20-61 footnote.

[40] **Sec. 20-122. Begging or soliciting alms.** MCL 750.167(1)(h) upon which this section is based was held unconstitutional in 2013. Whether this section is constitutional will depend on whether it is narrowly drawn to serve an important government interest (which is obviously the goal of the language here). I have not stricken the section, but note that it is subject to attack on constitutional grounds. *See, e.g., Speet v. Schuette*, 726 F.2d 867 (6th Cir. 2013)

(b) Lawful begging or soliciting. Except when performed in the manner and locations set forth in subsections (c) and (d) of this section, it is lawful to ask, beg or solicit money or other things of value within the city.

(c) Prohibited locations. It is unlawful for any person to solicit money or other things of value:

(1) On private property if the owner, tenant, or lawful occupant has asked the person not to solicit on the property or has posted a sign clearly indicating that solicitations are not welcome on the property;

(2) Within 15 feet of the entrance to or exit from any public toilet facility;

(3) Within 15 feet of an automatic teller machine, provided 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 automated teller machine facility;

(4) From any operator of a motor vehicle that is in traffic on a public street; provided, however, that this subsection shall not apply to services rendered in connection with emergency repairs requested by the owner or passengers of such vehicle;

(5) From any person who is waiting in line for entry to any building, public or private, including any residence, business, or athletic facility; or

(6) Within 15 feet of the entrance to or exit from a building, public or private, including any residence, business, or athletic facility.

(d) Soliciting in prohibited manner. It is unlawful for any person to solicit money or other things of value by accosting another or forcing oneself upon the company of another.
(Code 1972, § 81.2(5); Code 2006, § 20-122; Ord. No. 03-210, § 81.2(5), 10-13-2003; Ord. No. 2016-242, § 21, 10-20-2016; Ord. No. 2016-243, § 21, 11-17-2016)
State law reference—Begging, MCL 750.167(1)(h).

Sec. 20-123. [41] Disturbing the peace; allowing premises to be used so as to disturb public peace.

It is unlawful for any person to disturb the public peace and quiet by loud or boisterous conduct or by engaging in any disturbance, fight, brawl or quarrel in any public place. It is also unlawful for any person to knowingly permit or suffer any place occupied or controlled by him to be used so as to disturb the public peace.

[41] **Sec. 20-123. Disturbing the peace; allowing premises to be used so as to disturb public peace.** Related offenses are combined.

(Code 1972, §§ 81.2(10), 81.2(18); Code 2006, §§ 20-123, 20-126; Ord. No. 03-210, §§ 81.2(10). 81.2(18), 10-13-2003)
State law reference—Disturbing lawful meetings, MCL 750.170.

Sec. 20-124. Unlawful assemblies.

It is unlawful for any person to assemble or act in concert with four or more other persons for the purpose of engaging in conduct constituting the crime of riot, or to be present at an assembly that either has or develops such a purpose and to remain threat with the intent to advance such purpose.
(Code 1972, § 81.2(11); Code 2006, § 20-124; Ord. No. 03-210, § 81.2(11), 10-13-2003)
State law reference—Similar provision, MCL 752.543; riots and unlawful assemblies, MCL 750.541 et seq.

Sec. 20-125. Loitering.

It is unlawful for any person to loiter, remain or wander in or about a place without apparent reason and under circumstances which warrant alarm for the safety of persons or property and, upon the appearance of a peace officer, take flight, manifestly endeavor to conceal himself, or, upon inquiry by a police officer, refuse to identify himself or give a reasonable, credible account of his conduct and purposes.
(Code 1972, § 81.2(13); Code 2006, § 20-125; Ord. No. 03-210, § 81.2(13), 10-13-2003)

Secs. 20-127—20-150. Reserved.

ARTICLE VI. OFFENSES AGAINST PUBLIC MORALS*

***State law reference**—Indecent or obscene conduct, MCL 750.167(1)(f); prostitution, MCL 750.448 et seq.; gambling, MCL 750.301 et seq.; controlled substances, MCL 333.7101 et seq.

Sec. 20-151. Public nudity.

(a) As used in this section, the term "public nudity" means knowingly or intentionally displaying in a public place, or for payment or promise of payment by any person including, but not limited to, payment or promise of payment of an admission fee, any individual's genitals or anus with less than a fully opaque covering or a female individual's breast with less than a fully opaque covering of the nipple and areola. Public nudity does not include any of the following:

(1) A woman's breastfeeding of a baby whether or not the nipple or areola is exposed during or incidental to the feeding.

(2) Material as defined in ~~section 2 of Public Act No. 343 of 1984~~ MCL 752.362.

(3) Sexually explicit visual material as defined in ~~section 3 of Public Act No. 33 of 1978~~ MCL 722.673.

(b) Any person displaying public nudity is guilty of a misdemeanor.
(Code 2006, § 20-151)
State law reference—Similar provisions, MCL 117.4i(e); ordinances regulating or prohibited public nudity, MCL 117.5h.

Sec. 20-152. Indecent exposure.

It is unlawful for any person to knowingly engage in any indecent or obscene conduct in any public place, or knowingly make any immoral exhibition or indecent exposure of his person.
(Code 1972, § 81.2(2); Code 2006, § 20-152; Ord. No. 03-210, § 81.2(2), 10-13-2003)
State law reference—Similar provisions, MCL 750.335a ~~750.355a~~.

Sec. 20-153. Nude swimming.

It is unlawful for any person to swim or bathe in the nude in any public place.
(Code 1972, § 81.2(6); Code 2006, § 20-153; Ord. No. 03-210, § 81.2(6), 10-13-2003)

Sec. 20-154. [42] Prostitution.

(a) It is unlawful for any person, male or female, 16 ~~17~~ years of age or older, to accost, solicit or invite another in any public place, or in or from any building or vehicle, by word, gesture or any other means, to commit prostitution or to do any other lewd or immoral act.

(b) It is unlawful for any person to engage or offer to engage the services of another person for the purpose of prostitution, lewdness or assignation, by payment in money or other form of consideration.

(c) It is unlawful for any person to keep, maintain or operate, or aid and abet in keeping, maintaining or operating, a house of ill fame, bawdy house or any house or place resorted to for the purpose of prostitution or lewdness.

(d) It is unlawful for any person to knowingly loiter in a house of ill fame or prostitution or a place where prostitution or lewdness is practiced, encouraged or allowed.
(Code 1972, § 81.2(15); Code 2006, § 20-154; Ord. No. 03-210, § 81.2(15), 10-13-2003; Ord. No. 2016-242, § 22, 10-20-2016; Ord. No. 2016-243, § 22, 11-17-2016)

[42] **Sec. 20-154. Prostitution.** Age restrictions is conformed to MCL 750.448 as amended in 2002.

State law reference—Loitering for purposes of prostitution, etc., MCL 750.167(1)(i), soliciting and accosting, MCL 750.448; offering to engage in prostitution, etc., MCL 750.449a, keeping or maintaining house of prostitution, etc., MCL 750.452.

Sec. 20-155. Operating or frequenting place where illegal business is conducted.

It is unlawful for any person to knowingly attend, frequent, operate or loiter in or about any place where prostitution, gambling, the illegal sale of alcoholic liquor or controlled substances, or any other illegal business or occupation is permitted or conducted.
(Code 1972, § 81.2(14); Code 2006, § 20-155; Ord. No. 03-210, § 81.2(14), 10-13-2003)
State law reference—Prostitution generally, MCL 750.448 et seq.; gambling generally, MCL 750.301 et seq.; loitering in a house of ill fame, MCL 750.167(1)(i); loitering in place of illegal occupation, MCL 750.167(1)(j); Michigan Liquor Control Code of 1998, MCL 436.1101 et seq.

Sec. 20-156. Transporting person to place where prostitution or gambling is practiced.

It is unlawful for any person to knowingly transport any person to a place where prostitution or gambling is practiced, encouraged, or allowed for the purpose of enabling such person to engage in such acts.
(Code 1972, § 81.2(16); Code 2006, § 20-156; Ord. No. 03-210, § 81.2(16), 10-13-2003)

Sec. 20-157. Gambling; gaming rooms.

It is unlawful for any person to keep or maintain a gaming room, gaming table, or any policy or pool tickets, used for gaming; knowingly suffer a gaming room, gaming tables or any policy or pool tickets to be kept, maintained, played or sold on any premises occupied or controlled by him except as permitted by law; conduct or attend any cockfight or dogfight; or place, receive, or transmit any bet on the outcome of any race, contest, or game of any kind whatsoever.
(Code 1972, § 81.2(17); Code 2006, § 20-157; Ord. No. 03-210, § 81.2(17), 10-13-2003)
State law reference—Gambling, MCL 750.301 et seq.

Secs. 20-158—20-180. Reserved.

ARTICLE VII. OFFENSES AGAINST PUBLIC SAFETY*

***State law reference**—Discharge of firearms, MCL 750.234 et seq.; license required to purchase, carry or transport a pistol, MCL 750.224 et seq.; concealed weapons, MCL 750.227.

DIVISION 1. GENERALLY

Sec. 20-181. Possession or discharge of firearm, airgun or slingshot in public place.

It is unlawful for any person to use, operate, or discharge any firearm, BB gun, air rifle, air rifle which projects projectiles, slingshot, bow and arrow, catapult, or any other toy shooting apparatus, gun, or implement that might result in damage or destruction of life or property within the limits of the city other than at a duly established range. For purposes of this section, the term "firearm" means any weapon from which a dangerous projectile may be propelled by using explosives, gas, or air as a means of propulsion
(Code 1972, § 81.2(3); Code 2006, § 20-181; Ord. No. 03-210, § 81.2(3), 10-13-2003)
State law reference—Authority to prohibit the discharge of firearms within city jurisdiction, MCL 123.1104.

Sec. 20-182. Throwing missile from moving automobile.

It is unlawful for any person to wrongfully throw or propel any snowball, missile or object from any moving automobile.
(Code 1972, § 81.2(23); Code 2006, § 20-182; Ord. No. 03-210, § 81.2(23), 10-13-2003)

Sec. 20-183. Throwing missile toward person or automobile.

It is unlawful for any person to wrongfully throw or propel any snowball, missile or object toward any person or automobile.
(Code 1972, § 81.2(24); Code 2006, § 20-183; Ord. No. 03-210, § 81.2(24), 10-13-2003)

Sec. 20-184. [43] Carrying weapons; exceptions.

(a) It is unlawful for any person to carry a dagger, a dirk, a stiletto, a double-edged non-folding stabbing instrument of any length, or other dangerous weapon except hunting knives adapted and carried as such, concealed on or about his person, or whether concealed or otherwise in any vehicle operated or occupied by such person, except in his dwelling house or place of business or on other land possessed by such person.

(b) A dagger, dirk, stiletto, a double-edged non-folding stabbing instrument of any length, metallic knuckles, blackjacks, saps, switchblades, and similar articles designed for the purpose of bodily assault or defense shall be dangerous weapons per se.

(c) Bludgeons, billys, karate sticks and similar articles which are commonly used for the purpose of bodily assault or defense, but which also may have a lawful and proper purpose under

[43] **Sec. 20-184. Carrying weapons; exceptions.** Due to the "other dangerous weapon" language of subsection (a), I have added subsection (e) making it clear that this section does not attempt to restrict firearms to the extent prohibited in MCL 123.1102.

appropriate circumstances, are dangerous weapons only if used or carried for the purpose of assault or defense, unless such articles either have no lawful and proper purpose or have been modified so as to be either no longer useful for their intended lawful and proper purpose or have as their apparent purpose an instrument of bodily assault or defense, in which case they are presumed to be dangerous weapons.

(d) Pocket knives with blades three inches or less, razors, hammers, hatchets, wrenches, cutting tools, ball bats and similar articles generally used for peaceful and proper purposes are dangerous weapons only if used or carried for the purpose of assault or defense, unless such articles have been modified so as to be either no longer useful for their intended purpose or have as their apparent purpose an instrument of bodily assault or defense, in which case they are presumed to be dangerous weapons.

(e) "Weapons" as used in this section does not include weapons, ammunition and weapons components as listed in MCL 123.1102.
(Code 1972, § 81.2(30); Code 2006, § 20-184; Ord. No. 03-210, § 81.2(30), 10-13-2003)
State law reference—Dangerous weapons, MCL 750.422 et seq.; limitation of regulation of pistols, other firearms, or pneumatic guns by local government, MCL 123.1102.

DIVISION 2. DRUG PARAPHERNALIA

State law reference—Drug paraphernalia, MCL 333.7451 et seq.

Sec. 20-185. Defined; factors used in determining.

(A) The term "drug paraphernalia" means all equipment, products or materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body a controlled substance in violation of state or local law. It includes, but is not limited to:

(1) Kits used, intended for use or designed for use in planting, propagating, cultivating, growing or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived;

(2) Kits used, intended for use, or designed for use in manufacturing, compounding, converting, producing, processing or preparing controlled substances;

(3) Isomerization devices used, intended for use or designed for use in increasing the potency of any species of plant which is a controlled substance;

(4) Testing equipment used, intended for use or designed for use in identifying or in analyzing the strength, effectiveness or purity of controlled substances;

(5) Scales or balances used, intended for use or designed for use in weighing or measuring controlled substances.

(6) Diluents and adulterants, such as quinine hydrochloride mannitol, mannite, dextrose and lactose, used, intended for use or designed for use in cutting controlled substances.

(7) Separation gins and sifters used, intended for use or designed for use in removing twigs and seeds from or in otherwise cleaning or refining marijuana;

(8) Blenders, bowls, containers, spoons and mixing devices used, intended for use or designed for use in compounding controlled substances;

(9) Capsules, balloons, envelopes and other containers used, intended for use or designed for use in packaging small quantities or controlled substances.

(10) Containers and other objects used, intended for use or designed for use in storing or concealing controlled substances;

(11) Hypodermic syringes, needles and other objects used, intended for use or designated for injecting controlled substances into the human body.

(12) Objects used, intended for use or designed for use in ingesting, inhaling or other or otherwise introducing marijuana, cocaine, hashish or methamphetamine into the human body, such as:

(a) Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads or puncture metal bowls;

(b) Water pipes;

(c) Smoking carburization masks;

(d) Roach clips, meaning objects used to hold burning materials, such as a marijuana cigarette, that has become too small or too short to be held in the hand;

(e) Miniature cocaine spoons and cocaine vials:

(f) Chamber pipes;

(g) Carburetor pipes;

1 (B) Determination. In determining whether an object is "drug paraphernalia" a court or other authority should consider, in addition to all other logically relevant factors, the following:

(1) Statements by an owner or by anyone in control of the objects concerning its use:

(2) Prior convictions, in any, of an owner, or of anyone in control of the object, under any state or federal law relating to any controlled substances;

(3) The proximity of the object, in time and space, to a direct violation of the state law;

(4) The proximity of the object to controlled substances;

(5) The existence of any residue of controlled substances on the object:

(6) Direct circumstantial evidence of the intent of an owner, or anyone in control of the object, to deliver it to persons whom he knows, or should reasonable know, intend to use the object to facilitate a violation of state or local law or of this act; the innocence of an owner, or of anyone in control of the object, as to a direct violation of state, local law or this act; shall not prevent a finding that the object is intended for use or designed for use as drug paraphernalia;

(7) Instructions, oral or written, provided with the object concerning its use:

(8) Descriptive materials accompanying the object which explain or depict its use;

(9) National and local advertising concerning its use:

(10) The manner in which the object is displayed for sale;

(11) Whether the owner, or anyone in control of the object, is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer or tobacco products:

(12) Direct or circumstantial evidence of the ratio of sales of the object(s) to the total sales of the business enterprise:

(13) The existence and scope of legitimate uses for the object in the community

(14) Expert testimony concerning its use.

(Ord. No. 13-237, § 20-185, 7-18-2013)

State law reference—Drug paraphernalia defined, MCL 333.7451.

Sec. 20-186. Possession prohibited.

It is unlawful for any person to use, for to possess with intent to use, drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance in violation of state or local law.
(Ord. No. 13-237, § 20-186, 7-18-2013)

Sec. 20-187. Manufacture, delivery or sale prohibited.

It is unlawful for any reason to deliver, sell, possess with intent to deliver or sell, or manufacture with intent to deliver or sell drug paraphernalia, knowing that it will be used to plant, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance in violation of state or local law.
(Ord. No. 13-237, § 20-187, 7-18-2013)
State law reference—Sale or offering for sale for specific use prohibited, MCL 333.7453.

Sec. 20-188. Advertisement prohibited.

It is unlawful for any person to place in any newspaper, magazine, handbill, sign, poster or other publication any advertisement, knowing that the purpose of the advertisement, in whole or in part, is to promote the sale of objects designed or intended for use as drug paraphernalia.
((Ord. No. 13-237, § 20-188, 7-18-2013)

Sec. 20-189-Exceptions.

This article shall not apply to manufacturers, wholesalers, licensed medical technicians, technologists, nurses, hospitals, research teaching institutions, clinical laboratories, medical doctors, osteopathic physicians, dentists, chiropodists, veterinarians, pharmacists and embalmers in the normal legal course of their respective business or profession, not to persons suffering from diabetes, asthma or any other medical condition requiring self-injection.
((Ord. No. 13-237, § 20-189, 7-18-2013)

Sec. 20-190-Civil Forfeiture

Any drug paraphernalia used, sold, possessed with intent to use or sell, or manufactured with intent to sell in violation of this article shall be seized and forfeited to the city.
((Ord. No. 13-237, § 20-190, 7-18-2013)

Sec. 20-191-Penalty for violation.

Any person who is convicted of violation of any of the provisions of this article shall be deemed guilty of a misdemeanor and shall be punished by a fine not to exceed $500.00 or by

imprisonment not to exceed 90 days, or both, at the discretion of the court. Each day a violation continues shall be considered a separate offense and may be punished accordingly.
(Ord. No. 13-237, § 20-191, 7-18-2013)

Secs. 20-192—20-210. Reserved.

ARTICLE VIII. MINORS

Sec. 20-211. [44] Enticing minor to enter motor vehicle or private property.

It is unlawful for any person to invite, entice, coax, persuade, or induce by threat any minor child under the age of 16 ~~17~~ years to enter any motor vehicle, or conveyance, or private property or place, except where the parent or guardian of such child has given that person his express prior consent. This section shall not prohibit school personnel, peace officers, or public health or social welfare personnel from carrying out the normal duties of their employment.
(Code 1972, § 81.2(29); Code 2006, § 20-211; Ord. No. 03-210, § 81.2(29), 10-13-2003)
State law reference—Accosting, enticing or soliciting child for immoral purposes, 750.145a.

Sec. #. [45] Curfew for minors.

(a) *Under 12 years of age.* No minor under the age of 12 years shall loiter, idle, congregate or be in or on any public street, highway, alley, park or public place between the hours of 9:00 p.m. and 6:00 a.m., unless the minor is accompanied by a parent or guardian or some adult delegated by the parent or guardian to accompany the minor.

(b) *Under 18 years of age.* Subject to the provisions in section (a), no minor under the age of 18 shall loiter, idle, congregate or be in or on any public street, highway, alley, park or public place between the hours of 10:00 p.m. and 6:00 a.m. except when the minor is accompanied by a parent or guardian or some adult delegated by the parent or guardian to accompany the minor, or where the minor is upon an errand or other legitimate business directed by his parent or guardian.

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[44] **Sec. 20-211. Enticing minor to enter motor vehicle or private property.**
Cited state statute applies to children under 16 years of age.

[45] **Sec. #. Curfew for minors.**
(a) MCL 722.751 mandates curfew hours of 10pm to 6am for children under 12.
(b) MCL 722.752 mandates curfew hours for minors under 16 of 12 midnight to 6am.
(c) MCL 755.753 makes this "aiding/abetting" offense applicable to persons 16 and older.
(d) I have added exceptions developed by courts across the nation of the last decades.

(c) *Aiding or abetting violation.* Any person who assists, aids, abets, allows or permits or encourages any minor to violate the provisions of the curfew restrictions of this article shall be guilty of a misdemeanor.

(d) *Exceptions.* The provisions of this article do not apply to:

(1) A minor going to or returning from work; provided that the minor's hours of employment do not violate state law; and provided further that such minor shall be exempt from the requirements of this article for not more than one hour before the minor's work day begins and not more than one hour after the minor's work day ends; or

(2) A minor going to or returning from school or school-sponsored activity; and provided further, that such minor shall be exempt from the requirements of this article for not more than one hour before the minor's class begins or school sponsored activity ends at such school, and for not more than one hour after the minor's class ends or school sponsored activity ends at such school.

(3) A minor engaged in interstate travel with the consent of his parent or guardian.

(4) When the minor is upon an emergency errand directed by such minor's parent or guardian or other adult person having the lawful care and custody of such minor.

(5) A minor attending or traveling directly to or from an activity involving the exercise of first amendment rights of free speech, freedom of assembly or free exercise of religion.

(Ord. No. 08-216, §§ 1—4, 9-25-2008)

State law reference— Similar provisions, MCL 722.751—722.753

Chapter 26

PARKS AND RECREATION

State law reference—Authority to operate recreation facilities and playgrounds, MCL 123.51 et seq.; playground equipment safety act, MCL 408.681 et seq.

ARTICLE I. IN GENERAL

Sec. 22-31. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Park means areas of land, with or without water, developed and used for public recreational purposes.
(Code 2006, § 22-31; Ord. No. 113, § 2)

Sec. 22-32. Penalties; eviction from park.

Any person violating any provision of the rules set forth in this article, except provisions of the state vehicle code incorporated in this article, shall be deemed guilty of a municipal civil infraction. Any person violating the provisions of the state vehicle code shall be subject to the fines and penalties set forth in that code. Persons violating any of the provisions of this article may also be evicted from the park or park land on the day of the offense.
(Code 2006, § 22-32; Ord. No. 154, § 85-20, 8-14-1995)

~~Sec. 22-33. Authority to establish rules, regulations and fees.~~
~~The city council shall, by resolution, establish such reasonable rules, regulations and fees for the care and preservation of parks, for the maintenance of good order, for the protection of property and for the welfare of parks as shall from time to time be deemed necessary or expedient by the city council.~~
~~(Code 2006, § 22-33; Ord. No. 113, § 3)~~

~~Sec. 22-34. Violations.~~
~~No person shall violate the rules and regulations promulgated by the city council pursuant to this article.~~
~~(Code 2006, § 22-34; Ord. No. 113, § 4)~~

ARTICLE II. USE RESTRICTIONS

Sec. 22-35. Park hours.

(a) No person or vehicle shall remain upon public park property between the posted closing times and sunrise excepting at designated fishing sites, camp areas and other special use areas; provided, however, that such hours may be extended by permit. It is unlawful for any person to enter any portion of parklands or waters which have been designated as closed to public use or entry.

(b) Any park or park lands, or portions thereof, may be closed entirely or closed to certain uses, including but not limited to the use or possession of alcoholic beverages, for such period of time as may be determined by the city council or its designated representative.
(Code 2006, § 22-35; Ord. No. 154, § 85-8, 8-14-1995; Ord. No. 03-209, § 83.4, 10-13-2003)

Sec. 22-36. Preservation of property.

No person shall willfully disturb, destroy, alter, change, or remove any part of any park or any facility, building, sign, structure, equipment, utility, or other property found therein.
(Code 2006, § 22-36; Ord. No. 154, § 85-9.1, 8-14-1995)

Sec. 22-37. Preservation of natural resources and plant life.

(1) No person shall remove, or cause to be removed, any sod, earth, humus, peat, boulder, gravel, or sand found within any park without the written permission of the city council or its designated representative.

(2) No person shall cut, remove, dig, injure, pick, damage, deface or destroy any tree, flower, shrub or plant, whether alive or dead, found within any park without written permission of the city council or its designated representative.
(Code 2006, § 22-37; Ord. No. 154, § 85-9.2, 8-14-1995)

Sec. 22-38. Preservation of wildlife.

No person shall hunt, trap, bait, pursue, injure, kill or in any manner disturb any bird or animal on any land or waters under the jurisdiction of the city council. Fishing will be permitted in accordance with the state department of natural resources laws and regulations.
(Code 2006, § 22-38; Ord. No. 154, § 85-9.3, 8-14-1995)

Sec. 22-39. Fires.

No person shall build a fire within any park except in grills or fire rings provided for such purpose. Fires on docks or beach areas are expressly forbidden. Firewood may be collected to be used within the parks only if dead and down (not standing).
(Code 2006, § 22-39; Ord. No. 154, § 85-9.4, 8-14-1995)

Sec. 22-40. Use of waste containers.

(1) No person shall place or deposit any garbage, glass, tin cans, paper or miscellaneous waste in any park or playground except in containers provided for that purpose.

(2) No person shall deposit any garbage, glass, tin cans, paper or miscellaneous waste in any trash containers within the park unless the garbage, glass, tin cans, paper and other waste arose and were generated as a result of activities by the person using the park.
(Code 2006, § 22-40; Ord. No. 154, § 85-9.5, 8-14-1995; Ord. No. 03-209, § 83.5, 10-13-2003)

Sec. 22-41. [46] Weapons and explosives.

No person shall have in his possession or control any ~~firearm, shotgun, pistol or other fire- arm,~~ slingshot, ~~pellet gun, air rifle,~~ fireworks or explosives within any park, ~~; provided that this rule shall not apply to any law enforcement officer or private citizen lawfully possessing a concealed pistol license (CPL)~~ and no person shall have in his possession or control any bow or arrow within any park except by prior written permission by the city council.
(Code 2006, § 22-41; Ord. No. 154, § 85-9.6, 8-14-1995; Ord. No. 2016-242, § 23, 10-20-2016; Ord. No. 2016-243, § 23, 11-17-2016)

Sec. 22-42. Alcoholic beverages.

No person shall have in his possession within park boundaries any alcoholic beverages except beer or wine which may be brought into the park only in the original, non-glass containers that do not exceed 67.6 fluid ounces (two liters) in capacity. No glass containers shall be allowed or permitted within the park limits.
(Code 2006, § 22-42; Ord. No. 154, § 85-9.7, 8-14-1995; Ord. No. 2016-242, § 24, 10-20-2016; Ord. No. 2016-243, § 24, 11-17-2016)

Sec. 22-43. Disorderly conduct.

(a) No person shall be intoxicated or shall engage in any violent, abusive, loud, boisterous, vulgar, obscene or otherwise disorderly conduct tending to create a breach of the peace, or to disturb or annoy others.

(b) No person shall interfere with any park employee in the discharge of his duties or fail or refuse to obey any lawful command issued by a park employee.

(c) No person shall smoke any tobacco product within a city park while the park is hosting a youth event.
(Code 2006, § 22-43; Ord. No. 154, § 85-9.7, 8-14-1995; Ord. No. 2016-242, § 25, 10-20-2016)

[46] Sec. 22-41. Weapons and explosives. The stricken language is prohibited by MCL 123.1102

Sec. 22-44. Audio devices.

No person shall use or operate any radio receiving set, musical instrument, phonograph, television or other machine or device that produces or reproduces sound in such a manner that produces excessive noise. The use of such a machine or device such that the sound produced therefrom is audible in any direction at a distance in excess of 100 feet shall be deemed a prima facie violation of this section unless written permission has been obtained from the city council or its designated representative.
(Code 2006, § 22-44; Ord. No. 154, § 85-9.8, 8-14-1995)

Sec. 22-45. Swimming, bathing and wading.

No person shall swim, bathe, or wade except within those areas so designated, and swimming is prohibited within those designated areas when so posted. Alcoholic beverages, glass containers, and pets are not allowed within the posted limits of the beach area. Scuba diving by certified divers may be permitted with prior written approval of the city council or its designated representative.
(Code 2006, § 22-45; Ord. No. 154, § 85-10, 8-14-1995)

Sec. 22-46. Dogs and other pets.

(a) Dogs or other pets are permitted in all city parks, unless otherwise posted, except within the designated bathing beaches, park buildings and shelters. Pets must be kept on a leash no greater than 12 feet in length under the immediate control of a responsible person and shall not be allowed to disturb or annoy park visitors. Guide, leader, hearing, and service dogs are permitted in all areas.

(b) The person who owns or is in charge of any dog shall immediately remove all droppings deposited by such dog by any sanitary method. The person who owns or is in charge of a guide, leader, hearing, or service dog is exempted from disposing of droppings deposited by such dog.
(Code 2006, § 22-46; Ord. No. 154, § 85-11, 8-14-1995)

Sec. 22-47. Horses.

It is unlawful for a person to ride, lead, or allow a horse to be upon any property not designated as a horse trail which is administered by or under the jurisdiction of the city council unless prior written permission has been obtained from the city council or its designated representative. This section does not apply to horses ridden by law enforcement personnel.
(Code 2006, § 22-47; Ord. No. 154, § 85-12, 8-14-1995)

Sec. 22-48. Bicycles.

No person shall operate a bicycle upon any foot trail or nature trail. No person shall ride a bicycle on any sidewalk which is posted against such use. This section does not apply to bicycles driven by law enforcement personnel.
(Code 2006, § 22-48; Ord. No. 154, § 85-13, 8-14-1995)

Sec. 22-49. Use of natural areas and nature trails.

Nature trails shall be for pedestrian traffic only. Picnicking and fires are prohibited within any nature trail area, unless written permission has been granted by the city council or its designated representative. Bicycles and horses are also prohibited within such areas.
(Code 2006, § 22-49; Ord. No. 154, § 85-14, 8-14-1995)

Sec. 22-50. Operation of motor vehicles.

(a) It is unlawful for any person within a city park to:

(1) Operate a motor-driven vehicle in excess of 15 miles per hour.

(2) Operate any motor-driven vehicle of any kind except on designated public roads.

(3) Operate a motor-driven vehicle in violation of posted traffic control signs or devices.

(4) Operate an unlicensed motor vehicle upon any park road or parking area.

(5) Operate an off-road vehicle (ORV) on any park property.

(6) Operate any motor vehicle where the operation is off the normal travelled portion of the roadways or designated parking areas, including but not limited to fields, nature trails, ballfields, or the frozen surface of any body of water.

This section does not apply to vehicles driven by law enforcement personnel or public works employees.

(b) All motor-driven vehicles operated on park roadways or parking lots shall be subject to the state vehicle code, MCL 257.1 et seq.
(Code 2006, § 22-50; Ord. No. 154, §§ 85-15.1, 85-15.2, 8-14-1995)

Sec. 22-51. Gasoline-powered boats.

It is unlawful for anyone to operate a gasoline-powered boat motor on the waters of Lake Alliance.
(Code 2006, § 22-51; Ord. No. 154, § 85-15.3, 8-14-1995)

Sec. 22-52. Parking; prohibited activities in parking areas.

(a) It is unlawful for any person to park any motor vehicle within any area not designated as a parking area or space or to stop, stand or park any motor vehicle at any place where prohibited by official signs.

(1) It is unlawful for the operator of any vehicle to stop, stand, or park such vehicle upon any roadway or in any parking area in such a manner as to form an obstruction to traffic.

(2) When any police officer finds a vehicle unattended upon a roadway or in a parking area and where such vehicle constitutes an obstruction to traffic, such officer is hereby authorized to provide for the removal of such vehicle to the nearest garage or other place of safety. The necessary costs for such removal shall become a lien upon such vehicle and the person in whose custody the vehicle is given may retain it until all expenses involved have been paid.

(c) Prohibited activities in parking areas. The designated parking lots on park properties are only for the express use of the parking of vehicles, and entry and exit from the parked vehicles. All park activities, except traversing to and from parking lots or parking of vehicles in case of emergencies, are prohibited. No park land usage, including but not limited to picnicking, Frisbee throwing, games or other activities, shall be permitted in the parking lots of the city parks.
(Code 2006, § 22-52; Ord. No. 154, § 85-16, 8-14-1995)

Sec. 22-53. Commercial activities and advertising.

No person shall advertise, vend, sell, post, or distribute any service, food, beverage, merchandise, leaflet, or poster within any park except by prior written permit from the city council or its designated representative.
(Code 2006, § 22-53; Ord. No. 154, § 85-17, 8-14-1995)

Sec. 22-54. Camping.

No person shall camp within any park except in those areas or buildings designated for that purpose, provided always that written permission of the city council or its designated representative shall be acquired before any person may camp.
(Code 2006, § 22-54; Ord. No. 154, § 85-18, 8-14-1995)

Sec. 22-55. Using facilities without paying fee; using facilities when permit has been granted to another.

(a) It is unlawful for any person to use any facility, building, land area or equipment for which a fee or charge has been established by the city council, without payment of such fee or charge.

(b) It is unlawful for any person, group, or organization to occupy, use, or fail to vacate any facility, building, land area or equipment for which a permit has been granted to another person, group or organization.

(Code 2006, § 22-55; Ord. No. 154, § 85-19, 8-14-1995)

Chapter 28

SOLID WASTE

State law reference—Garbage disposal act, MCL 123.361 et seq.; solid waste facilities, MCL 324.4301 et seq.; hazardous waste management act, MCL 324.11101 et seq.; hazardous materials transportation act, MCL 29.417 et seq.; solid waste management act, MCL 324.11501 et seq.; waste reduction assistance act, MCL 324.14501 et seq.; clean Michigan fund act, MCL 324.19101 et seq.; low-level radioactive waste authority act, MCL 333.26201 et seq.; litter control, MCL 324.8901 et seq.

(Reserved)

Chapter 30

STREETS, SIDEWALKS AND OTHER PUBLIC PLACES

State law reference—City control of highways, Mich. Const. art. VII, § 29; obstructions and encroachments on public highways, MCL 247.171 et seq.; driveways, banners, events and parades, MCL 247.321 et seq.; liability of local government for injury the result of not keeping highway in reasonable repair, MCL 691.1402.

ARTICLE I. IN GENERAL

Sec. 34-31. Telecommunications within rights-of-way.

(a) *Purpose and intent.* The purpose of this article is to bring the city into conformity with ~~Public Act No. 48 of 2002, commonly known as~~ the Metropolitan Extension Telecommunications Rights-of-Way Oversight Act, MCL 484.3101 et seq., ~~It is the intention of the city to bring its policies and practices into conformance with the requirements of the act~~ so as to encourage the development of telecommunication services within the city and to improve the opportunities for the delivery of telecommunication services to the citizens of the city.

(b) *City opts into state act.* The city has opted into the procedure set forth in the Metropolitan Extension Telecommunications Rights-of-Way Oversight Act, MCL 484.3101 et seq. ~~shall, and hereby does, opt in under the procedures set forth in Public Act No. 48 of 2002. A copy of the ordinance codified in this article shall be filed with the authority as established by such act.~~

(c) *Permit for use of right-of-way.* A provider shall make application with the city for access to and the ongoing use of all public rights-of-way located within the city as follows:

(1) The application shall be made using such forms as are approved by resolution of the city council. The city shall require an application fee as set by resolution of the city council from time to time.

(2) The city shall approve or deny access within 45 days from the date a provider files an application for a permit for access to a public right-of-way. the city may require as a condition of the permit that a bond be posted by the provider, which shall not exceed the reasonable cost to ensure that the public right-of-way is returned to its original condition during and after the provider's access and use.

(3) A provider undertaking an excavation, constructing or installing facilities within a public right-of-way or temporarily obstructing a public right-of-way shall promptly repair all damage done to the street surface and all installations on, over, below or within the public right-of-way and shall properly restore the public right-of-way to its pre-existing

condition.

~~[47] Effective October 31, 2002, all ordinances, resolutions, provisions of this Code, local regulations or policies applicable to telecommunication providers that are inconsistent with Public Act No. 48 of 2002 (MCL 484.3101 et seq.), or that assess fees or require other consideration for access to or use of the public rights-of-way that are in addition to the fees required under such act, are hereby repealed, and shall be no longer subject to enforcement by the city.~~

(Code 2006, §§ 34-31—34-34; Ord. No. 195, §§ 86.1—86.4, 10-14-2002)

State law reference—Metropolitan Extension Telecommunications Rights-of-Way Oversight Act, MCL 484.3101 et seq.

ARTICLE II. SIDEWALKS

Sec. 32-31. Defined.

As used in this chapter, sidewalk means the paved portion of the street right-of-way designed for pedestrian travel.

(Code 2006, § 32-31; Ord. No. 160, § 34.1, 5-13-1996)

Sec. 32-32. Location; width; materials.

All sidewalks in the city shall be laid so that the inner edge of each sidewalk shall be a distance of two feet from the nearest parallel right-of-way line, or such distance as the department shall prescribe, and shall be of such width and of such materials as the regulations of the department shall specify.

(Code 2006, § 32-32; Ord. No. 160, § 34.2, 5-13-1996)

Sec. 32-33. Duties of abutting property owners.

It is the duty of the owner of every lot or parcel of land in the city to build sidewalks in front of or adjoining his premises when so ordered by the council, and to maintain such walks in good repair and to keep them free from all obstructions.

(Code 2006, § 32-33; Ord. No. 160, § 34.3, 5-13-1996)

Sec. 32-34. Order to build.

If an owner shall fail or neglect to construct any sidewalk adjoining his lot or parcel of land within such time as the council shall by resolution determine, which time shall not be less than 20

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[47] **Sec. 34-31. Telecommunications within rights-of-way.** Unnecessary provisions are stricken. These provisions were previously an article in the now retired telecommunications chapter.

days after the same shall have been ordered by the council, or shall fail to keep the sidewalk in good repair, the council may, without further notice, cause the same to be done, and the cost of such construction or repair may be paid out of the contingent fund of the city and the council may assess such expense as a special assessment against such lot or parcel of land in the next general assessment roll of the city. Such special assessment shall be collected and enforced in the same manner as general city taxes and special assessments.
(Code 2006, § 32-34; Ord. No. 160, § 34.4, 5-13-1996)

Sec. 32-35. Construction.

(a) *Permit required.* Whenever the owner of any land in the city shall desire to construct a sidewalk in front of or adjoining his premises, he shall obtain a permit for such construction from the building official, which permit, when granted, shall contain full specifications as to the kind of material, width, and manner of construction of the walk, and it shall be the duty of the superintendent of public works to establish the grade line of such sidewalk.

(b) *Work to be supervised by public works superintendent.* It is the duty of the public works superintendent to supervise the construction and repair of all sidewalks in the city and see that they are constructed and repaired with the materials and in the manner specified.
(Code 2006, §§ 32-35, 32-36; Ord. No. 160, § 34.5, 34.6, 5-13-1996)

Sec. 32-37. [48] Removal of snow and rubbish from sidewalks.

(a) No person having the care, either as owner or occupant, of any house, building, or lot shall permit any snow, ~~ice,~~ rubbish, including broken bottles and glass, filth, or other nuisance to remain upon any portion of the entire width of the sidewalks in front of the house, building, or lot for longer than 24 hours. Ice shall be removed from sidewalks in accordance with section ____.

(b) If snow, rubbish, filth, or other nuisance is not cleared from the sidewalk within 24 hours following occurrence, a citation or fine shall be issued by the city in manner stipulated in section 18-32 of this Code. Seasonally, any first infraction under this section shall incur a $50.00 fine; subsequent infractions shall be fined pursuant to section 1-__.

(c) Each citation or notice shall clearly reference the date and time at which the violation occurred. If the violation has not been resolved at the time of issuance of the citation or notice, the city may cause removal to be of the matter in question and will bill the property owner for the corresponding additional costs.
(Code 2006, § 32-37; Ord. No. 160, § 34.7, 5-13-1996; Ord. No. 2016-242, § 27, 10-20-2016; Ord. No. 2016-243, § 27, 11-17-2016)

[48] **Sec. 32-37. Removal of snow and rubbish from sidewalks.** I have removed ice from this section since the ice removal regulations below provide a different time requirement for removal.

Sec. #. [49] **Removal of ice from sidewalks.**

(a) When ice is formed on any sidewalk, the owner or occupant of the abutting premises shall, within 12 hours after the ice has formed, cause the ice to be removed or cause salt, saw dust, sand, ice melt or other abrasive to be strewn thereon.

(b) If ice is not cleared within 12 hours following formation, a citation or fine shall be issued by the city. Seasonally, any first infraction under this section shall incur a $50 fine; subsequent infractions shall be fined pursuant to general provisions. Each citation or notice shall clearly reference the date and time at which the violation occurred. If the violation has not been resolved at the time of issuing the citation or notice, the city may cause removal of the matter in question and will bill the property owner for additional labor costs.

(c) For enforcement purposes, where ice is formed after sunset, the 12-hour removal period shall not commence until after the following sunrise.

~~Regarding wintertime nuisances, the city shall, at the beginning of October, publish a reminder of Section 32-37, in no less than three two public forms of notification.~~

(Code 2006, § 32-37; Ord. No. 160, § 34.7, 5-13-1996; Ord. No. 2016-242, § 27, 10-20-2016; Ord. No. 2016-243, § 27, 11-17-2016)

Sec. 32-38. Sidewalk replacement program.

The city council may, from time to time, authorize the replacement of sidewalks in certain areas of the city, with the cost allocated between the city and the individual property owner as the city council deems just and appropriate. The cost of the individual landowner shall be assessed as provided for in section 32-34.

(Code 2006, § 32-38; Ord. No. 160, § 34.8, 5-13-1996)

[49] **Sec. #. Removal of ice from sidewalks.** Publication policy is stricken as unnecessary.

Chapter 32

SUBDIVISIONS AND OTHER LAND DIVISION

State law reference—Michigan Planning Enabling Act, MCL 125.3801 et seq.; ~~municipal planning, MCL 125.31 et seq.;~~ Land Division Act, MCL 560.101 et seq.

ARTICLE I. IN GENERAL

Secs. 16-1—16-30. Reserved.

ARTICLE II. LAND DIVISIONS

Sec. 16-31. Purpose.

The purpose of this article is to carry out the provisions of the state Land Division Act ~~Public Act No. 288 of 1967~~ MCL ~~650.101~~ 560.01 et seq.~~formerly known as the subdivision control act~~, to prevent the creation of parcels of property which do not comply with applicable ordinances and such act, to minimize potential boundary disputes, to maintain orderly development of the community, and otherwise provide for the health, safety and welfare of the residents and property owners of the city by establishing reasonable standards for prior review and approval of land divisions within the city.
(Code 2006, § 16-31; Ord. No. 168, § 24-2, 8-11-1997)

Sec. 16-32. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Applicant means a natural person, firm, association, partnership, corporation, or combination of any of them that holds an ownership interest in land, whether recorded or not.

Divide and division mean the partitioning or splitting of a parcel or tract of land by the proprietor thereof or by his heirs, executors, administrators, legal representatives, successors or assigns, for the purpose of sale or lease of more than one year, or of building development, that results in one or more parcels of less than 40 acres or the equivalent, and that satisfies the requirements of ~~sections 108 and 109 of the state Land Division Act, MCL 560.01 et seq.~~ MCL 560.108 and 560.109. The terms "divide" and "division" do not include a property transfer between two or more adjacent parcels if the property taken from one parcel is added to an adjacent parcel, and any resulting parcel shall not be considered a building site unless the parcel conforms to the requirements of the state Land Division Act, MCL 560.01 et seq., this article, and other applicable ordinances.

Exempt split and exempt division mean the partitioning or splitting of a parcel or tract of land by the proprietor thereof, or by his heirs, executors, administrators, legal representatives, successors or assigns, that does not result in one or more parcels of less than 40 acres or the equivalent; provided all resulting parcels are accessible for vehicular travel and utilities from existing public roads through existing adequate roads or easements, or through areas owned by the owner of the parcel that can provide such access.

Forty acres or the equivalent means either 40 acres, a quarter-quarter section containing not less than 30 acres, or a government lot containing not less than 30 acres.
(Code 2006, § 16-32; Ord. No. 168, § 24-3, 8-11-1997)

Sec. 16-33. Prior approval required; exemptions.

Land in the city shall not be divided without the prior review and approval of the city assessor, or other official designated by the city council in accordance with this article and the state Land Division Act, MCL 560.01 et seq.; provided that the following shall be exempted from this requirement:

(1) A parcel proposed for subdivision through a recorded plat pursuant to the act.

(2) A lot in a recorded plat proposed to be divided in accordance with the act.

(3) An exempt split as defined in this article.
(Code 2006, § 16-33; Ord. No. 168, § 24-4, 8-11-1997)

Sec. 16-34. Application requirements.

An applicant shall file all of the following with the city assessor or other official designated by the city council for review and approval of a proposed land division before making any division either by deed, land contract, or lease for more than one year, or for building development:

(1) A completed application form on such form as may be approved by the city council.

(2) Proof of fee ownership of the land proposed to be divided.

(3) A survey map of the land proposed to be divided, subject to the following:

a. The map shall be prepared pursuant to the survey map requirements of ~~Public Act No. 132 of 1970~~ MCL 54.213 ~~54.211~~ by a land surveyor licensed by the state, and showing the dimensions and legal descriptions of the existing parcel and the parcels proposed to be created by the division, the location of all existing structures and other land improvements, and the accessibility of the parcels for vehicular traffic and utilities from existing public roads.

b. In lieu of such survey map, at the applicant's option, the applicant may waive the 30-day statutory requirement for a decision on the application until such survey map and legal description are filed with the council, and submit a preliminary parcel map drawn to a scale of not less than 200 feet to the inch including an accurate legal description of each proposed division, and showing the boundary lines, dimensions, and the accessibility of each division from existing or proposed public roads for automobile traffic and public utilities, for preliminary review, approval, or denial by the assessor or other official designated by the city council prior to a final application under this section.

c. The assessor or other official designated by the city council may waive the survey map requirement where the foregoing preliminary parcel map is deemed to contain adequate information to approve a proposed land division considering the size, simple nature of the divisions, and the undeveloped character of the territory within which the proposed divisions are located. An accurate legal description of all the proposed divisions, however, shall be required.

(4) Proof that all standards of the state Land Division Act, MCL 560.01 et seq., and this article have been met.

(5) The history and specifications of the land proposed to be divided sufficient to establish that the proposed division complies with ~~section 108 of the state Land Division Act,~~ MCL 560.108.

(6) Proof that all due and payable taxes or installments of special assessments pertaining to the land proposed to be divided are paid in full.

(7) If a transfer of division rights is proposed in the land transfer, detailed information about the terms and availability of the proposed division rights transfer.

(8) Unless a division creates a parcel which is acknowledged and declared to be "not a development site" under section 16-37, all divisions shall result in "buildable" parcels with sufficient area to comply with all required setback provisions, minimum floor areas, off-street parking spaces, approved on-site sewage disposal and water well locations (where public water and sewer service is not available), access to existing public utilities and public roads, and maximum allowed area coverage of buildings and structures on the site, as required by the city zoning code.

(9) The fee as may from time to time be established by resolution of the city council for land division reviews pursuant to this article to cover the costs of review of the application and administration of this article and the state Land Division Act, MCL 560.01 et seq..
(Code 2006, § 16-34; Ord. No. 168, § 24-5, 8-11-1997)

Sec. 16-35. Review of application; decision; recording of survey.

(a) The assessor or other designee shall approve, approve with reasonable conditions to assure compliance with applicable ordinances and the protection of public health, safety and general welfare, or disapprove the land division applied for within 30 days (unless waived under section 16-34(3)) after receipt of the application package conforming to the requirements of this article, and shall promptly notify the applicant of the decision and the reasons for any denial. If the application package does not conform to the requirements of this article and the state Land Division Act, MCL 560.01 et seq., the assessor or other designee shall return the application to the applicant for completion and refiling in accordance with this article and the state Land Division Act, MCL 560.01 et seq.

(b) Any person aggrieved by the decision of the assessor or designee may, within 30 days of such decision, appeal the decision to the city council or such other body or person designated by the city council, which shall consider and resolve such appeal by a majority vote of the council or by the designee at its next regular meeting or session affording sufficient time for a 20-day written notice to the applicant (and the appellant where other than the applicant) of the time and date of the meeting and appellate hearing.

(c) A decision approving a land division is effective for 90 days, after which it shall be considered revoked unless within such period a survey is recorded with the county register of deeds office and filed with the city clerk or other designated official accomplishing the approved land division or transfer.

(d) The assessor or designee shall maintain an official record of all approved and accomplished land divisions or transfers.
(Code 2006, § 16-35; Ord. No. 168, § 24-6, 8-11-1997)

Sec. 16-36. Standards for approval.

A proposed land division shall be approved if the following criteria are met:

(1) All the parcels to be created by the proposed land division fully comply with the applicable lot (parcel), yard and area requirements of the zoning ordinance, including, but not limited to, minimum lot (parcel) frontage/width, minimum road frontage, minimum lot (parcel) area, and maximum lot (parcel) coverage and minimum setbacks for existing buildings/structures, or have received a variance from such requirements from the appropriate zoning board of appeals.

(2) The proposed land division complies with all requirements of the state Land Division Act, MCL 560.01 et seq., and this article.

(3) All parcels created and remaining have existing adequate accessibility, or an area available therefor, to a public road for public utilities and emergency and other vehicles not less than the requirements of all applicable ordinances.

(4) The ratio of depth to width of any parcel created by the division does not exceed a four-to-one ratio exclusive of access roads, easements, or non-buildable parcels created under section 16-37. The depth of a parcel created by a land division shall be measured within the boundaries of each parcel from the abutting road right-of-way to the most remote boundary line point of the parcel from the point of commencement of the measurement. The width of a parcel shall be measured at the abutting road or right-of-way line, or as otherwise provided in any applicable ordinances.
(Code 2006, § 16-36; Ord. No. 168, § 24-7, 8-11-1997)

Sec. 16-37. Approval of nonbuildable parcels.

Notwithstanding the provisions of section 16-36, a division which creates a parcel that satisfies all of the requirements of section 16-36 except that it does not satisfy one or more of the standards of section 16-36(1) and (4) shall be approved if the applicant executes and records an affidavit or deed restriction with the county register of deeds clearly designating the parcel as not a development site, as defined under the state Land Division Act, MCL 560.01 et seq." Any parcel so designated shall not thereafter be used as a development site as defined under the state Land Division Act, MCL 560.01 et seq.
(Code 2006, § 16-37; Ord. No. 168, § 24-8, 8-11-1997)

Sec. 16-38. Violations; noncomplying parcels.

Any parcel created in noncompliance with this article shall not be eligible for any building permits, or zoning approvals, such as conditional land use approval or site plan approval, and shall not be recognized as a separate parcel on the assessment roll. In addition, violation of this article shall subject the violator to the penalties and enforcement actions set forth in section 16-39 and as may otherwise be provided by law.
(Code 2006, § 16-38; Ord. No. 168, § 24-9, 8-11-1997)

Sec. 16-39. Penalty; enforcement.

Any person who violates any of the provisions of this article shall be deemed responsible for a municipal civil infraction. Any person who violates any of the provisions of this article shall also be subject to a civil action seeking invalidation of the land division and appropriate injunctive or other relief.
(Code 2006, § 16-39; Ord. No. 168, § 24-10, 8-11-1997)

Secs. 16-40—16-60. Reserved.

ARTICLE III. SUBDIVISIONS

DIVISION 1. GENERALLY

Sec. 16-61. Purpose.

The purpose of this article is to regulate and control the subdivision of land within the city in order to promote the safety, public health and general welfare of the community. These regulations are specifically designed to:

(1) Provide for orderly growth and harmonious development of the community, consistent with orderly growth policies.

(2) Secure adequate traffic circulation through coordinated street systems with proper relation to major thoroughfares, adjoining subdivisions, and public facilities.

(3) Achieve individual property lots of maximum utility and liability.

(4) Insure adequate provisions for water, drainage and sanitary sewer facilities, and other health requirements.

(5) Plan for the provision of adequate recreational area school sites and other public facilities.
(Code 2006, § 16-61; Ord. No. 108-S, § 1.2, 12-8-1980)

Sec. 16-62. Statutory authority.

This article is enacted pursuant to the statutory authority granted by the Land Division Act, ~~Public Act No. 288 of 1967~~ MCL 560.101 et seq., Municipal Planning Enabling Act, MCL 125.3801 et seq., ~~Public Act No. 285 of 1931 (MCL 125.31 et seq.),~~ and ~~Public Act No. 222 of 1943~~ MCL 125.51 et seq.
(Code 2006, § 16-62; Ord. No. 108-S, § 1.3, 12-8-1980)

Sec. 16-63. Scope.

This article shall not apply to any lot forming a part of a subdivision created and recorded prior to the effective date of the ordinance from which this article is derived, except for further dividing of existing lots, nor is it intended by this article to repeal, abrogate, annul, or in any way impair or interfere with existing provisions of other laws, ordinances or regulations, or with private restrictions placed upon property by deed, covenant, or other private agreements or with restrictive covenants running with the land to which the city is a party. Where this article imposes a greater restriction upon land than is imposed or required by such existing provision of any other ordinance, the provisions of this article shall control.
(Code 2006, § 16-63; Ord. No. 108-S, § 1.4, 12-8-1980)

Sec. 16-64. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

Any word or term not interpreted or defined by this article shall be used with a meaning of common or standard utilization.

Alley means a public or private right-of-way shown on a plat which provides secondary access to a lot, block or parcel of land.

As-built plans means revised construction plans in accordance with all approved field changes.

Block means an area of land within a subdivision that is entirely bounded by streets, highways, or ways except alleys, the exterior boundaries of the subdivision, streams or rivers, railroad rights-of-way, or a combination thereof.

Building line and setback line mean a line parallel to a street right-of-way line, shore of a lake, edge of a stream or river bank, established on a parcel of land or on a lot for the purpose of prohibiting construction of a building between such line, and a right-of-way, other public area or the shore of a lake, or the edge of a stream or river bank.

Caption means the name by which the plat is legally and commonly known.

Commercial development means a planned commercial center providing building areas, parking areas, service areas, screen planting and widening, turning movement and safety lane roadway improvements.

Comprehensive development plan and master plan mean a unified document of text, charts, graphics or maps, or any combination, designed to portray general, long range proposals for the arrangement of land uses and which is intended primarily to guide government policy toward achieving orderly and coordinated development of the entire community, including any unit, part or amendment to such plan.

Crosswalkway (pedestrian walkway) means a right-of-way dedicated to public use, which crosses a block to facilitate pedestrian access to adjacent streets and properties.

Dedication means the intentional appropriation of land by the owners to public use.

Floodplain means the area of land adjoining the channel of a river, stream, watercourse, lake or other similar body of water which will be inundated by a flood which can reasonably be expected for that region.

Greenbelt and buffer park mean a strip or parcel of land, privately restricted or publicly dedicated as open space, located between incompatible uses for the purpose of protecting and enhancing the residential environment.

Improvement means any structure incident to servicing or furnishing facilities for a subdivision such as grading, street surfacing, curb and gutter, driveway approaches, sidewalks, crosswalks, water mains and lines, sanitary sewers, culverts, bridges, utilities, lagoons, slips, waterways, lakes, bays, canals and other appropriate items, with appurtenant construction.

Industrial development means a planned industrial area designed specifically for industrial use providing screened buffers, wider streets and turning movement and safety lane roadway improvements, where necessary.

Land Division Act means ~~Public Act No. 288 of 1967~~ the state Land Division Act, MCL 560.101 et seq.

Lot means a measured portion of a parcel or tract of land, which is described and fixed in a recorded plat.

(1) Lot depth means the horizontal distance between the front and rear lot lines, measured along the median between the side lot lines.

(2) Lot width means the horizontal distance between the side lot lines measured at the setback line and at right angles to the lot depth.

Outlot, when included within the boundary of a recorded plat, means a lot set aside for purposes other than a building site, park or other land dedicated to public use or reserved to private use.

Parcel means a continuous area or acreage of land which can be described as provided for in the state Land Division Act, MCL 560.01 et seq.

Planned unit development means a land area which has both individual building sites and common property, such as a park, and which is designed and developed under one owner or organized group as a separate neighborhood or community unit.

Planning commission means the planning commission of the city as established under the Municipal Planning Enabling Act, MCL 125.3801 et seq. ~~Public Act No. 285 of 1931 (MCL 125.31 et seq.).~~

Plat means a map or chart of a subdivision of land.

(1) Pre-preliminary plat means an informal plan or sketch drawn to scale and in pencil, if desired, showing the existing features of a site and its surroundings and the general layout of a proposed subdivision.

(2) Preliminary plat means a map showing the salient features of a proposed subdivision of land submitted to an approving authority for purposes of preliminary consideration.

(3) Final plat means a map of a subdivision of land made up in final form ready for approval and recording.

Public open space means land dedicated or reserved for use by the general public. It includes parks, parkways, recreation areas, school sites, community or public building sites, streets and highways and public parking spaces.

Public utility means all persons, firms, corporations, copartnerships, or municipal or other public authorities providing gas, electricity, water, steam, telephone, telegraph, storm sewers, sanitary sewers, transportation, or other services of a similar nature.

Replat means the process of changing, or the map or plat which changes, the boundaries of a recorded subdivision plat or part thereof. The legal dividing of an outlot within a recorded subdivision plat without changing the exterior boundaries of the outlot is not a replat.

Right-of-way means land reserved, used, or to be used for a street, alley, walkway, or other public purposes.

Sight distance means the minimum extent of unobstructed vision on a horizontal plane along a street from a point five feet above the centerline of a street.

Sketch plan means a pre-preliminary plat.

Street means a right-of-way which provides for vehicular and pedestrian access to abutting properties.

(1) Freeway means those streets designed for high speed, high volume traffic, with completely controlled access, no grade crossings and no private driveway connections.

(2) Expressway means those streets designed for high speed, high volume traffic, with full or partially controlled access, some grade crossings but no driveway connections.

(3) Parkway means a street designed for noncommercial, pleasure oriented traffic moving at moderate speeds, between and though scenic areas and parks.

(4) Arterial street means those streets of considerable continuity which are used or may be used primarily for fast or heavy traffic.

(5) Collector street means those streets used to carry traffic from minor streets to arterial streets, including principal entrance streets to large residential developments.

(6) Cul-de-sac means a minor street of short length having one end terminated by a vehicular turnaround.

(7) Marginal access street means a minor street which is parallel and adjacent to arterial streets and which provides access to abutting properties and protection from through traffic and not carrying through traffic.

(8) Minor street means a street which is intended primarily for access to abutting properties.

(9) Street width means the shortest distance between the lines delineating the right-of-way of streets.

Subdivide and subdivision mean the partitioning or splitting of a parcel or tract of land by the proprietor thereof or by his heirs, executors, administrators, legal representatives, successors, or assigns for the purpose of sale, or lease of more than one year, or of building development that results in one or more parcels of less than 40 acres or the equivalent, and that is not exempted from the platting requirements of ~~sections 108 and 109 of the land division act~~ MCL 560.108 and 560.109). The term "subdivide" or "subdivision" does not include a property transfer between two or more adjacent parcels, if the property taken from one parcel is added to an adjacent parcel; and any resulting parcel shall not be considered a building site unless the parcel conforms to the requirements of the land division act or the requirements of this article.

Subdivider, proprietor and developer mean an individual, firm, association, partnership, corporation or combination of any of them which may hold any recorded or unrecorded ownership interest in land. The proprietor is also commonly referred to as the owner.

Surveyor means either a land surveyor who is registered in the state as a registered land surveyor or a civil engineer who is registered in the state as a registered professional engineer.

Topographical map means a map showing existing physical characteristics, with contour lines at sufficient intervals to permit determination of proposed grades and drainage.

Tract means two or more parcels that share a common property line and are under the same ownership.
(Code 2006, § 16-64; Ord. No. 108-S, §§ 2.1, 2.2, 12-8-1980)

Sec. 16-65. Administration.

This article shall be administered by the city council in accordance with the Land Division Act, MCL 560.101 et seq. ~~Public Act No. 288 of 1967~~, and the city planning commission in accordance with the Municipal Planning Enabling Act, MCL 125.3801 et seq., ~~Public Act No. 285 of 1931 (MCL 125.31 et seq.)~~ and ~~Public Act No. 222 of 1943~~ MCL 135.51 et seq.

(Code 2006, § 16-65; Ord. No. 108-S, § 1.5, 12-8-1980)

Sec. 16-66. Fees.

The city council shall periodically review and set, by resolution, a schedule of fees for those activities outlined in this section. the city clerk shall maintain that schedule for public use.

(1) Tentative approval of preliminary plats. The subdivider shall pay a city filing fee plus a fee per lot when a preliminary plat is submitted for tentative approval pursuant to section 16-92(c).

(2) Final approval of preliminary plats. The subdivider shall pay a city filing fee plus a fee per lot when a preliminary plat is submitted for final approval pursuant to section 16-92(c).

(3) Approval of final plats. The subdivider shall pay the established fees for the following activities when a final plat is submitted for approval pursuant to section 16-93(c):

a. City filing and review fee. A city filing and review fee plus a fee per lot shall be paid.

b. Recording fee. A recording fee, as established by the city council, shall be paid, which the city clerk shall forward to the county plat board upon city council approval of the final plat.

c. Inspection charges. All charges for city inspection of public improvements shall be paid by the subdivider prior to final plat approval.
(Code 2006, § 16-66; Ord. No. 108-S, § 1.6, 12-8-1980)

Sec. 16-67. Compliance; enforcement.

No subdivision plat required by this article or the land division act shall be admitted to the public land records of the county or received or recorded by the county register of deeds until such subdivision plat has received final approval by the city council. No public board, agency, commission, official or other authority shall proceed with the construction of or authorize the construction of any of the public improvements required by this article, unless such public improvement shall have already been accepted, opened or otherwise received the legal status of a public improvement prior to the effective date of the ordinance from which this article is derived, unless such public improvement shall correspond in its location to the requirements of this article and to the other requirements of this article.
(Code 2006, § 16-67; Ord. No. 108-S, § 7.1, 12-8-1980)

Sec. 16-68. Penalty; additional remedies.

Failure to comply with the provisions of this article shall be a municipal civil infraction. Each day such violation continues shall be considered a separate offense. The landowner, tenant, subdivider, builder, public official or any other person who commits, participates in, assists in, or

maintains such violation may each be found guilty of a separate offense and suffer the penalties provided in this section. Nothing contained in this section shall prevent the city council or any other public official or private citizen from taking such lawful action as is necessary to restrain or prevent any violation of this article or of the land division act.
(Code 2006, § 16-68; Ord. No. 108-S, § 7.2, 12-8-1980)

Secs. 16-69—16-90. Reserved.

DIVISION 2. PLATTING PROCEDURES

Sec. 16-91. Preapplication contact and sketch plan.

(a) Purpose. The purpose of the preapplication stage is to provide the subdivider with guidelines concerning the development policies of the city and to acquaint him with the platting procedures of the planning commission and city council thereby saving the subdivider time and money and improving the quality of development in the city. Nothing in this section shall be construed to require a preapplication contact. Any subdivider may elect to begin the subdivision process by submitting a preliminary plat in accordance with section 16-92.

(b) Data requirements. The subdivider applying for approval of a pre-preliminary plat or sketch plan shall provide the following information to the city as required in subsection (c) of this section:

(1) Pre-preliminary plat or sketch plan showing the entire development proposal in schematic form, including the area for immediate development. The pre-preliminary plat or sketch plan shall be drawn to scale, and shall show existing conditions and characteristics of the parcel and adjacent land, the general layout of streets, blocks and lots, and any general area set aside for schools, parks and other community facilities.

(2) Surveyor's letter concerning the general feasibility of the parcel for subdividing.

(3) Proof of ownership of the land proposed to be subdivided.

(c) Procedure. The following process shall be followed in obtaining tentative approval of a pre-preliminary plat or sketch plan:

(1) Subdivider's submittal. The subdivider shall submit two copies of the pre-preliminary plat, surveyor's letter and proof of ownership to the city clerk at least ten days prior to a regular meeting of the planning commission.

(2) City clerk's transmittal. the city clerk shall promptly transmit the two copies of the pre-preliminary plat, surveyor's letter and proof of ownership to the planning commission.

(3) Planning commission review and recommendation. The planning commission or a committee of the commission shall review the plan with the subdivider or his agent. The commission may require that copies of the pre-preliminary plat be submitted to other affected public agencies for review. The planning commission shall inform the subdivider or his agent of the city's development policies and make appropriate comments and suggestions concerning the proposed development scheme. The planning commission shall recommend to the city council either approval or rejection of the pre-preliminary plat based upon the results of its review. The planning commission shall also communicate its recommendation to public agencies to which the pre-preliminary plat was submitted for review.

(4) Approval by city council. After it receives the planning commission recommendation, the city council shall approve or reject the pre-preliminary plat. Such approval shall confer to the subdivider, for a period of one year, approval of lot sizes, lot orientation and street layout. Approval of the pre-preliminary plat does not assure approval of a preliminary plat.
(Code 2006, § 16-91; Ord. No. 108-S, § 3.1, 12-8-1980)

Sec. 16-92. Preliminary plat.

(a) Purpose. This section is intended to implement ~~sections 111 through 119 of the land division act~~ MCL 560.111—560.119, part of the Land Division Act, MCL 560.101 et seq.

(b) Data requirements. The subdivider applying for approval of a preliminary plat shall provide the specified information to the city as required in subsection (c) of this section. The preliminary plat shall be at a scale of 200 feet to one inch, or larger, on a standard size sheet of paper or cloth, 24 inches by 36 inches. The following information shall be shown on the preliminary plat or may be submitted with it:

(1) The name of the proposed subdivision.

(2) Names, addresses and telephone numbers of the owner, subdivider, surveyor, or engineer preparing the plat.

(3) Location of the subdivision, giving the numbers of section, township and range, and the name of the city, county, and state.

(4) The names of abutting subdivisions.

(5) Statement of intended use of the proposed plat, such as residential single-family, two-family and multiple-family housing, commercial, industrial, recreational, or agricultural; also, proposed sites, if any, for multifamily dwellings, shopping centers, churches, industry, and other nonpublic uses exclusive of single-family dwellings; also, any sites proposed for parks, playgrounds, schools, or other public uses.

(6) A map of the entire area scheduled for development, if the proposed plat is a portion of a larger holding intended for subsequent development.

(7) The location of existing facilities and structures, such as buildings, sewage systems, high tension towers, utility easements of record or in use, excavations, bridges and culverts.

(8) A location map showing the relationship of the proposed plat to the surrounding area.

(9) A map showing the land use and existing zoning of the proposed subdivision and the adjacent tracts.

(10) The drawing shall indicate existing and proposed contour at intervals not to exceed five feet. In the case of waterfront property or where the high groundwater elevation is within six feet of the existing or proposed finished ground surface, the drawing shall show existing and proposed two-foot contour intervals. The planning commission may require two-foot contour intervals when the lots in the subdivision exceed one acre. When extensive cutting or filling of land is anticipated that will affect building sites and sewage disposal facilities, the areas involved shall be indicated. The source, if known, and the type of fill material to be used, when filling is anticipated, shall be specified.

(11) Statement as to whether the high groundwater is less than or greater than six feet from either the existing or proposed finished ground surface. In those cases where the groundwater is less than six feet, the groundwater level shall be specified. A statement as to how and when the high groundwater level was established shall be included.

(12) Location of floodplain areas, rivers, streams, creeks, lakes, county drains, lagoons, slips, waterways, bays, canals and artificial impoundments, either existing or proposed, within or adjacent to the area to be platted.

(13) Location and results of all percolation tests and soil borings performed on the site when the subdivision will not be served by a public sewer system. Percolation tests should be provided on the basis of at least one per acre or one per lot if lots exceed one acre in size. The county health department may modify this requirement based on local conditions. As an example, a soil survey map prepared by a competent soil scientist, with an indication of approximate percolation rates for certain categories of soils which have been determined to exist in the proposed plat area, may be used to reduce the number of required percolation tests.

(14) Statement of the availability of water of good quality for domestic use on the land proposed to be subdivided, if public water service will not be provided to the development. If questionable, the county health department may require an estimate as to the availability of quality water prepared by and based upon a study by a registered civil engineer or hydrogeologist competent in the field of water supply.

(15) A report of soil limitations based on site inspection carried out by a soil specialist qualified in the area of soil classification and mapping, including soils information as may be obtained from a modern soil map which meets the standards of the National Cooperative Soil Survey. The source of information shall be specified.

(16) Streets, street names, right-of-way and roadway widths.

(17) Lot lines and the total number of lots by block.

(18) A statement of the type of water and sewage system to be provided, including drawings of appropriate existing and proposed storm and sanitary sewers, water mains and their respective profiles.

(19) Copies, as required, of proposed protective convents and deed restrictions.

(20) Other right-of-way easements, showing location, width and purpose as available.

(21) Preliminary engineering plans for streets, water, sanitary and storm sewers, sidewalks and other required public improvements required in division 4 of this article. The engineering plans shall contain enough information and detail to enable the planning commission to make a preliminary determination as to conformance of the proposed improvements to applicable city regulations and standards.

(22) A legend indicating the total acreage contained in the plat, the absolute and percentage breakdown of the total acreage into lots, road allowances, parks and other uses, the date, north arrow and scale.

(c) Procedure. Before making or submitting a final plat for approval, the subdivider shall make a preliminary plat and submit copies to authorities as provided in ~~sections 111 through 119 of the land division act~~ MCL 560.111—560.119, part of the Land Division Act, MCL 560.101 et seq.

(1) Subdivider's submittal. The subdivider shall submit copies of the preliminary plat and other data as follows:

a. Seven copies to the city clerk. At least one of the copies shall be reproducible.

b. Two copies to the city school board for informational purposes.

c. Two copies to the city fire board for informational purposes.

d. One copy to the tri-county regional planning commission for verification that street names do not duplicate or conflict with existing street names.

(2) City clerk's transmittal. the city clerk shall promptly transmit two copies of the preliminary plat and other data to the planning commission, two copies to the city council, two copies to the city engineer and one copy to the city assessor.

(3) Planning commission public hearing. The planning commission shall hold a public hearing on the preliminary plat.

a. the city clerk shall give notice of the public hearing by publishing such notice at least once in a newspaper of general circulation in the city at least 15 days prior to the hearing date. The notice shall state the date, time and place of the public hearing, the substance of the proposed preliminary plat and the location where additional information may be obtained.

b. the city clerk shall provide notice of the hearing containing the same information as the published notice to each public utility and railroad affected by the proposed preliminary plat at least 15 days prior to the hearing date. The notice shall be given by registered United States mail.

c. the city clerk shall provide a notice of the hearing containing the same information as the published notice to each owner of property within 300 feet of the subject parcel or tract, as found in the city tax assessor's records, at least 15 days prior to the hearing date. The notice shall be given by registered United States mail.

d. The parcel or tract covered by the proposed preliminary plat shall be posted by the subdivider for at least 15 days prior to the hearing date. the city clerk shall provide the posted notices, which shall include the same information as the published notice.

(4) Planning commission action. The planning commission shall approve, modify or reject the preliminary plat within 60 days of its submittal to the city clerk, but after the public hearing. Failure to act within the 60-day time period shall be deemed approval, and a certificate to that effect shall be issued by the commission upon the subdivider's request. The subdivider may waive the deadline by consenting to an extension in writing. Any extension granted to the planning commission by the subdivider shall not reduce the time allowed for the city council's consideration of the preliminary plat.

(5) Tentative approval by city council.

a. The city council, within 30 days of the planning commission action, shall reject or grant tentative approval to the preliminary plat, provided that a preliminary plat which has been rejected by the planning commission shall not be approved. the city council shall return to the subdivider a copy of the preliminary plat with tentative approval duly noted, or a written notice of rejection and requirements for tentative approval.

b. Tentative approval of a preliminary plat shall confer upon the subdivider, for a period of one year from the date of action, approval of lot sizes, lot orientation and street layout.

c. Tentative approval may be extended by the city council if applied for in writing by the subdivider.

(6) Final approval.

a. After tentative approval of the preliminary plat by the city council, the subdivider shall:

1. Submit copies of the preliminary plat to all public agencies as required by ~~sections 111 through 119 of the land division act~~ MCL 560.111—560.119, part of the Land Division Act, MCL 560.101 et seq.
2. Submit a list of all such authorities to the city clerk, certifying that the list shows all authorities as required by ~~sections 111 through 119 of the land division act~~ MCL 560.111—560.119, part of the Land Division Act, MCL 560.101 et seq.; and

3. Submit all approved copies from such authorities to the city clerk.

b. The planning commission shall promptly review the submitted preliminary plat to verify that all conditions and requirements imposed upon the plat at the time of tentative approval are complied with, and shall report the results of the review to the city council.

c. the city council, after receipt of the necessary approved copies of the preliminary plat and the planning commission's report, shall consider and review the preliminary plat at its next regular scheduled meeting or within 30 days of submission of all necessary data by the subdivider. the city council shall approve the preliminary plat if the subdivider has met all specified conditions. the city clerk shall promptly notify the subdivider in writing of the council's approval or rejection with reasons for rejection specified in the notice. the city council approval of a preliminary plat shall be valid for a two-year period from the date of approval. The council may extend the period if applied for in writing by the subdivider.
(Code 2006, § 16-92; Ord. No. 108-S, § 3.2, 12-8-1980)

Sec. 16-93. Final plat.

(a) Purpose. This section is intended to implement ~~sections 120 of the land division act~~ MCL 560.120, part of the Land Division Act, MCL 560.101 et seq.

(b) Data requirements. The subdivider applying for approval of a final plat shall provide the following information to the city as required in subsection (c) of this section:

(1) Final plat. A final plat shall be prepared in accordance with the land division act and applicable rules, regulations and guidelines established pursuant to such act.

(2) Final engineering plans. Final engineering plans, profiles, cross sections and specifications for improvements required to be installed by this article, including landscaping plans, shall meet the specifications established by the city engineer or the specifications of the respective approving authorities as required by law. Such final engineering plans shall accompany the final plat. When construction has been completed at the time of filing of the final plat, one complete copy of as-built engineering plans of each required public improvement, prepared at the subdivider's expense, shall be filed with the city clerk with the final plat application.

(3) Proof of ownership. The subdivider shall submit proof of ownership of the land included in the final plat in the form of an abstract of title certified to the date of the proprietor's certificate, or a policy of title insurance currently in force.

(c) Procedure. The final plat shall conform substantially to the approved preliminary plat and shall conform to the provisions of the land division act and this article.

(1) Subdivider's application. After having received the final plat approval of the county drain commissioner, county road commission and county health department, if necessary, the subdivider shall file a written application for approval of the final plat with the city clerk at least ten days prior to a regular planning commission meeting. With the application, the subdivider shall submit five true copies of the final plat, one copy of the final engineering plans shown on linen or mylar, and two copies of any landscaping plans for street trees, street islands and boulevards.

(2) City council review and approval. the city council shall review the final plat at its next regular meeting following the planning commission's action, or within 20 days of such action. If approved, the city clerk shall sign all copies of the final plat for the council, and the final plat shall then follow the procedures set forth in the land division act. If disapproved, the city council shall notify the subdivider in writing of its action and requirements for approval and shall rebate the recording fee.

(d) Performance contract for public improvements.

(1) Financial security arrangement. the city council, before giving approval of the final plat, shall require that a contract with the subdivider be drawn up, approved, and signed, to insure performance of the conditions which will lead to the completion of all required public improvements deemed to be necessary. To insure performance of such contract, the council shall require financial security in one or a combination of the following arrangements, whichever the subdivider elects:

a. A performance or surety bond to cover the costs of the contemplated improvements as estimated by the city or its agents shall be filed with the city treasurer. Such bonds shall specify

the time period in which the improvements are to be completed and shall be with an acceptable bonding company authorized to do business in the state.

b. A cash deposit, or deposit by certified check, sufficient to cover the cost of the contemplated improvements as estimated by the city or its authorized agents shall be deposited with the city treasurer. The escrow deposit shall be for the estimated time period necessary to complete the required improvements.

c. An irrevocable letter of credit issued by a bank authorized to do business in the state in an amount to cover the cost of the contemplated improvements as estimated.

the city council shall rebate or release to the proprietor, as the work progresses, amounts equal to the ratio of the completed and accepted work to the entire project.

(2) Improvements prior to final plat approval. The subdivider may elect to install or cause to be installed, prior to the approval of the final plat, all or a part of the required public improvements. In such case the subdivider shall, at the time of final plat approval, provide financial security for any remaining public improvement obligations.

(3) City inspection of improvements. Any improvements made to the property by the subdivider shall be inspected by the city for conformance to municipal standards, and the cost of the inspections shall be charged against the subdivider. These charges shall be paid in full prior to final plat approval.

(4) Failure of subdivider to complete improvements. In case the subdivider shall fail to complete the required public improvements work within such time period as required by the conditions or guarantees as outlined in this section, the city council may proceed to have such work completed and reimburse itself for the cost thereof by appropriating the cash deposit, certified check, or surety bond or by drawing upon the letter of credit, or shall take the necessary steps to require performance by the bonding company.
(Code 2006, § 16-93; Ord. No. 108-S, § 3.3, 12-8-1980; Ord. No. 178, 5-10-1999)

Secs. 16-94—16-110. Reserved.

DIVISION 3. DESIGN STANDARDS

Sec. 16-111. Conformance to comprehensive development plan.

The proposed subdivision and its ultimate use shall be in conformance with the city comprehensive development plan as adopted by the planning commission.
(Code 2006, § 16-111; Ord. No. 108-S, § 4.1, 12-8-1980)

Sec. 16-112. Uninhabitable areas.

Land which the planning commission has determined to be unsuitable for subdivision development due to flooding, poor drainage, soil conditions or other features which are likely to be harmful to the health, safety and welfare of future residents shall not be subdivided unless satisfactory methods of protection are formulated by the subdivider and approved by the planning commission. In the absence of appropriate protection measures, such land shall be set aside for parks and other open space uses.
(Code 2006, § 16-112; Ord. No. 108-S, § 4.2, 12-8-1980)

Sec. 16-113. Preservation of natural features.

Existing natural features such as trees, woodlots, watercourses, historic spots and similar irreplaceable assets which add value to residential development and enhance the attractiveness of the community shall be preserved in the design of the subdivision, insofar as possible. No structure shall be located in a floodplain except in accordance with the city zoning ordinance and the rules of the state department of environmental quality. Alteration of a floodplain shall only be allowed based upon a plan approved by the planning commission and the state department of environmental quality, and only as long as the floodplain's original discharge capacity is preserved and the revised stream flow does not affect the riparian rights of other owners.
(Code 2006, § 16-113; Ord. No. 108-S, § 4.3, 12-8-1980)

Sec. 16-114. Streets and roads.

(a) Generally. The standards set forth in this article shall be the minimum standards for streets, roads, and intersections. The arrangement, character, extent, width, grade and location of all streets shall conform to the comprehensive plan as adopted by the planning commission, and shall be considered in their relation to existing and planned streets, to topographic conditions, and to public convenience and safety, and in their appropriate relation to proposed uses of the land to be served. Generally, all streets shall be dedicated to public use, and arterial streets, in all cases, shall be dedicated to public use.

(b) Rights-of-way.

(1) Minimum standards. Public rights-of-way shall not be less than the following:

		Feet
a.	Freeway	300
b.	Expressway	200—300
c.	Parkway	Variable, minimum 120
d.	Arterial	100—175
e.	Collector	86—100

f.	Minor, including cul-de-sac	66
g.	Alley	20

(2) Inadequate existing right-of-way. Where a subdivision abuts or contains an existing street of inadequate right-of-way, additional width for the existing street may be required to obtain conformance with the minimum standards.

(3) Additional right-of-way in dense areas. Additional right-of-way may be required to assure adequate access, circulation and parking in high density residential, commercial or industrial areas of subdivisions.

(c) Location and arrangement.

(1) Local or minor streets. Such streets shall be so arranged as to discourage their use by through traffic.

(2) Street continuation and extension. The arrangements of streets shall provide for the continuation of existing streets from adjoining areas into new subdivisions, unless otherwise approved by the planning commission.

(3) Stub streets. Where adjoining areas are not subdivided, the arrangement of streets in new subdivisions shall be extended to the boundary line of the tract to make provision for the future projection of streets into adjacent areas.

(4) Relation to topography. Streets shall be arranged in proper relation to topography so as to result in usable lots, safe streets, and reasonable gradients.

(5) Alleys. Alleys shall not be permitted in areas of detached single-family or two-family residences. Alleys shall be provided in multiple-dwelling or commercial subdivisions unless other provisions are made for service access, off-street loading, and parking. Dead-end alleys shall be prohibited.

(6) Marginal access streets. Where a subdivision abuts or contains an arterial street, the city may require:

a. Marginal access streets approximately parallel to and on each side of the right-of-way.

b. Such other treatment as it deems necessary for the adequate protection of residential properties and to afford separation of through and local traffic.

(7) Cul-de-sac streets. Culs-de-sac shall not be more than 600 feet in length. Special consideration shall be given to a longer cul-de-sac under certain topographic conditions or other unusual situations. Culs-de-sac shall terminate with an adequate turnaround with a minimum external diameter of 150 feet.

(8) Half streets. Half streets shall generally be prohibited, except where unusual circumstances make it essential to the reasonable development of a tract in conformance with this article and where satisfactory assurance for dedication of the remaining part of the street is provided. Whenever a tract to be subdivided borders on an existing half or partial street, the other part of the street shall be dedicated within such tract.

(9) Private streets. Private streets and roads shall generally be prohibited.

(d) Gradients and alignments.

(1) Street gradients.

a. Maximum grades. Street grades shall not exceed five percent on either local streets or collector streets.

b. Minimum grades. No street grade shall be less than 0.5 percent.

(2) Street alignment.

a. Horizontal alignment. When street lines deflect from each other by more than ten degrees in alignment, the centerlines shall be connected by a curve with a minimum radius of 500 feet for arterial streets, 300 feet for collector streets and 150 feet for local or minor streets. Between reverse curves, on minor streets, there shall be a minimum tangent distance of 100 feet, and on collector and arterial streets, 200 feet.

b. Vertical alignment. Minimum sight distances shall be 200 feet for minor streets and 300 feet for collector streets.

(e) Street names.

(1) Duplication. Street names shall not duplicate any existing street in the city area, except where a new street is a continuation of an existing street. Street names that may be spelled differently but sound the same shall also be avoided. Duplications shall be avoided by checking new street names with the tri-county regional planning commission master listing.

(2) Directional classifications. All new streets shall be named as follows: Streets with a predominant north-south direction shall be named "Avenue" or "Road." Streets with a predominant east-west direction shall be named "Street" or "Highway." Meandering streets shall

be named "Drive," "Lane," "Path," or "Trail." Culs-de-sac shall be named "Circle," "Court," "Way," or "Place."

(f) Intersections.

(1) Angle of intersection. Streets shall intersect at 90 degrees or closely thereto as possible, and in no case at less than 80 degrees.

(2) Sight triangles. Minimum clear sight distance at all minor street intersections shall permit vehicles to be visible to the driver of another vehicle when each is 75 feet from the center of the intersection.

(3) Number of streets. No more than two streets shall cross at any one intersection.

(4) "T" intersections. Except on arterials and certain collectors, "T" type intersections shall be used where practical.

(5) Centerline offsets. Slight jogs at intersections shall be avoided. Where such jogs are unavoidable, street centerlines shall be offset by a distance of 125 feet or more.

(6) Vertical alignment of intersection. A nearly flat grade with appropriate drainage slopes is desirable within intersections. This flat section shall be carried back 50 to 100 feet each way from the intersection. An allowance of two percent intersection grade in rolling and four percent in hilly terrain will be permitted.
(Code 2006, § 16-114; Ord. No. 108-S, § 4.4, 12-8-1980)

Sec. 16-115. Pedestrian ways.

(a) Crosswalks. Right-of-way for pedestrian crosswalks in the middle of long blocks shall be required where necessary to obtain convenient pedestrian circulation to schools, parks or shopping areas. The right-of-way shall be at least ten feet wide and extend entirely through the block.

(b) Sidewalks. Sufficient right-of-way shall be provided so that sidewalks shall be installed on both sides of all streets.
(Code 2006, § 16-115; Ord. No. 108-S, § 4.5, 12-8-1980)

Sec. 16-116. Easements.

(a) Utility easements. Easements shall be provided along rear lot lines and also along side lot lines when necessary for utilities. The total width shall not be less than six feet along each lot, or a total of 12 feet for adjoining lots.

(b) Drainageways. The subdivider shall provide drainageway easements as required by the rules of the drain commissioner or the city.
(Code 2006, § 16-116; Ord. No. 108-S, § 4.6, 12-8-1980)

Sec. 16-117. Blocks.

(a) Arrangement. A block shall be so designed as to provide two tiers of lots, except where lots back onto an arterial street, a natural feature or a subdivision boundary.

(b) Minimum length. Blocks shall not be less than 500 feet long.

(c) Maximum length. The maximum length allowed for residential blocks shall be 1,320 feet long from center of street to center of street.
(Code 2006, § 16-117; Ord. No. 108-S, § 4.7, 12-8-1980)

Sec. 16-118. Lots.

(a) Conformance to zoning requirements. The lot width, depth, and area shall not be less than the particular district requirements of the zoning ordinance except where outlots are provided for some indicated and permitted purpose.

(b) Lot lines. Side lot lines shall be essentially at right angles to straight streets and radial to curved streets.

(c) Width related to length. Narrow deep lots shall be avoided. The depth of a lot generally shall not exceed 2½ times the width as measured at the building line.

(d) Corner lots. Corner lots shall have extra width to permit appropriate building setback from both streets or orientation to both streets. Lots abutting pedestrian mid-block crosswalks shall be treated as corner lots.

(e) Landscaped easement for certain lots; double frontage lots. Lots shall back into such features as freeways, arterial streets, shopping centers, or industrial properties, except where there is a marginal access street or a secondary access is provided. Such lots shall contain a landscaped easement along the rear at least 20 feet wide in addition to the utility easement to restrict access to the arterial street, to minimize noise and to protect outdoor living areas. Lots extending through a block and having frontage on two local streets shall be prohibited.

(f) Lot frontage. All lots shall front upon a publicly dedicated street. Variances may be permitted in an approved planned unit development.

(g) Future arrangements. Where parcels of land are subdivided into unusually large lots (such as when large lots are required for septic tank operations, or for agricultural use) the parcels shall be

divided, where feasible, so as to allow for resubdividing into smaller parcels in a logical fashion. Lot arrangements shall allow for the ultimate extension of adjacent streets through the middle of wide blocks or splitting of lots into smaller lots. Whenever such future resubdividing or lot splitting is contemplated, the plat thereof shall be approved by the planning commission prior to taking such action.

(h) Lot division. The division of a lot in a recorded plat is prohibited unless approved following application to the city council. The application shall be filed with the city clerk and shall state the reasons for the proposed division. No lot in a recorded plat shall be divided into more than four parts and the resulting lots shall be not less in area than permitted by the zoning ordinance. No building permit shall be issued, nor any building construction commenced, until the division has been approved by the city council and the suitability of the land for building sites has been approved by the county or district health department. The division of a lot resulting in a smaller area than prescribed in this article may be permitted, but only for the purpose of adding to the existing building site. The application shall so state and shall be in affidavit form.

(i) Division of unplatted parcel. The division of an unplatted parcel of land into two, three or four lots involving the dedication of a new street shall require the approval of the city council prior to taking such action. All such applications shall be made in writing and shall be accompanied by a drawing of the proposed division. No building or occupancy permit shall be issued in such cases until the city council has approved division of such lands.

(Code 2006, § 16-118; Ord. No. 108-S, § 4.8, 12-8-1980)

Sec. 16-119. Planting strips and reserve strips.

(a) Planting strips. Planting strips may be required to be placed next to incompatible features such as highways, railroads, commercial uses, or industrial uses to screen the view from residential properties. Such screens shall be a minimum of 20 feet wide and shall not be a part of the normal roadway right-of-way or utility easement.

(b) Reserve strips.

(1) Private reserve strips. Privately held reserve strips controlling access to streets shall be prohibited.

(2) Public reserve strips. A one-foot reserve may be required to be placed at the end of stub or dead-end streets which terminate at subdivision boundaries and between half streets. These reserves shall be deeded in fee simple to the city for future street purposes.
(Code 2006, § 16-119; Ord. No. 108-S, § 4.9, 12-8-1980)

Sec. 16-120. Public sites and open spaces.

Where a proposed park, playground, school, or other public use shown on the comprehensive development plan is located in whole or in part within a subdivision, a suitable area for this purpose may be dedicated to the public or reserved for public purchase. If, within two years of plat recording, the purchase is not agreed on, the reservation may be canceled or shall automatically cease to exist.
(Code 2006, § 16-120; Ord. No. 108-S, § 4.10, 12-8-1980)

Sec. 16-121. Large scale developments.

(a) Modification of requirements. This article may be modified in accordance with division 5 of this article in the case of a subdivision large enough to constitute a complete community or neighborhood, consistent with the comprehensive plan and with a building and development program which provides and dedicates adequate public open space and improvements for the circulation, recreation, education, light, air, and service needs of the tract when fully developed and populated.

(b) Neighborhood characteristics. A community or neighborhood under this section shall generally be consistent with the comprehensive plan and contain 500 living units or more, shall contain or be bounded by major streets or natural physical barriers as necessary, and shall contain reserved areas of sufficient size to serve its population, for schools, playgrounds, parks, and other public facilities. Such reserves may be dedicated.
(Code 2006, § 16-121; Ord. No. 108-S, § 4.11, 12-8-1980)

Sec. 16-122. Commercial and industrial developments.

The subdivision design standards in this division may be modified in accordance with division 5 of this article in the case of subdivisions specifically for commercial or industrial development, including shopping districts, wholesaling areas, and planned industrial districts. In all cases, however, adequate provision shall be made for off-street parking and loading areas as well as for traffic circulation.
(Code 2006, § 16-122; Ord. No. 108-S, § 4.12, 12-8-1980)

Secs. 16-123—16-140. Reserved.

DIVISION 4. PUBLIC IMPROVEMENTS

Sec. 16-141. Preparation and filing of plans.

It shall be the responsibility of the subdivider of every proposed subdivision to have prepared, by a registered engineer, a complete set of construction plans, including profiles, cross sections, specifications and other supporting data, for the public streets, utilities and other facilities required in this division. All construction plans shall be prepared in accordance with the public improvement standards or specifications in this division. Upon substantial completion and prior

to the issuance of any building permits, one complete copy of as-built engineering plans of each required public improvement, prepared at the subdivider's expense, shall be filed with the city clerk.
(Code 2006, § 16-141; Ord. No. 108-S, § 5.1, 12-8-1980; Ord. No. 178, 5-10-1999)

Sec. 16-142. Monuments.

(a) Location. Permanent monuments shall be located in the ground at all angles in the boundaries of the plat; at the intersection lines of streets and at the intersection of the lines of streets with the boundaries of the plat and at the intersections of alleys with the boundaries of the plat; at all points of curvature, points of tangency, points of compound curvature, points of reverse curvature and angle points in the side lines of streets and alleys; and at all angles of an intermediate traverse line.

(b) Material. All monuments shall be made of solid iron or steel bars at least one-half inch in diameter and 36 inches long and completely encased in concrete.

(c) Corner lots. All lot corners shall be marked in the field by iron or steel bars or iron pipe at least 18 inches long and one-half inch in diameter.

(d) Postponement of placement. The subdivider may elect to postpone the placement of monuments and lot corner markers for a period not to exceed one year provided that the subdivider deposits with the city treasurer cash, a certified check or an irrevocable letter of credit, whichever the proprietor selects, in an amount to cover the established fee per monument and lot corner marker, and the total fee shall not be less than a total amount established by the council. Those fees shall be set by council resolution.
(Code 2006, § 16-142; Ord. No. 108-S, § 5.2, 12-8-1980)

Sec. 16-143. Trafficways.

(a) Streets and alleys.

(1) Construction. All subdivisions shall have full street improvements, including adequate subgrade preparation, hard surfacing, and curb and gutter, in conformance with the city's construction standards. All manholes, catchbasins and other appurtenances shall be maintained at grade with the surface of the street during each phase of construction and shall not protrude above the current street surface.

(2) Street surface. The finished roadway surface shall be either bituminous aggregate or Portland cement concrete, installed in conformance with the specifications of the city.

(3) Street surface width. Widths shall be as follows:

		Feet

a.	Freeway	48—72
b.	Expressway	48—96
c.	Parkway	48
d.	Arterial	48—60
e.	Collector	44—48
f.	Minor	31
g.	Alley	20

(4) Curb and gutter. Concrete curb and gutter of a type approved by the city shall be provided for all culs-de-sac, local streets, collector streets, minor or major arterials and parkways within each subdivision and along all streets that border on the subdivision.

(5) Landscaping of boulevard streets and street islands. Where the subdivider proposes boulevard streets or street islands in his street pattern, the subdivider shall have suitable plans made for landscaping these areas. All such landscape plans shall be approved as to height, size and type of plant material by the planning commission before construction. the city will accept responsibility for living materials only after one year of growth.

(6) Street signs. Street signs shall be installed identifying the names of all streets at every intersection of a type approved by the planning commission. If the subdivider desires to erect a more ornate or other type of sign than the city uses as its standard, he may do so with the consent of the planning commission.

(7) Street trees. Street trees may be required in each subdivision of a type, size and location as specified by the planning commission.

(b) Sidewalks and crosswalks. Concrete sidewalks shall be installed by the subdivider along each side of all streets within the subdivision and along the side of all streets that border on the subdivision in accordance with the specifications of the city. Crosswalks, where required, shall have a five-foot paving width centered within the required ten-foot right-of-way.

(c) Alleys. Where permitted, alleys shall be paved to their full width with concrete or other bituminous materials in accordance with the specifications approved by the city.

(d) Driveways. All driveway openings in curbs shall be subject to approval of the planning commission and shall conform to the requirements of the zoning ordinance.
(Code 2006, § 16-143; Ord. No. 108-S, § 5.3, 12-8-1980; Ord. No. 151, 1-9-1995; Ord. No. 179, 5-10-1999)

Sec. 16-144. Water supply system.

(a) Requirements when city service available. When a proposed subdivision is to be serviced by a public water supply system, fire hydrants and other required water system appurtenances shall be provided by the subdivider.

(b) Subdivision system. If there is no existing adequate or accessible public water supply system, the subdivider shall be required to install a water supply system for the common use of the lots within the subdivision in accordance with the requirements of ~~Part 41 of Public Act No. 451 of 1994~~ MCL 324.4101—324.4113. The system provided shall be turned over to the city for operation and maintenance.

(c) Construction specifications. The sizes of water mains, the location and type of valves and hydrants, the amount of soil cover over the pipes, and other features of the installation shall conform to the requirements of ~~Part 41 of Public Act No. 451 of 1994~~ MCL 324.4101—324.4113. A construction permit is required from the state department of environmental quality prior to the start of the project. When determined to be in the best interest of the city, the city may require larger water mains, in which case the city may pay the cost difference of the oversizing; the basis of the cost difference of oversizing is to be determined by agreement with the subdivider prior to construction. the city shall only pay the cost difference for materials.
(Code 2006, § 16-144; Ord. No. 108-S, § 5.4, 12-8-1980; Ord. No. 179, 5-10-1999)

Sec. 16-145. Sanitary sewer system.

(a) Requirements when city service available. When a proposed subdivision is to be serviced by a public sanitary sewer system, sanitary sewers and other required appurtenances thereto shall be provided by the subdivider. Sewer systems shall comply with the requirements of ~~Part 41 of Public Act No. 451 of 1994~~ MCL 324.4101—324.4113. When determined to be in the best interest of the city, the city may require larger sewer lines or adjusted elevations, in which case the city may pay the cost difference of the oversizing or elevation adjustments; the basis of the cost difference is to be determined by agreement with the subdivider prior to construction. All manholes and other appurtenances shall be maintained at grade with the surface of the street during each phase of construction and shall not protrude above the current street surface.

(b) Subdivision system. If there is no existing adequate or accessible public sewer system, a sewer system for the common use of the lot owners shall be required to be provided by the subdivider, if feasible in the judgment of the planning commission with the advice of an engineer representing the city and county or district health department, and shall comply with the requirements of ~~Part 41 of Public Act No. 451 of 1994~~ MCL 324.4101—324.4113. When determined to be in the best interest of the city, the city may require larger sewer lines or adjusted elevations, in which case the city may pay the cost difference of the oversizing or elevation adjustments; the basis of the cost difference is to be determined by agreement with the subdivider prior to construction. The system provided shall be turned over to the city for operation and

maintenance. All manholes and other appurtenances shall be maintained at grade with the surface of the street during each phase of construction and shall not protrude above the current street surface.

(c) Private septic systems. Where it is determined in the judgment of the planning commission, with the advice of the city engineer and the county health department, that a subdivision cannot be economically connected with an existing public sewer system or that a public sewer system cannot be provided for the subdivision itself, then approved septic tanks and disposal fields may be approved, which shall comply with the requirements of the county health department, provided such decision is allowed under the zoning ordinance. However, where studies by the planning commission or the city engineer indicate that construction or extension of sanitary trunk sewers to serve the property being subdivided appears probable within a reasonably short time (up to five years), sanitary sewer mains and house connections shall be installed and capped.
(Code 2006, § 16-145; Ord. No. 108-S, § 5.5, 12-8-1980; Ord. No. 179, 5-10-1999)

Sec. 16-146. Storm sewers.

(a) Generally. A storm drainage system including necessary storm sewers, drain inlets, manholes, culverts and other necessary appurtenances shall be required and constructed in conformance with requirements of the city. When determined to be in the best interest of the city, the city may require larger storm sewer lines or adjusted elevations, in which case the city may pay the cost difference of the oversizing or elevation adjustments; the basis of the cost difference is to be determined by agreement with the subdivider prior to construction. All manholes, catchbasins and other appurtenances shall be maintained at grade with the surface of the street during each phase of construction and shall not protrude above the current street surface.

(b) Preservation of natural water drainageways. All natural water drainageways shall be preserved at their natural gradient unless otherwise determined by the public service department.

(c) Grading. All lots shall be finished graded so that all stormwater shall drain therefrom.
(Code 2006, § 16-146; Ord. No. 108-S, § 5.6, 12-8-1980; Ord. No. 179, 5-10-1999)

Sec. 16-147. Underground wiring.

Underground electrical and communication distribution systems operating at 15,000 volts or less to ground, exclusive of main supply and perimeter feed lines, for residential subdivisions shall be constructed in conformance with the requirements of the Consumers Power Company and Michigan Bell Telephone Company. Conduits or cables shall be placed entirely underground within private easements or within public ways or other public and quasi-public utility rights-of-way. These communication and electric facilities placed in public ways or other public and quasi-public utility rights-of-way shall be planned so as not to conflict with other underground utilities.
(Code 2006, § 16-147; Ord. No. 108-S, § 5.7, 12-8-1980)

Sec. 16-148. Optional public improvements.

(a) Streetlights. It shall be the option of the subdivider to install boulevard standard streetlights providing the street lighting plans and specifications have been approved by the planning commission. If the subdivider elects not to install boulevard streetlights, the subdivider shall be required to install and finance overhead streetlights comparable to those currently in use by the city to maintain minimum standards of public safety.

(b) Landscaping. Landscape plantings, louvered fences for screening or other suitable landscape treatment may be made by the subdivider within required greenbelts, buffer parks or other open spaces where he desires to protect his development from the detrimental effects of adjacent expressways, major streets, railroads, or other land uses. Such landscape plans should be indicated on the subdivider's improvement plans and shall be approved by the planning commission.

(c) Recreational facilities. Where a school site, neighborhood park, recreation area, or public access to water frontage, as previously delineated or specified by official action of the planning commission, is located in whole or part in the proposed subdivision, the city council may request the reservation of such open space for school, park and recreation or public access purposes. All such areas shall either be reserved for the school district in the case of school sites or for the city in all other cases. Voluntary dedication of these land areas will be accepted.

(d) Greenbelts. It is desirable for the protection of residential properties to have greenbelts or landscaped screen plantings located between a residential development and adjacent major arterial streets and railroad rights-of-way. Where a subdivider desires to protect his development in this respect or where the planning commission deems necessary for the public health, safety and welfare, a proposed subdivision plat shall show the location of such greenbelts.
(Code 2006, § 16-148; Ord. No. 108-S, § 5.8, 12-8-1980)

Sec. 16-149. Guarantee of completion of public improvements.

To insure completion of all necessary public improvements, the city council shall make arrangements for financial guarantees with the subdivider prior to final plat approval as provided in section 16-93(d).
(Code 2006, § 16-149; Ord. No. 108-S, § 5.9, 12-8-1980)

Secs. 16-150—16-170. Reserved.

DIVISION 5. VARIANCES

Sec. 16-171. Generally.

(a) The planning commission may recommend to the city council a variance from the provisions of this article on a finding that undue hardship may result from strict compliance with specific

provisions or requirement of this article or that application of such provision or requirement is impractical. The planning commission shall only recommend variances that it deems necessary to or desirable for the public interest. In making its findings, as required in this section, the planning commission shall take into account the nature of the proposed use of land and the existing use of land in the vicinity, the number of persons to reside or work in the proposed subdivision, and the probable effect of the proposed subdivision upon traffic conditions in the vicinity. No variance shall be recommended unless the planning commission finds after a public hearing the following:

(1) That there are such special circumstances or conditions affecting the property that the strict application of the provisions of this article would clearly be impractical or unreasonable. In such cases the subdivider shall first state his reasons in writing and submit them to the planning commission.

(2) That the granting of the specified variance will not be detrimental to the public welfare or injurious to other property in the area in which the property is situated.

(3) That such variance will not violate the provisions of the state Land Division Act, MCL 560.01 et seq.

(4) That such variance will not have the effect of nullifying the intent and purpose of this article and the comprehensive development plan of the city.

(b) The planning commission shall include its findings and the specific reasons therefor in its report of recommendations to the city council and shall also record its reasons and actions in its minutes.
(Code 2006, § 16-171; Ord. No. 108-S, § 6.1, 12-8-1980)

Sec. 16-172. Topographical or physical limitation variance.

Where, in the case of a particular proposed subdivision, it can be shown that strict compliance with the requirements of this article would result in extraordinary hardship to the subdivider because of unusual topography, other physical conditions, or such other conditions which are not self-inflicted, or that these conditions would result in inhibiting the achievement of the objectives of this article, the planning commission may recommend to the city council that variance modification or a waiver of these requirements be granted.
(Code 2006, § 16-172; Ord. No. 108-S, § 6.2, 12-8-1980)

Sec. 16-173. Planned unit development variance.

The developer may request a variance from specified portions of this article in the case of a planned unit development. If in the judgment of the planning commission such a plan provides adequate public spaces and includes provisions for efficient circulation, light and air and other needs, it shall make findings, as required in this section. The planning commission shall take into

account the nature of the proposed use of land and existing use of land in the vicinity, the number of persons to reside or work in the proposed subdivision, and the probable effect of the proposed subdivision upon traffic conditions in the vicinity. The planning commission shall report to the city council whether:

(1) The proposed project will constitute a desirable and stable community development.

(2) The proposed project will be in harmony with adjacent areas.
(Code 2006, § 16-173; Ord. No. 108-S, § 6.3, 12-8-1980)

Sec. 16-174. Variance relating to required public improvements or utilities.

The planning commission may recommend to the city council that waivers be granted for the installation of a public sanitary sewer system, and public water system, or any or all of them, when in its best judgment such installations shall be impracticable; provided, however, that the average width of the lot in the proposed subdivision, as measured at the street frontage line or the building setback line, is more than 150 feet and where the average area of parcels or lots resulting from the subdivision of land exceeds one acre. The planning commission may also recommend that waivers be granted for the installation of gas mains or service connections, stubs, communications, and electrical conduits, when in its best judgment such installation shall be impracticable.
(Code 2006, § 16-174; Ord. No. 108-S, § 6.4, 12-8-1980)

Sec. 16-175. Application.

(a) Required improvement variance or topographical variance. Application for any such variance shall be submitted in writing by the subdivider at the time when the preliminary plat is filed for the consideration of the planning commission. The petition shall state fully the grounds for the application and all the facts relied upon by the petitioner.

(b) Planned unit development variance. Application for any such variance shall be made in writing by the subdivider at the time when the preliminary plat is filed for the consideration of the planning commission, stating fully and clearly all facts relied upon by the petitioner, and shall be supplemented with maps, plans, or other additional data which may aid the planning commission in the analysis of the proposed project. The plans for such development shall include such covenants, restrictions, or other legal provisions necessary to guarantee the full achievement of the plan.
(Code 2006, § 16-175; Ord. No. 108-S, § 6.5, 12-8-1980)

Sec. 16-176. Public hearing.

The public hearing required by the planning commission prior to making a recommendation to the city council on preliminary plat shall also serve as the required public hearing on a requested variance. See section 16-92(c)(3) for notification requirements.
(Code 2006, § 16-176; Ord. No. 108-S, § 6.6, 12-8-1980)

Secs. 16-177—16-200. Reserved.

ARTICLE IV. PRECISE PLAT NO. 001—POTTERVILLE NORTHWEST*

***State law reference**—Certification of city plats, MCL 125.5 et seq.

Sec. 16-201. Legal description; connections with existing or future streets.

(a) The legal description of the outside limits of "Precise Plat No. 001—Potterville Northwest" shall be:

Located in the Northeast 1/4 of Section 23, Town 3 North, Range 4 West, Benton Township, the county, Michigan and being a centerline of a 66-foot-wide precise plat right-of-way more particularly described as follows: commencing at the center 1/4 corner of the section, lying south 01°35′18″ west 2,628.84 feet from the north 1/4 corner thereof; thence along the north-south 1/4 line, north 01°35′18″ east 305.52 feet to the intersection of the 1/4 line and the centerline of the right-of-way of Sunset Drive and the point of beginning of the precise plat right-of-way described herein; thence south 88°29′23″ east 41.15 feet to a point of curve to the right with a radius of 300.00 feet, an arc distance of 208.84 feet and a long chord of south 68°33′00″ east 204.65 feet; thence south 48°36′16″ east 1,096.16 feet to a point of curve to the left with a radius of 300.00 feet, an arc distance of 413.06 feet and a long chord of south 88°03′00″ east 381.20 feet; thence north 52°30′22″ east 356.76 feet to a point of curve to the left with a radius of 300.00 feet, an arc distance of 83.75 feet and a long chord of north 44°30′00″ east 83.48 feet; thence north 36°30′37″ east 601.57 feet to a point of curve to the right with a radius of 300.00 feet, an arc distance of 87.60 feet and a long chord of north 44°53′00″ East 87.29 feet; thence north 53°14′29″ east 228.74 feet to a point of curve to the right with a radius of 300.00 feet, an arc distance of 200.37 feet and a long chord of north 72°23′00″ east 196.67; thence south 88°29′23″ east 63.37 feet to the east line of the Section 23 and the point of ending. Containing 5.123 acres, more or less.

(b) The proposed future outside lines of the precise plat connecting with existing and future streets shall be as detailed in "Exhibit A—Precise Plat Map of Potterville Northwest"; provided that showing such lines on the precise plat shall not, in itself, constitute or be deemed to constitute the opening or establishment of any portion of the precise plat or the taking or acceptance of land for any portion of the precise plat.
(Code 2006, § 16-201; Ord. No. 171, art. II, 4-13-1998)

Sec. 16-202. Certification; land acquisitions.

(a) The city planning commission shall certify the "Precise Plat No. 001—Potterville Northwest" to the city council.

(b) The planning commission shall declare that the land acquisitions for public use indicated in "Precise Plat No. 001—Potterville Northwest" shall be completed concurrent with the development of the land on which the precise plat is located. However, the city, at its discretion, may construct the precise plat prior to such development.
(Code 2006, § 16-202; Ord. No. 171, art. III, 4-13-1998)

Sec. 16-203. Procedures.

(a) Adoption. Procedures for adoption of an ordinance adopting a precise plat are as follows:

(1) Notice of the time and place of the public hearing when and where it shall be considered for final passage shall be sent by first class mail to each owner of record of land located within or abutting the land area encompassed by the precise plat.

(2) Any modification of the precise plat as certified by the planning commission, or amendment of such ordinance, shall be first submitted to the planning commission for approval, approval with conditions, or disapproval. The decision of the planning commission shall be in the form of a recommendation to the city council.

(3) The city council shall have the power to overrule the recommendation of the planning commission by a two-thirds vote of its membership.

(4) Adoption of such ordinance shall be in accordance with the procedures and requirements of ~~Public Act No. 222 of 1943~~ MCL 125.51 et seq.).

(b) Amendment and modification. Any modification of the precise plat as certified by the planning commission, or amendment of this article, may be made and certified by the planning commission in order to conform with adopted changes in the city's master plan, provided the same procedures and limitations are followed as detailed in subsections (a)(1) through (3) of this section.
(Code 2006, § 16-203; Ord. No. 171, art. IV, 4-13-1998)

Sec. 16-204. Construction restrictions; appeals.

(a) Granting of permits.

(1) No permit shall be issued for and no building or structure or part thereof shall be erected on any land located within the proposed future outside lines of the precise plat as detailed in this article.

(2) The city zoning board of appeals shall have the power of appeal filed with it by the owner of such land to authorize the granting of a permit for improvements within the precise plat if the board finds that:

a. The entire property of the applicant located in whole or in part within the lines of the precise plat cannot yield a reasonable return to the owner unless such permit is granted; and

b. Balancing the interest of the city in preserving the integrity of the adopted map, and the interest of the owner of the property in use and benefits of the property, the granting of such permit is required by considerations of justice and equity.

(b) Notice of public hearing. the city zoning board of appeals shall hold a public hearing thereon, at least ten days' notice of the time and place of which shall be sent by first class mail to the applicant and each owner of record of land located within or abutting the land area encompassed by the precise plat.

(c) Powers of zoning board of appeals. In the event of the authorization of a variance, the zoning board of appeals shall have the power to specify the exact location, ground area, height, and other details and conditions of size, character and construction, and duration of any building, structure or part thereof permitted within the proposed future outside lines of the precise plat, as detailed in this article.

(d) Fee for appeal. The fee for each application filed to the zoning board of appeals shall be an amount as established by the fee schedule adopted by the city council.
(Code 2006, § 16-204; Ord. No. 171, art. V, 4-13-1998)

Chapter 34

TAXATION

ARTICLE I. IN GENERAL

(Reserved)

ARTICLE II. SPECIAL ASSESSMENTS

State law reference—Notices and hearings, MCL 211.741 et seq.; deferment of special assessment for homesteads, MCL 211.761 et seq.

Sec. 30-1. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Cost, when referring to the cost of any public improvement, shall include the cost of services, plans, condemnation, spreading of rolls, notices, advertising, financing, construction, and legal fees and all other costs incident to the making of such improvement, the special assessments therefor and the financing thereof.

Public improvement means any improvement upon public property which results in special benefit to the real property in the vicinity of such improvement.
(Code 1972, § 31-2; Code 2006, § 30-1)

Sec. 30-2. Special assessments authorized.

The entire cost and expense or any part thereof of all public improvements may be defrayed by special assessment upon the lands specially benefited by the improvement in the manner provided in this chapter.
(Code 1972, § 31.3; Code 2006, § 30-2)

Sec. 30-3. Preliminary determinations.

(a) Proceedings for making public improvements and defraying the entire cost or any part thereof by special assessment shall be initiated by resolution of the council. For the purposes of determining whether a sufficient number of property owners are interested in a public improvement, the council may require petitions from the owners of property and defray the entire cost and expense thereof or any part thereof by special assessment. The council shall by resolution direct the city clerk to make an investigation of the proposed public improvement and report his findings to the council. The report shall include an analysis of the following:

(1) The estimated cost of the proposed public improvements; and

(2) Plans and specifications for the public improvement.

(b) There shall also be included recommendations as to the following:

(1) The portion of the cost to be borne by the special assessment district and the portion, if any, to be borne by the city at large;

(2) The extent of the improvement and boundaries of the district; and

(3) Any other facts or recommendations which will aid the council in determining whether the improvement shall be made and how the improvement shall be financed.
(Code 1972, § 31.4; Code 2006, § 30-3)

Sec. 30-4. Allocation of costs.

Upon receipt of the report of the city clerk pursuant to section 30-3, if the council shall determine to proceed with such improvement, it shall by resolution approve the report prepared by the city clerk and shall approve the plans and specifications and estimate of cost for the public improvement. In addition, by such resolution, the council shall:

(1) Determine whether to proceed with the public improvement, based on the necessity thereof, and set forth the nature thereof,

(2) Designate the limits of the special assessment district to be affected and describe the lands to be assessed,

(3) Determine the part of proportion of the cost of the public improvement to be paid by the lands specially benefitted thereby and the part or proportion, if any, to be paid by the city at large for benefit to the city at large (if the improvement is to be an improvement to the water supply system of the city, the portion representing benefit to the city at large shall be paid from funds of the water supply system, and if the improvement is to the sewage disposal system of the city, the portion representing benefit to the city at large shall be paid by the sewage disposal system), and

(4) Determine the number of installments in which the special assessment may be paid, and the rate of interest, which shall be a reasonable rate in light of then prevailing market factors, to be charged if the payment of any balance is to be deferred,

and by the terms of the resolution shall direct the city assessor to make a special assessment roll of the part or proportion of the cost to be borne by the lands specially benefited according to the benefits received and to report the same to the council.
(Code 1972, § 31.5; Code 2006, § 30-4; Ord. No. 135, 4-8-1991)

Sec. 30-5. Filing of roll; notice of public hearing.

(a) When the special assessment roll shall have been reported to the council, it shall order the roll filed in the office of the city clerk for public examination along with the report of the city clerk required to be made pursuant to section 30-3 and shall fix a date, time and place when the council shall meet and review the special assessment roll. the city clerk shall give notice of the meeting of the council to review the special assessment roll by publication at least once in a newspaper circulated in the city at least ten days prior to the time of such meeting, and shall further cause notice of the meeting to be mailed by first class mail to each property owner or party in interest in the special assessment district at the address as shown by the current assessment rolls of the city at least ten days prior to the time of the hearing, such notice to be mailed to the addresses shown on the current assessment rolls of the city.

(b) The notice of hearing shall include a statement that appearance and protest at the hearing in the special assessment proceedings is required in order to appeal the amount of the special assessment to the state tax tribunal and shall describe the manner in which a protest shall be made.

(c) An owner or party in interest, or his agent, may appear in person at the hearing to protest the special assessment, or shall be permitted to file his appearance or protest by letter and his personal appearance shall not be required.

(d) the city council shall maintain a record of parties who appear to protest at the hearing. If a hearing is terminated or adjourned for the day before a party is provided the opportunity to be heard, a party whose appearance is recorded is considered to have protested the special assessment in person.
(Code 1972, § 31-6; Code 2006, § 30-5)

Sec. 30-6. Approval of assessments.

The council shall meet and review the special assessment roll at the time and place appointed or at an adjourned meeting thereof and shall consider any objections thereto. The council may correct the roll as to any assessment or description of any lot or parcel of land or other errors appearing therein. Any changes made in such roll shall be noted in the council's minutes. After such hearing and review the council may confirm such special assessment roll with such corrections as it may have made, if any, or may refer it back to the city assessor for revision, or may annul it or any proceedings in connection therewith. the city clerk shall endorse the date of confirmation upon each special assessment roll.

(Code 1972, § 31.7; Code 2006, § 30-6)

Sec. 30-7. Objections by property owners.

No special assessment roll shall be finally confirmed except by the affirmative vote of five-sevenths of the councilmembers-elect if at or prior to the hearing written objections to the proposed improvement have been filed with the city clerk by more than 50 percent of the number of owners of privately owned real property to be assessed for the improvement, or, in the case of paving or similar improvements, more than 50 percent of the number of owners of frontage to be assessed for any such improvement, provided that this section shall not apply to sidewalk construction.
(Code 1972, § 31-8; Code 2006, § 30-7)

Sec. 30-8. Confirmation is conclusive.

The special assessment roll shall be, upon confirmation, final and conclusive.
(Code 1972, § 31.9; Code 2006, § 30-8)

Sec. 30-9. Contesting suits.

No suit or action of any kind shall be instituted or maintained for the purpose of contesting or enjoining the collection of any special assessment unless the following prerequisites are observed:

(1) Within 30 days after confirmation of the special assessment roll written notice shall be given the council by filing same with the city clerk of intention to file such suit or action stating the grounds on which it is claimed such assessment is illegal; and

(2) Such action shall be commenced within 60 days after confirmation of the roll.
(Code 1972, § 31.10; Code 2006, § 30-9)

Sec. 30-10. Assessments to constitute lien; payment; due dates.

All special assessments contained in any special assessment roll, including any part thereof to be paid in installments, shall from the date of confirmation of such roll constitute a lien upon the respective lots or parcels of land assessed and until paid shall be a charge against the respective owners of the several lots and parcels of land and a debt to the city from the persons to whom they are assessed. Such liens shall be of the same character and effect as the lien created by general law for the state and county taxes and by the Charter for taxes and shall include accrued interest and fees. No judgment or decree or act of the council vacating a special assessment as may be equitably charged against the same or as by regular mode of proceeding might be lawfully assessed thereon. All special assessments shall become due upon confirmation of the special assessment roll or in annual installments, not to exceed 30 in number, as the council may determine at the time of confirmation, and, if in annual installments, the council shall determine

the first installment to be due upon confirmation and the second installment to be due on July 1 of the next succeeding calendar year, and subsequent installments to be due on each succeeding July 1 until paid in full.
(Code 1972, § 31.11; Code 2006, § 30-10)

Sec. 30-11. Interest rate; delinquency.

(a) Should the council determine the assessment is to be paid in installments as specified in section 30-10, interest shall be charged at a rate not to exceed six percent per annum, commencing on confirmation and payable on the due date of each installment. The full amount of all or any deferred installments, with interest accrued thereon to the date of payment, may be paid in advance of the due dates thereof. Each property owner shall have 30 days from the date of confirmation to pay the full amount of the assessment, or the full amount of any installment thereof, without interest or penalty. Following such 30-day period, the assessment or first installment thereof shall, if unpaid, be considered as delinquent, and the same penalties, collection fees and interest shall be levied on delinquent special assessments and upon delinquent installments of such special assessments as are provided by the Charter to be collected upon delinquent city taxes.

(b) In addition, in case any assessment or any part thereof shall remain unpaid on the first Monday of May following the date when the assessment or part thereof became delinquent, the assessment shall be reported unpaid by the treasurer to the council, and such delinquent assessments, together with all accrued interest, shall be transferred and reassessed on the next annual city tax roll in a column headed "Special Assessments" with a penalty of four percent upon such total amount added thereto, and when so transferred and reassessed upon the tax roll shall be collected in all respects as provided for the collection of city taxes.
(Code 1972, § 31.12; Code 2006, § 30-11)

Sec. 30-12. Statements.

Whenever any special assessment roll shall be confirmed and be payable, the council shall direct the city clerk to transmit the assessment roll to the city treasurer for collection. the city treasurer shall mail statements of the several assessments to the respective owners of the several lots and parcels of land assessed, as indicated by the records of the city assessor, stating the amount of the assessment and the manner in which it may be paid; provided, however, that failure to mail any such statement shall not invalidate the assessment or entitle the owner to an extension of time within which to pay the assessment.
(Code 1972, § 31.13; Code 2006, § 30-12)

Sec. 30-13. Collection.

Each special assessment shall be collected by the city treasurer with the same rights and remedies as provided in the Charter for the collection of taxes. Except as otherwise provided in this

chapter, all collection fees and penalties shall belong to the city and be collectible in the same manner as the collection fee for city taxes.
(Code 1972, § 31.14; Code 2006, § 30-13)

Sec. 30-14. Payment of installments.

After the expiration of the period provided in section 30-11 for payment without interest or fees any installment may be discharged by paying the face amount thereof together with fees and interest thereon from the date of confirmation to the date or payment; provided, however, that if the public improvement has been financed by the sale of noncallable bonds or other evidences of indebtedness which are not prepayable, then the interest shall be computed from the date of confirmation to the date upon which such installment would have fallen due had it not been prepaid.
(Code 1972, § 31.15; Code 2006, § 30-14)

Sec. 30-15. Quarterly payment option.

The council may by resolution, upon confirmation of the assessment roll on or before the first meeting in January of any year, direct that the owners may pay any installment due and payable during that year or any succeeding year in quarterly portions, such portions to fall due as the council may direct, and, in such case, the city treasurer shall, not later than 20 days after such direction, notify each owner of the option to pay such installment in the manner provided. The failure to mail any such notice shall not invalidate the assessment or any installment thereof. Interest on such installments shall be computed as if the entire amount were paid annually.
(Code 1972, § 31.16; Code 2006, § 30-15)

Sec. 30-16. Final accounting.

Upon completion of the improvement, the financing thereof and the payments of the cost thereof, the city clerk shall certify to the council the total cost of the improvement together with the amount of the original roll for the improvement.
(Code 1972, § 31.17; Code 2006, § 30-16)

Sec. 30-17. Additional assessments.

Should the assessments in any special assessment roll, including the amount assessed to the city at large, prove insufficient for any reason to pay the cost of the improvement for which they were made, then the council may make additional assessments to supply the deficiency against the city and the several lots and parcels of land in the same ratio as the original assessments, but the total amount assessed against any lot or parcel of land shall not exceed the value of the benefits received from the improvement.
(Code 1972, § 31.18; Code 2006, § 30-17)

Sec. 30-18. Disposition of surplus revenue; refunds.

The excess by which any special assessment proves larger than the actual cost of the improvement and expenses incidental thereto may be placed in the general fund of the city if such excess is five percent or less of the assessment, but should the assessment prove larger than necessary by more than five percent the entire excess shall be refunded on a pro-rata basis to the owners of the property assessed as shown on the last tax roll. Such refund shall be made by credit against future unpaid installments to the extent such installments then exist and the balance of such refund shall be in cash. No refunds may be made which contravene the provisions of any outstanding evidence of indebtedness secured in whole or in part by such special assessment.
(Code 1972, § 31.19; Code 2006, § 30-18)

Sec. 30-19. Special assessment accounts.

Moneys raised by special assessments to pay the cost of any local public improvement shall be held in a special fund to pay such cost or to repay any money borrowed therefor. Each special assessment account must be used only for the improvement project for which the assessment was levied, except as otherwise provided in this chapter.
(Code 1972, § 31.20; Code 2006, § 30-19)

Sec. 30-20. Division of affected land.

Should any lots or lands be divided after a special assessment thereon has been confirmed and divided into installments, the city assessor shall apportion the uncollected amounts upon the several lots and lands so divided, and shall enter the several amounts as amendments upon the special assessment roll. the city treasurer shall, within ten days after such apportionment, send notice of such action to the person concerned at his last known address by first class mail. Such apportionment shall be final and conclusive on all parties unless protest in writing is received by the city treasurer within 20 days of the mailing of the aforethe notice.
(Code 1972, § 31.21; Code 2006, § 30-20)

Sec. 30-21. Invalid assessments.

Whenever any special assessment shall, in the opinion of the council, be invalid by reason of irregularity or informality in the proceedings, or if any court of competent jurisdiction shall adjudge such assessment to be illegal, the council shall, whether the improvement has been made or not, or whether any part of the assessments have been paid or not, have the power to cause a new assessment to be made for the same purpose for which the former assessment was made. All proceedings on such reassessment and for collection thereof shall be conducted in the same manner as provided for the original assessment, and whenever any assessment or part thereof, levied upon any premises, has been set aside, if the same has been paid and not refunded, the payment so made shall be applied upon the reassessment on such premises, and the reassessment shall to that extent be deemed satisfied.

(Code 1972, § 31.22; Code 2006, § 30-21)

Sec. 30-22. Individual assessment adjustment.

If in any action it shall appear that by reason of any irregularities or informalities the assessment has not been properly made against the person assessed or upon the lot or premises sought to be charged, the court may nevertheless, on satisfactory proof that expense has been incurred by the city which is a proper charge against the person assessed or the lot or premises in question, render judgment for the amount properly chargeable against such person or upon such lot or premises. (Code 1972, § 31.23; Code 2006, § 30-22)

Chapter 36

TRAFFIC AND VEHICLES

State law reference—Michigan vehicle code, MCL 257.1 et seq.; regulation by local authorities, MCL 257.605, 257.606, 257.610.

ARTICLE I. IN GENERAL

Sec. 36-1. [50] State vehicle code and uniform traffic code adopted; penalties.

(a) *Vehicle code.* The city council has adopted the Michigan Vehicle Code, ~~Public Act No. 300 of 1949~~ MCL 257.1 et seq., as traffic regulations for the city, together with all future amendments and revisions to such code when they are promulgated and effective. References in the Uniform Traffic Code to governmental unit shall mean the city. References in the adopted state code to governmental unit shall mean the city.

(b) *Penalties for violation of vehicle code.* The penalties provided by the Michigan Vehicle Code are adopted by reference; provided, however, that the city may not enforce any provision of the Michigan Vehicle Code for which the maximum period of imprisonment is greater than 93 days. Any contrary provision of city Charter or this Code notwithstanding, any violation of section MCL 257.625(1)(c), shall be punishable by community service for not more than 360 hours, imprisonment for not more than 180 days, or a fine of not less than $200.00 or more than $700.00 or any combination of such penalties plus applicable costs.

(c) *Uniform traffic code; penalties for violation.* The city council has adopted the Uniform Traffic Code for Cities, Townships, and Villages as promulgated by the director of the state department of state police pursuant to the Administrative Procedures Act of 1969, MCL 24.201, et seq. References in the Uniform Traffic Code to governmental unit shall mean the city. The penalties provided by the Uniform Traffic Code are adopted by reference unless provided

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[50] Sec. 36-1. State vehicle code and uniform traffic code adopted.

1 See the suggested new penalty provisions. If the city wants to adopt these penalties should they be retained here or incorporated into the general penalty section of chapter 1 for clarity?

2 The league also recommends that if snowmobile enforcement is done regularly, Part 821 §324.82101 to 324.82160 of the Natural Resources and Environmental Protection Act (Act 451 of 1994) also be adopted. Does the city need those provisions?

3 Note that the UTC must be adopted each time it is amended per MCL 257.953. Fortunately, is not much of a problem since the UTC was revised in 2002 to remove provisions covered by the Michigan Vehicle Code. It now contains mostly administrative type provisions.

otherwise by the city.
(Code 2006, §§ 36-1, 36-2; Ord. No. 198, §§ 71-1, 71-2, 73-1, 73-2, 11-11-2002)
State law reference—Authority to adopt the Michigan Vehicle Code by reference, MCL 177.3; authority to adopt uniform traffic code by reference, MCL 257.951.

Sec. 36-3. Operating motor vehicle on frozen lake, stream or pond.

No person shall operate or drive any motor vehicle on a frozen public lake, stream or pond.

(b) Notices, large enough for a reasonably observant person to be able to read, shall be posted in prominent locations near any lake, pond or stream forbidding such activity.

(c) Such notices shall read as follows: Motor vehicles shall not be driven or operated upon any frozen lake, pond or stream in the city.
(Code 2006, § 36-3; Ord. No. 143, §§ 83.2(b), 83.3, 3-8-1993)

Secs. 36-4—36-30. Reserved.

ARTICLE II. STOPPING, STANDING AND PARKING

State law reference—Stopping, standing and parking, MCL 257.672 et seq.; authority to regulate the standing or parking of vehicles, MCL 257.606(1)(a).

Sec. 36-31. Overnight parking.

No person, except a physician on an emergency call, shall park a vehicle or permit a vehicle previously parked by him, other than an emergency vehicle in actual use as such, to remain parked on any street or alley between the hours of 2:00 a.m. and 6:00 a.m. of any day. A person who violates this section is responsible for a civil infraction.
(Code 2006, § 36-31; Ord. No. 185, § 72-7, 12-20-2000)

Sec. 36-51. Parking violations bureau.

(a) *Established.* Pursuant to ~~section 8395 of the revised judicature act, as added by Public Act No. 154 of 1968~~ MCL 600.8395, a parking violations bureau, for the purpose of handling alleged parking violations within the city, has been established by the city. The parking violations bureau is under the supervision and control of the city clerk.

(b) *Location; administration.* The city clerk shall, subject to the approval of the city council, establish a convenient location for the parking violations bureau, appoint qualified city employees to administer the bureau, and adopt rules and regulations for the operation thereof.

(c) *Disposition of scheduled violations.* Any violation scheduled in this division shall be disposed of by the parking violations bureau. The fact that a particular violation is scheduled shall not entitle the alleged violator to disposition of the violation at the bureau, and in any case the person in charge of such bureau may refuse to dispose of such violation, in which case any person having knowledge of the facts may make a sworn complaint before any court having jurisdiction of the offense as provided by law.

(d) *Procedure; rights of accused.* No violation may be settled at the parking violations bureau except at the specific request of the alleged violator. No penalty for any violation shall be accepted from any person who denies having committed the offense and in no case shall the person who is in charge of the bureau determine, or attempt to determine, the truth, or falsity of any fact or matter relating to such alleged violation. No person shall be required to dispose of a parking violation at the parking violations bureau and all persons shall be entitled to have any such violation processed before a court having jurisdiction thereof if they so desire. The unwillingness of any person to dispose of any violation at the parking violations bureau shall not prejudice him or in any way diminish the rights, privileges and protection accorded to him by law.

(Code 1972, §§ 72-1—72-4; Code 2006, §§ 36-51—36-54)

State law reference—Parking violations bureaus, MCL 600.8395.

Sec. 36-55. Traffic tickets and notices of violation.

The issuance of a traffic ticket or notice of violation by a police officer of the city shall be deemed an allegation of a parking violation. Such traffic ticket or notice of violation shall indicate the length of time in which the person to whom the ticket was issued must respond before the parking violations bureau. It shall also indicate the address of the bureau, the hours during which the bureau is open, and the amount of the penalty scheduled for the offense for which the ticket was issued, and advise that a warrant for the arrest of the person to whom the ticket was issued will be sought if such person fails to respond within the time limited.

(Code 1972, § 72-5; Code 2006, § 36-55)

Sec. 36-56. [51] Penalties for parking violations.

All penalties due in the amounts and for the causes established in this section shall be payable within 72 hours from the hour and date of issuance as noted upon the traffic citation. Saturdays and Sundays shall not be included within the 72-hour period. Penalties paid after the lapse of the 72-hour period shall be in the amounts established in the table below.

[51] **Sec. 36-56. Penalties for parking violations.** I have removed the column in this table that provided a state law citation. Such cross references are unnecessary (since the MVC and the UTC are adopted) and would need monitoring and periodic update.

		Offense	***Penalty If Paid Within 72 Hours***	***Penalty After 72 Hours***
1		Parking too far from the curb or edge of roadway	$15.00	$30.00
2		Angle parking violation	$15.00	$30.00
3		Failure to obtain permit for angle parking loading/unloading	$15.00	$30.00
4		Parking so as to obstruct traffic	$20.00	$40.00
5		Violation of lighting of parked car	$20.00	$40.00
6		Unlawful parking:		
	6.01	On a sidewalk	$20.00	$40.00
	6.02	In front of a public or private driveway	$20.00	$40.00
	6.03	Within an intersection	$20.00	$40.00
	6.04	Within 15 feet of a fire hydrant	$20.00	$40.00
	6.05	On a crosswalk	$20.00	$40.00
	6.06	Within 20 feet of crosswalk or within 15 feet of intersection of property lines at an intersection of highways	$20.00	$40.00
	6.07	Within 30 feet of the approach to a flashing beacon, stop sign, or traffic control signal located at the side of a highway	$20.00	$40.00
	6.08	Between a safety zone and the adjacent curb or within 30 feet of a point on the curb immediately opposite the end of a safety zone, unless a different length is indicated by an official sign or marking	$20.00	$40.00
	6.09	Within 50 feet of the nearest rail of a railroad crossing	$20.00	$40.00
	6.10	Within 20 feet of the driveway entrance to a fire station and on the side of a street opposite the entrance to a fire station within 75 feet of the entrance if properly marked by an official sign	$20.00	$40.00
	6.11	Alongside or opposite a street excavation or obstruction, if the stopping, standing, or parking would obstruct traffic	$20.00	$40.00
	6.12	On the roadway side of vehicle stopped or parked at edge or curb of a street	$20.00	$40.00
	6.13	Upon a bridge or other elevated highway structure or within a highway tunnel	$20.00	$40.00
	6.14	At a place where an official sign prohibits stopping or parking	$20.00	$40.00
	6.15	Within 200 feet of an accident at which a police officer is in attendance	$20.00	$40.00
	6.16	In front of a theater	$20.00	$40.00

	6.17	Blocking immediate egress from marked emergency exit of building	$20.00	$40.00
	6.18	Blocking or hampering immediate use of egress from marked fire escape providing emergency means of egress from building	$20.00	$40.00
	6.19	Unlawful parking in space clearly identified as reserved for disabled persons on public property or private property available for public use. To park lawfully, the vehicle must display one of the following; a. A certificate of identification or windshield placard issued under MCL 257.675 to a disabled person. b. A special registration plate issued under UTC 28.1803, rule 803d, to a disabled person. c. A similar certificate of identification or windshield placard issued by another state to a disabled person. d. A similar special registration plate issued by another state to a disabled person. e. A special registration plate to which a tab for persons with disabilities is attached issued under state law.	$100.00	$200.00
	6.20	In clearly identified access aisle or access lane immediately adjacent to space designated for parking by disabled persons	$100.00	$200.00
	6.21	In a manner interfering with the use of a curb cut or ramp by persons with disabilities	$100.00	$200.00
	6.22	Within 200 feet of a fire at which fire apparatus is in attendance.	$20.00	$40.00
	6.23	In violation of an official sign restricting the period of time for or manner of parking	$20.00	$40.00
	6.24	In a metered space if the time for parking has expired, unless the vehicle properly displays one or more of the items listed in MCL 257.675(8).	$20.00	$40.00
	6.25	Obstructing the delivery of mail to a rural mailbox by a carrier of the United States Postal Service	$20.00	$40.00
	6.26	Blocking the use of an alley	$20.00	$40.00
	6.27	Blocking access to space designated as a fire lane	$20.00	$40.00
7	In an alley		$20.00	$40.00
8	Between 2:00 a.m. and 6:00 a.m.		$20.00	$40.00
9	Parking for any of the following prohibited purposes:			
	9.10	Display of vehicle for sale	$15.00	$30.00

9.11	Washing or repairing vehicle	$15.00	$30.00
9.12	Displaying advertising	$15.00	$30.00
9.13	Selling merchandise	$15.00	$30.00
9.14	Storage for more than 48 continuous hours	$20.00	$40.00
10	Wrong side of boulevard roadway	$20.00	$40.00
11	Loading zone violation	$20.00	$40.00
12	Bus or taxi, parking at other than designated stop	$15.00	$30.00
13	Meter violations	$15.00	$30.00
14	Meter, not parked within space	$15.00	$30.00
15	Failure to set brakes	$20.00	$40.00
16	Parked on grade, wheels not turned to curb	$20.00	$40.00
17	Failure to remove ignition key or failure to turn off	$20.00	$40.00

(Code 1972, § 72-6; Code 2006, § 36-56, Ord. No. 220-09, 5-28-2009)

Sec. 36-57. Waiver of parking restriction and penalty.

Upon written request made to the police chief or his designee and a showing of good cause, the chief may waive any penalty for unlawful parking to allow temporary parking that would otherwise violate this chapter. The request for waiver must be made to the chief before parking occurs in violation of this chapter. The requester must receive specific confirmation from the chief or his designee in order for the waiver to be considered valid.
(Ord. No. 220-09, § 4(36-57), 5-28-2009)

Chapter 38

UTILITIES

State law reference—Ownership and operation of water supply or sewage disposal facility by city, Mich. Const. art. VII, § 24; local authority to provide and regulate sewer and water service, MCL 324.4301 et seq.; water and sewer authorities, MCL 124.281 et seq.

ARTICLE I. IN GENERAL

Secs. 38-1—38-30. Reserved.

ARTICLE II. WATER

DIVISION 1. GENERALLY

Sec. 38-31. Fluoridation of city water supply rejected.

The city, in accordance with ~~section 12721 of Public Act No. 368 of 1978~~ MCL 333.12721 providing that the addition of fluoride to the public water supply may be rejected by an ordinance of the local governing body and in the interest of the health, safety and welfare of the inhabitants of the city and to avoid the increased cost inherent in regulating fluoridation of the city water supply, does hereby reject the addition of fluoride into the public water supply of the city. (Code 2006, § 38-31; Ord. No. 92, 4-9-1973)

State law reference—Fluoridation of water supplies, MCL 333.12721.

Secs. 38-32—38-50. Reserved.

DIVISION 2. WATER SERVICE

Sec. 38-51. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Stub service means any service connection with the principal mains, and service pipes from the principal mains to approximately two feet within the curbline, including the stop or curb cock or valve and box for same.

Water main means all that part of the water distribution system which is located within the right-of-way lines of the several streets and alleys of the city or within easements on private property which is the property of the city or held and controlled by the city for the purpose of supplying water to the inhabitants thereof, or for the purpose of fighting fire within the city.

(Code 1972, § 33-2; Code 2006, § 38-51)

Sec. 38-52. Penalty.

Violation of any of the provisions in this division may be punished as a class I misdemeanor; provided, however, that this section shall not be construed so as to interfere with the operation of any other provision of this division.
(Code 1972, § 33-14; Code 2006, § 38-52)

Sec. 38-53. Application for service; installation of service pipes.

(a) When the installation of service pipes is desired from the water distribution system, an application in writing, on the approved form, shall first be made to the city clerk. Such application shall set forth the true legal description of the premises it is proposed to serve, the size of the service desired and such other pertinent data as may be required by the council. The applicant shall be required to answer truthfully all questions regarding such application which may be put to him by an officer or employee of the water superintendent. Each application shall be signed by the owner of the property or his legally authorized agent.

(#) Every person who shall be supplied, or whose property shall be supplied, with water by the city shall be deemed to have accepted and approved the provisions of this division and all the rules of the city governing and regulating the supplying of water and the same shall constitute a part of the contract between such person and the city.

(b) Connections to the distribution mains shall be installed only by the city and then only upon the prepayment of the fees established therefor by resolution of the council and the subsequent payment of the actual cost of the stub service.

(c) After the service pipes have been installed to the premises, such person may apply for and be granted the use of water; provided that such application is made in writing, on an approved form, at the office of the city clerk; and provided further that the applicant agrees to be bound by all the legally established rules and regulations of the city regarding the waterworks.

(d) Tenants of persons complying with the provisions of section 38-62(b) with respect to the execution of leases and filing of affidavits shall not be granted the use of water until they have paid the deposit established therefor by resolution of the council. Such deposit shall bear no interest and shall be retained by the city until service has been discontinued and all rates and charges paid and the meter returned in good condition. The council has the right to use such portion of that sum to repair any meter damaged by reason of the owner's or customer's negligence and to pay any unpaid rates or charges for which they may be liable, and the person making the deposit shall be required to pay such additional sums as shall be necessary to have on deposit at all times the amount of the original deposit.

(e) Whenever a customer shall have promptly paid his water bills for at least two years and shall have otherwise established satisfactory credit in the city, the council may refund his deposit. (Code 1972, § 33-3; Code 2006, § 38-53)

Sec. 38-54. Connections.

(a) The council may postpone the granting of permission to connect a service at such times as, in its judgment, the making of connections will endanger the mains from freezing or other damage.

(b) Stub services shall be furnished and installed only by properly authorized employees of the city, acting under the orders and direction of the water superintendent, and at the expense of the consumer. The owner of the property served shall pay the actual cost of all labor and materials entering into such service connections, plus the fee established by resolution of the council to cover the cost of inspection of the owner's portion of the service, overhead, and maintenance of the roadway until restored to a condition equal to the existing roadbed before the excavation was made.

(c) No person shall make any connection with the stub service or extend the same to the building, or meter, located either at the curb or within the basement, except a regular employee of the city or a duly licensed plumber, having a special permit from the council showing that the service has been inspected and approved.

(d) 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 the premises, and in no sense as the agent of the city. the city will not be responsible for the acts of such plumber. The owner and plumber will each be held responsible for the trench opened by them.

(e) Every building or premises shall have a separate connection with the street main and shall be separately metered, except where the building is an accessory to the principal use, such as a garage or storage building.

(f) No person shall make any attachment to or connection with the water distribution system or make any repairs, additions to, or alterations of any fixtures connected with the system unless such connection, repairs, additions, extensions, or alterations are in accord with this article and the code approved by the state plumbing board, and with any additional rules and regulations regulating the installation of plumbing which the council may from time to time adopt. All work performed in making additions, connections, repairs, extensions or alterations of any fixture connected with the distribution system shall be subject to inspection by the water superintendent or his agent, who is hereby granted authority to order any part of such work disconnected or changed in order that the work shall comply with the rules and regulations of the city.

(g) The curb cock or valve on any stub service shall not be opened or left open by the plumber or any other person after connecting the service at the curb, so that the water may be supplied to such premises by such service, unless and until the service pipe and installation has been inspected and approved by the city and the meter installation completed. In the case of building operations, special temporary permission may be given by the council under such conditions as it may prescribe.

(h) All right, title, and ownership to the stub service, including the corporation cock, the service box, the stopcock and the service pipe between them, shall be vested in the city.

(i) All service pipes between the main and the meter shall be of a minimum internal diameter of three-fourths inch. Such services shall be of seamless annealed type K copper tubing conforming to American wall thickness in three-fourths-inch, one-inch and 1¼-inch sizes. The minimum depth of cover for services shall be five feet below the surface of the ground or the established street grade. The service shall be brought to the required depth as soon as possible after leaving the tap. No service shall be laid along the outside wall or in any position where there is danger of freezing. Every service shall be furnished with a valve with waste on the influent side of the meter below the action of frost, and on two-inch and larger meters a valve shall also be placed on the effluent side of the meter. When such valve is placed under the floor, the rod operating the valve shall extend above the floor. Service pipe laid in the same trench with sewers shall be at least 18 inches distant from the sewer horizontally, and if the sewer service shall be shelved into the bank to a solid bottom. In no case shall a service pipe be laid on a fill.

(j) Where trenches are opened for the laying of service pipes and such service pipes installed, such trenches, materials and workmanship shall be inspected and tested for leakage by the water superintendent that such trench and service are ready for inspection and test.

(k) Standpipes or other pipes for automatic suppression of fires in buildings, which fixtures are only intended for such use, may be permitted to be attached to the water supply system. Application for such permits, accompanied by a plan of the proposed pipe system, must be submitted to the council for approval. No additional fixtures, connections, or extensions shall be made in any fire system. The entire cost of installing the fire service shall be borne by the owner of the building supplied. Such services shall be subject to the maintenance provisions as given in section 38-55.
(Code 1972, § 33-4; Code 2006, § 38-54; Ord. No. 155, 3-28-2002)

Sec. 38-55. Maintenance of service pipes and fixtures.

The owner of property into which water is introduced by a service pipe will be required to install and maintain in perfect order, at his own expense, the service pipe from the curb cock and box to the meter on or for his premises, including all fixtures therein provided for delivering or supplying water for any purpose. The expense of such work, and all materials and labor required, shall be paid by the property owner.

(Code 1972, § 33-5; Code 2006, § 38-55)

Sec. 38-56. Meter required; installation of meters.

(a) All connections with the water mains, with the exception of fire hydrants and fire protection sprinkler systems, must be prepared for the use of water through a meter and no water shall be supplied to any inhabitant of the city unless such water shall be measured by a water meter of a design approved and installed by the council. The council will not furnish meters of a larger size than, in its judgment, appears to be necessary.

(b) Water for automatic sprinkling systems will be furnished for the rates established by the city council. No person shall use any water from a sprinkler system except in case of fire.

(c) All meters must be set in a clean, dry, sanitary place easily accessible. They will not be allowed in closets or compartments that are kept locked, in coal bins, in or under toilet room floors, in pits below basement floors, under buildings having no basements, or under porches, show windows, snow boards or any other place where they are difficult to access. Where practical, meters shall be installed within the building served, but where this is impractical, meter pits shall be built in accordance with plans and specifications approved by the council. The cost of construction of meter pits shall be borne by the owner of the property.

(d) Actual placing of the meter shall be done by the water superintendent after the property owner has made application for same and provided a place in the system, with the approved service, at his own expense, for setting the meter. In case an application for water service has been filed and no provision made for the meter, the water superintendent will not be required to set the meter or supply service until the place to install the meter has been provided. The space occupied by the meter and the meter box shall be kept accessible and free from rubbish and obstructions of all kinds.

(e) Meters will be furnished by the city without cost to the customer, except for a nominal setting charge established by resolution of the council; all right, title and ownership of the meter shall be vested in the city.

(f) The city will maintain all meters and make all necessary replacements caused by wear through normal usage. The customer will be held responsible for care and protection of the meter from freezing or damage by hot water and from injury by any person. Any damage which may occur to any water meter due to the carelessness or neglect of the tenant, owner, or agent of the owner or tenant of any property on which the meter is placed shall be paid for by such person upon presentation of a statement of damages. Meters shall be repaired only by the water superintendent or his authorized agents.

(g) In case a meter reading does not appear to be consistent, or in case the meter has ceased to register, the amount of water charged for shall be the amount estimated by the water

superintendent. In making such estimates, previous quantities of water used by the same premises shall be used as a basis for such estimates, but special conditions found, such as leaking fixtures or abnormal demand for water, may also be considered. When it appears that abnormal use of water has resulted from leakage or carelessness on the part of the consumer, no deduction shall be made therefor.

(h) All persons are forbidden to interfere with or remove a meter from any service connection. No person shall break, remove or tamper with, or shall cause or suffer to be broken, removed or tampered with, any seal which is placed on any meter or service box by an employee of the city. No person shall place or cause or suffer to be placed any device which will serve to allow any water to be used which does not pass through the meter.

(i) It shall be the duty of the water superintendent to read all meters periodically and to render statements for the amounts due as shown by the reading. Statements shall be payable as determined by this division, and in no event shall failure to receive a statement excuse any consumer for nonpayment thereof.
(Code 1972, § 33-6; Code 2006, § 38-56)

Sec. 38-57. Shutoff of service for nonpayment of fees.

(a) If any payment for the use of water or any fees as determined by this division or by resolution of the council remain unpaid for a period of 15 days after the due date, the city may cause the water supply to be turned off and the meter removed from premises until such time as payments and all applicable fees shall have been fully paid, including billed charges that are not yet due.

(b) Neither the water superintendent nor the city shall be liable for any damage which may result to any person or premises from shutting off the water from any mains or service, for any purpose whatever, even in cases where no notice is given.

(c) When the water supply to any building, structure or premises shall have been shut off or stopped, or an employee has been sent to the premises for the purpose of shutting off the water, under the direction of the city, in accordance with the provisions of subsection (a) of this section, the water shall not again be supplied to such building, structure or premises until the charges and penalties plus the service charge established by resolution of the council shall have been paid. If water service is not resumed by the consumer, any unpaid charges and penalties shall be deducted from the deposit made with the city or become a lien on the property served as provided in this division.
(Code 1972, § 33-7; Code 2006, § 38-57; Ord. No. 193, §§ 1, 2, 3-28-2002; Ord. No. 200, § 1, 12-9-2002)

Sec. 38-58. Access to meter and fixtures.

The water superintendent and his authorized representatives shall have access to the meter and all water piping and plumbing fixtures at any reasonable hour for the purpose of inspecting the meter or any of the plumbing used in connection with the water supply system, and no such meter or auxiliary equipment shall be covered or fenced in such a way as to be inaccessible.
(Code 1972, § 33-8; Code 2006, § 38-58)

Sec. 38-59. Use of public hydrants.

(a) No person shall, without written authority from the city clerk, draw water from any public hydrant or any other public connection with the water supply system except in emergency cases for the purpose of extinguishing fire or for fire practice by the regularly organized fire department. Permits to use hydrants shall be granted by the city clerk only for specific hydrants at specific times for specific work.

(b) Any person holding permission from the city clerk to use a fire hydrant shall keep his written permit at the place of use, and it shall be displayed to any member of the fire department or city official upon request.

(c) Any person desiring services from a fire hydrant shall place on deposit such sum of money as the city clerk shall designate, which sum shall be held until all charges incurred have been fully paid and all city equipment returned in good condition. The council shall have the right to use any portion or all of such deposited sum to repair or replace any equipment damaged through negligence of the person using the hydrant or by reason of such person's use thereof.

(d) Before the use of water from a hydrant is allowed, the discharge port shall first be fitted with a valve approved by the fire department, under the direction of the water superintendent. The main valve of the hydrant must be opened full at the beginning of work each day and remain open until the stoppage of work at night. The water supply shall be regulated by the independent valve. The hydrant shall be operated only by a proper hydrant wrench, which shall be obtained from the water superintendent.

(e) Water must not be allowed to run except when used. No leaking hose, pipe or joints shall be permitted. All persons using hydrants shall immediately obey any instructions or orders that may be issued by water superintendent to regulate the use of the hydrants.

(f) If the use of water from a hydrant is to be continued over a number of days, the water superintendent, weather permitting, may require a meter to be applied to the connection made with the hydrant, at the expense of the party using the hydrant, and such party shall pay for all water by meter measurement, at the stipulated rates.
(Code 1972, § 33-9; Code 2006, § 38-59)

Sec. 38-60. Tampering with pipes or fixtures.

(a) It is unlawful for any person to disrupt, injure or disturb any water main, service pipe, meter or water fixture or facility of any kind. No person except members of the fire department or the water superintendent or his agent or representative shall unlock, unscrew or take off the cap or cover valve thereof or in any manner operate or use or attempt to operate or use any hydrant (except under a special written permission issued by the city clerk).

(b) No person, except a duly authorized employee of the city, shall open, close or in any way interfere with any valve or gauge or any water main, conduit, or street pipe. This subsection applies also to curb cocks and stub services except as provided in this chapter.
(Code 1972, § 33-10; Code 2006, § 38-60)

Sec. 38-61. Deposits, rates, fees and charges.

(a) The deposits, rates, fees, and charges for water services furnished by the city shall be those provided by resolution of the council.

(b) All rates, fees and charges for water services furnished by the city as provided by resolution of the council in accordance with subsection (a) of this section shall be payable during such period and for such period as is established by resolution of the council. All bills for such services shall be due and payable within such period of time as is established by resolution of the council.

(c) A penalty of ten percent will be added to all bills not paid within the time period established by resolution of the council. All charges for water supplied during any billing period shall be paid within the succeeding billing period. the city shall have the right to turn off the water from any premises against which such charges shall not be paid within the period provided for in section 38-57(a), and the amount of the unpaid balance shall be deducted from any deposit, or, if a deposit does not cover the unpaid balance, such unpaid balance shall become a lien on the property served as provided in this division. When so turned off, the water shall not be turned on again until the charges and penalties have been paid, including billed charges that are not yet due.

(d) For building purposes only, where it is not advisable or practical to install a meter, the owner or contractor may be furnished water temporarily for construction at a fixed flat rate. In such instances, the owner or contractor shall make written application to the city clerk giving the estimated service required as to time and quantity, and make payment in advance of the amount of charges for water as determined by the council.
(Code 1972, § 33-11; Code 2006, § 38-61; Ord. No. 116; Ord. No. 200, § 2, 12-9-2002)

Sec. 38-62. Collection of delinquent bills.

(a) Lien for unpaid charges. In addition to other remedies possessed by the city for the collection of water rates, assessments, charges or rentals for the use or consumption of water supplied or made available to any house or building or any premises, lot or parcel of land in the city, the city shall have as security for the collection thereof a lien upon such house or other building and upon

the premises or lot or parcel of land upon which such house or other building shall be situated or to which such water has been supplied. Such lien shall become effective immediately upon the distribution of water to the premises or property to which water is supplied, and the official records of the city shall constitute notice of the pendency of such lien. The lien shall have priority over all other liens except taxes and special assessments, whether or not such liens accrued or were recorded prior to the lien created pursuant to this section.

(b) Leased property. The provisions of this section shall not apply in any instance where a lease has been legally executed containing a provision that the lessor shall not be liable for payment of water bills accruing subsequent to the filing provided for in this subsection, provided that an affidavit with respect to the execution of such a lease or a true copy of the lease of the affected premises, if there is one, shall be filed with the city clerk along with a lease monitoring fee, due annually during the duration of the lease, which amount shall be set by resolution of council. The monitoring fee shall be due for each full or partial year of the lease. Upon filing of the lease and the fee, no such charge shall become a lien against the premises from and after the date of such notice. In the event of filing of such notice that the tenant is responsible, the city shall render no further service to such premises until a cash deposit is made as established by resolution of city council. Thirty days' notice shall be given the city clerk by the lessor of any cancellation, change in or termination of the lease. Failure to provide such notice, or failure to file the annual fee, shall render the premises liable for the payment of water bills and subject to the lien as provided in this section. Notwithstanding the foregoing, the city may discontinue water service to the premises if the responsible person fails to pay the rates, assessments, charges, or rentals for the water service. Such discontinuance shall not invalidate or diminish any of the other methods employed by the city to collect any delinquent amounts due.

(c) Procedure. All unpaid water charges which, upon May 1 of each year, have remained unpaid for three months or more shall be reported by the city clerk to the council at the first meeting thereof in the month of May. The council shall thereupon order the publication in a newspaper published at least weekly of notice to all owners of property within the city that all unpaid water rates, fees or charges which have remained unpaid for a period of three months or more, as of May 1, which have not been paid by the next May 30, will be transferred to the tax roll and assessed upon the city tax roll against the property to which the water for which the unpaid rates, fees or charges accrued to be collected in the same manner as the lien created by city taxes on the tax roll. All unpaid water rates, fees or charges which are reported by the city clerk to the council as having been unpaid for a period of three months or more on May 1 of each year which remain unpaid on the following May 30 shall be transferred to the city tax roll and assessed against the property to which the water was supplied or furnished, and the unpaid rates, fees or charges accrued shall be collected with and in the same manner as city taxes are collected; and if the same shall remain delinquent and unpaid after the expiration of the time limited in the warrant for the collection of taxes levied in such roll, such charges shall be returned to the county treasurer, to be collected in the same manner as the lien created by taxes on the delinquent tax roll of the city. (Code 1972, § 33-12; Code 2006, § 38-62; Ord. No. 155, 3-28-2002)

Sec. 38-63. Right of city to shut off water or limit water use.

(a) The council reserves the right to limit the amount of water furnished to any customer should circumstances seem to warrant such action, although no limit may be stated in the application or permit for use, or the council 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.

(b) In the case of making or constructing new work in making repairs or leakage tests, the right is reserved to shut off the water to any consumer without notice for as long a period as may be necessary.

(c) In all places where steam boilers or hot water tanks are supplied with water from the city water supply, the owner or consumer must have placed a suitable safety valve, vacuum valve or other proper device to prevent damage from collapse or explosion when the water is shut off. There shall be placed on the effluent side of the meter a suitable check valve to prevent backflow of hot water or steam into the meter.

(d) Neither the water superintendent nor the city shall be liable for any damage or loss of any nature or kind to property or persons which may arise from or be caused by any change, either increase or decrease, in the pressure of water supplied or for shutting off the water for any purpose whatever.
(Code 1972, § 33-13; Code 2006, § 38-63)

Secs. 38-64—38-90. Reserved.

[52]DIVISION 3. CROSS CONNECTION CONTROL

Sec. 38-91. Penalty.

Any person found guilty of violating any of the provisions of this division or any written order of the city water utility in pursuance of this division shall be deemed guilty of a municipal civil infraction. Each day upon which a violation of the provisions of this division shall occur shall be deemed a separate and additional violation for the purpose of this division.
(Code 2006, § 38-91; Ord. No. 94, § 7, 6-10-1974)

Sec. 38-92. State rules adopted.

[52] **Div. 3. Cross Connection Control.** I suspect that the next division was intended, back in the 70's, to replace this division. Strike this division? Combine the two divisions and eliminate duplicative text?

The city adopts by reference the water supply cross connection rules of the state department of environmental quality, being Mich. Adm. Code R 325.11401 to R 325.11407.
(Code 2006, § 38-92; Ord. No. 94, § 1, 6-10-1974)

Sec. 38-93. Inspections.

It shall be the duty of the superintendent of public works to cause inspections to be made of all properties served by the public water supply where cross connection with the public water supply is deemed possible. The frequency of inspections and reinspections based on potential health hazards involved shall be established by the city water utility and as approved by the state department of environmental quality.
(Code 2006, § 38-93; Ord. No. 94, § 2, 6-10-1974)

Sec. 38-94. Right of entry; duty to provide information on piping systems.

The superintendent of public works shall have the right to enter at any reasonable time any property served by a connection to the public water supply system of the city for the purpose of inspecting the piping system thereof for cross connections. On request, the owner, lessee or occupant of any property so served shall furnish to inspector any pertinent information regarding the piping systems on such property. The refusal of such information or refusal of access, when requested, shall be deemed evidence of the presence of cross connections.
(Code 2006, § 38-94; Ord. No. 94, § 3, 6-10-1974)

Sec. 38-95. Enforcement; right of city to discontinue water service.

The city water utility is hereby authorized and directed to discontinue water service after reasonable notice to any property wherein any connection in violation of this division exists, and to take such other precautionary measures deemed necessary to eliminate any danger of contamination of the public water supply system. Water service to such property shall not be restored until the cross connection has been eliminated in compliance with the provisions of this division.
(Code 2006, § 38-95; Ord. No. 94, § 4, 6-10-1974)

Sec. 38-96. Protection of potable water supply; labeling of outlets not supplied by potable system.

The potable water supply made available on the properties served by the public water supply shall be protected from possible contamination as specified by this division and by the state and city plumbing code. Any water outlet which could be used for potable or domestic purposes and which is not supplied by the potable system must be labeled in a conspicuous manner as follows: Water Unsafe for Drinking.
(Code 2006, § 38-96; Ord. No. 94, § 5, 6-10-1974)

Sec. 38-97. Applicability of plumbing regulations.

This division does not supersede the state plumbing code and any city plumbing ordinance but is supplementary to them.
(Code 2006, § 38-97; Ord. No. 94, § 6, 6-10-1974)

Secs. 38-98—38-120. Reserved.

[53]DIVISION 4. CROSS CONNECTION CONTROL PROGRAM

Sec. 38-121. Generally; definitions.

In accordance with the requirements set forth by the state department of environmental quality, the city has officially adopted the state cross connection control rules to protect the city's public water supply system. For purposes of this division, the term "cross connection" is defined as a connection or arrangement of piping or appurtenances through which a backflow could occur. The term "backflow" means water of questionable quality, waste or other contaminants entering a public water supply system due to a reversal of flow. The cross connection control program will take effect immediately upon approval by the state department of environmental quality.
(Code 2006, § 38-121; Ord. No. 106, § I, 9-11-1978)

~~**Sec. 38-122. L[54]ocal authority.**~~
~~The authority to carry out and enforce a local cross connection control program will be in accordance with division 3 of this article, a copy of which is included in the program.~~
~~(Code 2006, § 38-122; Ord. No. 106, § II, 9-11-1978)~~

Sec. 38-123. Inspectors.

The water superintendent or his designated agent shall be responsible for making the initial cross connection inspections and reinspections to check for the presence of cross connections with the municipal water supply system. Individuals responsible for carrying out the cross connection inspections and reinspections shall have obtained necessary training through any available manuals on cross connection prevention, including the Cross Connection Rules Manual as published by the state department of environmental quality, and attendance of any cross connection training sessions sponsored by the state department of environmental quality or other recognized agencies.
(Code 2006, § 38-123; Ord. No. 106, § III, 9-11-1978)

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[53] **Div. 4. Cross Connection Control Program.** See preceding footnote. Also, this division seems to track the state manual. Why not replace it with an adoption of the manual to go along with the state rules?

[54] **Sec. 38-122. Local authority.** This language appears to have been copied verbatim from the state manual and is unnecessary.

Sec. 38-124. Schedule for inspections.

(a) The schedule for inspections under this division shall be in accordance with the following general outline:

(1) Known or suspected secondary water supply cross connections shall be inspected first (surface water, class 3 wells, recirculated water, etc.).

(2) Known or suspected submerged inlet cross connections will be inspected.

(b) In general, emphasis will be placed on making inspections initially of all industrial and commercial establishments or premises where cross connections are known or suspected to exist. A general area review will follow in a logical sequence as time permits. Emphasis will be placed on inspecting all industrial and commercial establishments within a period of six months following approval of the cross connection control program.
(Code 2006, § 38-124; Ord. No. 106, § IV, 9-11-1978)

Sec. 38-125. Reinspections.

In order to assure against the hazards of cross connections, it will be necessary to periodically and systematically reinspect for the presence of cross connections. The schedule for reinspections shall be in accordance with the schedule as noted on page 43 of the Cross Connection Rules Manual. Whenever it is suspected or known that modifications have taken place with piping systems serving a particular water customer, reinspections of the premises will be made.
(Code 2006, § 38-125; Ord. No. 106, § V, 9-11-1978)

Sec. 38-126. Protective devices.

The methods to protect against the hazards of cross connections as outlined on pages 37 and 39 of the Cross Connection Rules Manual will be incorporated into the city cross connection control program. Whenever any deviation from the recommended methods of protection is contemplated, approval from the state department of public health shall be first obtained.
(Code 2006, § 38-126; Ord. No. 106, § VI, 9-11-1978)

Sec. 38-127. Time limit for compliance.

The time allowed for correction or elimination of any cross connection found shall be as follows:

(1) Cross connections which pose an imminent and extreme hazard shall be disconnected immediately and so maintained until necessary protective devices or modifications are made.

(2) Cross connections which do not pose an extreme hazard to the water supply system but nevertheless constitute a cross connection should be corrected within a reasonable period of time. The length of time allowed for correction should be reasonable and may vary depending on the type of device necessary for protection. The water utility shall indicate, to each customer where a cross connection is found to exist, the time period allowed for compliance. (Thirty to 60 days is usually sufficient time for small devices.)
(Code 2006, § 38-127; Ord. No. 106, § VII, 9-11-1978)

Sec. 38-128. Annual reporting and recordkeeping.

Sufficient data to complete an annual report to the state department of public health and to monitor the cross connection control program adequately for city purposes will be maintained by the city water department and its responsible agents. An inspection form (as noted on page 21 of the Cross Connection Rules Manual) will be used during the initial inspection procedure. Reinspection forms (as noted in the appendix) will be used to monitor the status of the protective device as well as the test results reported by a qualified backflow preventer tester (and also for reinspection for cross connections).
(Code 2006, § 38-128; Ord. No. 106, § VIII, 9-11-1978)

Secs. 38-129—38-160. Reserved.

ARTICLE III. SEWERS

DIVISION 1. GENERALLY

Sec. 38-181. Purpose.

This division sets forth uniform requirements for the direct and indirect contributors into the wastewater collection and treatment system for the city and enables the city to comply with all applicable state and federal laws required by the Clean Water Act of 1977, 33 USC 1251 et seq., and the general pretreatment regulations of 40 CFR 403, as amended.
(Code 2006, § 38-181; Ord. No. 137, art. I, § 1, 3-9-1992)

Sec. 38-182. Objectives.

The objectives of this division are to:

(1) Prevent the introduction of pollutants into the municipal wastewater system which will interfere with the operation of the system or contaminate the resulting sludge;

(2) Prevent the introduction of pollutants into the municipal wastewater system which will pass through the system, inadequately treated, into receiving waters or the atmosphere or otherwise be incompatible with the system;

(3) Improve the opportunity to recycle and reclaim wastewater and sludge from the system; and

(4) Provide for equitable distribution of the cost of the municipal wastewater system.
(Code 2006, § 38-182; Ord. No. 137, art. I, § 2, 3-9-1992)

Sec. 38-183. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Act and the act mean the Federal Water Pollution Control Act (PL 92-500), also known as the Clean Water Act (PL 95-217), as amended, 33 USC 1251 et seq.

Approval authority means the director in an NPDES state with an approved state pretreatment program and the administrator of the EPA in a non-NPDES state or an NPDES state without an approved state pretreatment program.

BOD (denoting biochemical oxygen demand) means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days at 20 degrees Celsius, expressed in milligrams per liter.

Building drain means 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, beginning five feet (1.5 meters) outside the inner face of the building wall.

Building sewer means the extension from the building drain to the public sewer or other place of disposal.

Categorized standards means the national categorical pretreatment standards or pretreatment standard.

Combined sewer means a sewer intended to serve as a sanitary sewer and a storm sewer, or as an industrial sewer and a storm sewer.

Compatible pollutant means a substance amenable to treatment in the city wastewater treatment plant such as biochemical oxygen demand, suspended solids, pH, and fecal coliform bacteria, plus additional pollutants identified in the NPDES permit of the city wastewater treatment facility.

Cooling water means the water discharged from any use such as air conditioning, cooling, or refrigeration, or to which the only pollutant added is heat.

Delivery flow rate characteristics means information establishing rate of flow during daily or weekly intervals, or portions of the day in unit time designation such as gallons per day and fluctuations.

Direct discharge means the discharge of treated or untreated wastewater directly to the waters of the state.

Discharge means spilling, leaking, seeping, pumping, pouring, emitting, emptying, dumping or depositing.

Domestic wastes means wastes normally emanating from residential living units and resulting from the day-to-day activities usually considered to be carried on in a domicile. Wastes emanating from other users which are to be considered domestic waste shall be of the same nature and strength and have the same flow rate characteristics.

Garbage means the wastes from the preparation, cooking and dispensing of food and from the handling, storage and sale of produce.

Grab sample means a sample which is taken from a waste stream on a one-time basis with no regard to the flow in the waste stream and without consideration of time.

Groundwater means the water beneath the surface of the ground, whether or not flowing through known or definite channels.

Holding tank waste means any waste from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks, and vacuum-pump tank trucks.

Impoundment means any lake, reservoir, pond or other containment of surface water occupying a bed or depression in the earth's surface and having a discernible shoreline.

Incompatible pollutants means all pollutants not defined as compatible.

Indirect discharge means the discharge or the introduction of nondomestic pollutants from any source regulated under section 307(b) or (c) of the act (33 USC 1317) into the POTW (including holding tank waste discharged into the system).

Industrial cost recovery means recovery by the city from the industrial users of the sewer system of the federal grant amount allocable to the treatment of wastes from such users, pursuant to 40 CFR 35.928.

Industrial cost recovery period. The industrial cost recovery period shall be equal to 30 years from the date of completion of the facilities.

Industrial user means any nongovernmental, nonresidential user of the publicly owned treatment works which discharges more than the equivalent of 25,000 gallons per day of normal domestic sewage (excluding domestic wastes or discharges from sanitary conveniences) and which is identified under Division A, B, D, E or I of the Standard Industrial Classification Manual, 1972, Office of Management and Budget. Also included in this definition is any nongovernmental user of the publicly owned treatment works which discharges wastewater to the treatment works which contains toxic pollutants or poisonous solids, liquids or gases in sufficient quantity, either singly or by interaction with other wastes, to contaminate the sludge of any municipal system or to injure or to interfere with any sewage treatment process or which constitutes a hazard to humans or animals, creates a public nuisance, or creates any hazard in or has an adverse effect on the waters receiving any discharge from the treatment works.

Industrial waste means any liquid, free-flowing waste, including cooling water, resulting from any industrial or manufacturing process or from the development, recovery or processing of natural resources, with or without suspended solids.

Industrial waste user means industrial user.

Letter of intent means notification from a significant industrial user to a municipality of that user's intent to utilize a publicly owned treatment facility for a given length of time.

Major contributing industry means an industry that has a flow of 50,000 gallons or more per average workday or has a flow greater than five percent of the flow carried by the municipal system receiving the waste.

Person means an individual, partnership, cooperative, association, private corporation, personal representative, receiver, trustee, assignee or any other legal entity. It does not include a governmental entity unless specifically provided.

pH means the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

Pollution means the placing of any noxious or deleterious substance in any waters of the city in quantities which are or may be potentially harmful or injurious to human health or welfare, animal or aquatic life, or property, or unreasonably interfere with the enjoyment of life or property, including outdoor recreation.

Pretreatment means treatment of wastewater from sources before introduction into the city sewerage system.

Private sewage disposal system means a system for the disposal of domestic sewage by means of a septic tank or mechanical treatment, designed for use apart from a public sewer.

Producer means any person who owns, operates, possesses or controls an establishment or plant, whether or not a permittee.

Properly shredded garbage means garbage that has been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half inch or 1 27/100 centimeters in any dimension.

Public sewer means a sewer that is owned and maintained by the city.

Regional administrator means an EPA regional administrators.

Reserve capacity means that unused portion of a treatment work's capacity that has formally been set aside for use by a specific industry and is so identified by a formal binding agreement. Factors such as strength, volume and delivery flow rate characteristics shall be considered and included when determining the reserve capacity to insure a proportional distribution of the cost recovery obligation.

Salt means sodium chloride and calcium chloride or a combination thereof in solid or liquid form.

Sanitary sewer means a sewer intended to carry only sanitary or sanitary and industrial waste, or wastes from residences, commercial buildings, industrial plants and institutions.

Sewage (wastewater) means any liquid or water-carried waste from residences, business buildings, institutions, industrial, commercial and governmental establishments, watercraft or floating facilities, or other places, together with such groundwater infiltration, surface water and stormwater as may be present.

Sewer means a pipe or conduit for carrying sewage and devices or structures required for pumping, lifting or collecting such sewage.

Sewerage system (water pollution control facilities) means pipelines or conduits, pumping stations, and force mains and all other construction, devices, appurtenances and facilities used for collecting or conducting waterborne sewage, industrial waste or other wastes to a point of disposal or treatment and including the water pollution control plant, including all extensions and improvements thereto which may hereafter be acquired or constructed.

Sludge means any discharge of water, sewage or industrial waste which in concentration of any given constituent or in rate of flow exceeds for any period of duration longer than 15 minutes more than five times the average rate for a 24-hour period during normal operation.

Standard methods means the most recent edition of "Standard Methods for the Examination of Water and Waste Water," published by the American Public Health Association, the American

Water Works Association, and the Water Environment Foundation, a copy of which is on file in the office of the director.

Storm sewer, otherwise referred to as "storm drain," means a sewer intended to carry only stormwater, surface runoff, street wash water, subsoil drainage, and noncontact cooling water.

Stream means any river, creek, slough or natural watercourse in which water usually flows in a defined bed or channel. It is not essential that the flow be uniform or uninterrupted.

Superintendent means the person designated by the city to supervise the operation of the publicly owned treatment works and who is charged with certain duties and responsibilities by this division, or his duly authorized representative.

Surcharge means the additional charge which a user discharging wastewater of strength in excess of the limits for normal domestic sewage set by the city for transmission to and treatment with the sewerage system will be required to pay to meet the cost of treating the excessive strength wastewater.

Suspended solids means solids that either float on the surface of or are in suspension in water, sewage or other liquids, and which are removable by laboratory filtering.

Tenant means a person who leases property from an owner.

Test methods (standard methods) shall be as specified in the latest edition of "Methods for Chemical Analysis of Water and Waste," U.S. EPA; "Standard Methods for the Examination of Water and Waste Water," APHA; "Annual Book of Standards, Part 23, Water Atmospheric Analysis," ASTM; and "Guidelines Establishing Text Procedures for Analysis of Pollutants" (October 13, 1973, Federal Register).

User means any person, establishment or owner who discharges any domestic sewage or industrial waste into the sanitary sewer system of the city or any system connected thereto.

User charge means a charge levied on users of the sewage works for operation, maintenance and replacement of such works.

Wastewater means any liquid or water-carried waste from residences, business buildings, institutions, industrial, commercial and governmental establishments, watercraft or floating facilities, or other places, together with such groundwater infiltration, surface water, and stormwater as may be present.

Water pollution control facilities. See Sewerage system .

Water pollution control plant and sewage treatment plant mean any arrangement of devices and structures used for treating sewage.

Watercourse means a channel in which a flow of water occurs, either continuously or intermittently.
(Code 2006, § 38-183; Ord. No. 137, art. II, § 1, 3-9-1992)

Sec. 38-184. Abbreviations.

For purposes of this division, the following abbreviations shall have the meanings designated in this section:

BOD	Biochemical oxygen demand
CFR	Code of Federal Regulations
COD	Chemical oxygen demand
EPA	Environmental Protection Agency
l	Liter
mg	Milligrams
mg/l	Milligrams per liter
NPDES	National Pollutant Discharge Elimination System
POTW	Publicly owned treatment works
SIC	Standard Industrial Classification
SWDA	Solid Waste Disposal Act, 42 USC 6901 et seq.
USC	United States Code
TSS	Total suspended solids

(Code 2006, § 38-184; Ord. No. 137, art. II, § 2, 3-9-1992)

Sec. 38-185. Violations; penalties.

(a) A user who is found to have violated an order of the city council or who willfully or negligently fails to comply with any provision of this division, and the orders, schedules, regulations, and permits issued under this division, shall be guilty of a municipal civil infraction. Each day on which a violation shall occur or continue shall be deemed a separate and distinct offense.

(b) In addition to the penalties provided in this section, the city may recover reasonable attorneys' fees, court costs, court reporters' fees and other expenses of litigation against the person found to have violated this division or the orders, rules, regulations, and permits issued under this

division.
(Code 2006, § 38-185; Ord. No. 137, art. XV, § 1, 3-9-1992)

Sec. 38-186. Falsifying information.

Any person who knowingly makes any false statement, representation or certification in any application, record, report, plan or other document filed or required to be maintained pursuant to this division, or a wastewater contribution permit, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this division, shall be guilty of a municipal civil infraction.
(Code 2006, § 38-186; Ord. No. 137, art. XV, § 3, 3-9-1992)

Secs. 38-187—38-200. Reserved.

DIVISION 2. USE OF PUBLIC SEWERS

Sec. 38-201. Unlawful discharge of waste.

It is unlawful for any person to place, discharge or permit to be discharged in any unsanitary manner on public or private property within the city, or in any area under the jurisdiction of the city, any human or animal excrement, garbage or other waste or wastewater.
(Code 2006, § 38-201; Ord. No. 137, art. III, § 1, 3-9-1992)

Sec. 38-202. Discharge of polluted water to natural outlet.

It is unlawful to discharge to any natural outlet within the city, or in any area under the jurisdiction of the city, any sewage or other polluted waters, except where suitable treatment has been provided in accordance with the provisions of this division and the standards of the state department of environmental quality.
(Code 2006, § 38-202; Ord. No. 137, art. III, § 2, 3-9-1992)

Sec. 38-203. Private wastewater disposal facilities.

Except as provided in this division, it is unlawful to construct or maintain any privy, privy vault, septic tank, cesspool or other facility intended or used for the disposal of wastewater.
(Code 2006, § 38-203; Ord. No. 137, art. III, § 3, 3-9-1992)

Sec. 38-204. Mandatory connection to public sewer.

The owners of all houses, buildings or properties used for human occupancy, employment, recreation or other purposes, situated within the city and abutting on any street, alley or right-of-way in which there is now located or may in the future be located a public sanitary or combined sewer of the city, are hereby required at the owner's expense to install suitable plumbing facilities,

which shall include a meter for measuring water flow if not connected to the municipal water supply, therein in accordance with the plumbing code currently enforced by the county and to connect such facilities directly with the proper public sewer in accordance with the provisions of this division within 90 days after the date of official notice to do so, provided that the public sewer is within 200 feet (61.0 meters) of the structure in which sewage originates and there is sufficient capacity in collection and treatment systems.
(Code 2006, § 38-204; Ord. No. 137, art. III, § 4, 3-9-1992)

Sec. 38-205. Unlawful use of sewers.

No person shall discharge any waste or other substance directly into a manhole, catchbasin or sewer inlet. All discharges to the sewer shall be through a sewer connection. Nothing in this provision shall restrict the use of catchbasins for stormwater in the storm sewer system.
(Code 2006, § 38-205; Ord. No. 137, art. III, § 5, 3-9-1992)

Sec. 38-206. Stormwater discharge permit.

A permit shall be required for all stormwater and uncontaminated wastewater connections to any natural outlet in the city or any area under the jurisdiction of the city. Adequate provisions shall be made for observing and testing at each such connection.
(Code 2006, § 38-206; Ord. No. 137, art. III, § 6, 3-9-1992)

Secs. 38-207—38-220. Reserved.

DIVISION 3. PRIVATE SEWAGE DISPOSAL FACILITIES

Sec. 38-221. Use.

It is unlawful to construct, install or use a private sewage disposal system within the city, or in any area under the jurisdiction of the city. Where a public sanitary or combined sewer is not available under the provisions of this division, the building sewer shall be connected to a private sewage disposal system in accordance with the provisions of this division and other ordinances of the city and the plumbing and health code currently administered by the county health department where applicable.
(Code 2006, § 38-221; Ord. No. 137, art. IV, § 1, 3-9-1992)

Sec. 38-222. Discharge to impoundment or watercourse prohibited.

No septic tank or cesspool shall be permitted to discharge into any impoundment, stream, surface water or other watercourse.
(Code 2006, § 38-222; Ord. No. 137, art. IV, § 2, 3-9-1992)

Secs. 38-223—38-240. Reserved.

DIVISION 4. BUILDING SEWERS AND CONNECTIONS

Sec. 38-241. Permit required.

It is unlawful for any person or owner to do any excavating, tap, or make connections with a sewer without first obtaining a permit from the director as provided in this division.
(Code 2006, § 38-241; Ord. No. 137, art. V, § 1, 3-9-1992)

Sec. 38-242. Standards for connections.

(a) All sewer connections shall be made with approved sewer pipe not less than four inches in diameter and at such locations in the public sewers where branches, wyes or tees were placed for that purpose, if any. Where there are no branches, wyes or tees, the sewer may, for the purpose of making connections, be tapped under the direction and supervision of the city inspector; the connection shall be made by a saddle device approved by the city. All work for the purpose of making sewer and water connections shall be done in compliance with the rules and regulations of the city and the plumbing code of the state.

(b) Whenever any existing sewer connections have been made with pipe smaller than four inches internal diameter, then a stub constructed from the main to the property line to serve such premises. However, the owner of any lot or parcel of land having a sewer connection of less than four inches in internal diameter will both be required to connect to the new stub connection until such time as the existing connection is inadequate or requires repairing in public property. In no case shall the director issue a permit to repair an existing connection less than four inches in diameter under a pavement or gravel street where a four-inch stub line has been constructed, and if there is no four-inch stub line constructed, then the connection of less than four inches in diameter shall be replaced with a four-inch tile at the time when replacements or repairs become necessary.

(c) The materials of construction and construction methods must meet the requirements of the city.
(Code 2006, § 38-242; Ord. No. 137, art. V, § 2, 3-9-1992)

Sec. 38-243. Failure to connect.

If the owner of a parcel of land fails to connect within the time permitted by the state public health code, Public Act No. 368 of 1978 MCL 333.1101 et seq., the city shall proceed to take such action as is authorized to require the connection.
(Code 2006, § 38-243; Ord. No. 137, art. V, § 3, 3-9-1992)

Sec. 38-244. Connection and benefit charges.

(a) A person granted a connection permit for the purpose of connecting with any interception sewer shall pay a connection charge per unit for the first unit or fraction thereof and an additional benefit fee for each additional unit or fraction thereof based on the unit factors as follows. Rates shall be set by resolution of the city council and changed as necessary from time to time. A unit (residential equivalent unit (REU)) is considered to be 250 gallons per day.

Usage	REU's
Apartments, per apartment	0.5
Auto dealers, per 1,000 square feet	0.30
Auto/truck garage service and repair, per 1,000 square feet	0.40
Bakery, per 1,000 square feet	1.00
Banks, per 1,000 square feet	0.40
Barbershop, beauty shop, personal care shop, per chair or service area	0.25
Bar/lounge (serves alcoholic beverages), per 1,000 square feet	4.00
Boardinghouses, per person	0.20
Bowling alleys (no bars or lunch facilities), per alley	0.20
Carwash (automatic, water recycled)	5.00
Carwash (automatic, no recycling), per line	10.00
Carwash, self-service, per stall	1.00
Churches, per 1,000 square feet	0.1 plus 1 per premises
Cleaners (pickup only), per premises	1.00
Cleaners (pressing facilities), per press	1.25
Cleaners (cleaning and pressing facilities), per 1,000 square feet	1 plus 1 per premises
Clinics (medical or dental), per exam room	0.5 plus 1 per premises
Convalescent homes, per bed	0.25 plus 1.0 per premises
Convenience store	1.50
Day care center, per 1,000 square feet of building space devoted to day care operations	0.5 plus 1 per premises
Department store with food, per 1,000 square feet	0.60

Department store, no food, per 1,000 square feet	0.40
Donut/cake shop, per 1,000 square feet of area devoted to public food consumption	2.5 plus 1 per premises
Drugstores	1.00
Duplex or row houses, per unit	1.00
Factories (exclusive of excessive industrial use), per 1,000 square feet	Custom
Fraternal organization/banquet hall, etc. (not including other uses determined under separate categories), per 1,000 square feet	0.20
Funeral home, per 1,000 square feet	1.5 plus residence
Furniture store, per 1,000 square feet	0.25
Garden center, per employee	0.16
Gift shop, per premises	1.00
Grocery stores and supermarkets, per 1,000 square feet	1.10
Group living facilities:	
Boarding facility, convent, etc., per bed	0.35
Adult foster care, per bed	0.35
Hospitals, per 1,000 square feet	1.00
Hotels, motels, per room (plus bar and restaurant)	0.40
Industrial facility	Custom
Laundry (self-service), per washer	0.5 plus 1 per premises
Lumberyard, per 1,000 square feet	1 plus 1 per premises
Machine shop, tool and die, per employee	0.08
Manufactured home park, per space	1.00
Meat market, per 500 square feet	0.5 plus 1 per premises
Motor freight terminal, per 15 employees	1.00
Multiple-family residence, per unit	1.00
Museum, per 1,000 square feet	0.50
Nurseries, per 1,000 square feet	0.5 plus 1 per premises

Nursing homes, per bed	0.25 plus 1 per premises
Office building, per 1,000 square feet	0.60
Other residential (including fraternity or sorority houses), per bedroom	0.50
Park, campground, recreation areas, etc.	Custom
Pet, plant and fish stores, per 1,000 square feet	1.10
Public carrier terminal, per each 5 urinals and stalls	1 plus 1 per premises
Public buildings (excluding hospitals and schools), per 1,000 square feet	0.75
Public restroom (freestanding building or public restroom off common entry serving multiple tenants), per each 5 urinals or stalls	1.00
Rest areas (each urinal and stool)	1.00
Restaurants/banquet rooms, per 1,000 square feet:	
(1) Meals only, includes drive-ins	2.50
(2) Meals and alcoholic beverages	6.50
(3) Banquet room (not associated with restaurant)	2.00
Roominghouses (no meals), per person	0.17
Schools (cafeteria without showers or pool), per classroom	1.00
Schools (showers, gym, cafeteria), per classroom	1.70
Schools (showers or pool), per classroom	1.35
Schools (no cafeteria or showers), per classroom	0.67
Single-family residence	1.00
Service station (not including other uses determined under separate categories), per service area	0.30
Store, retail, per 1,000 square feet (not listed elsewhere)	0.30
Swimming pool, per 1,000 square feet	3.50
Theaters, inside, per seat	0.025
Trailer parks/campgrounds (central bathhouses), per site	0.35
Trailer parks (individual baths), per unit	1.00
Trailer parks (individual baths, seasonal only), per unit	0.50

Veterinary hospital/clinic, per 1,000 square feet	1 plus 1 per premises plus 0.5 per 1,000 square feet kennel operation
Warehouses, per 1,000 square feet	0.10

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(b) The determination of REUs to be assigned shall take into account combinations of uses, based on REU criteria for each use type.

(c) Whenever the use of the property is changed, modified, or enlarged, the city shall charge an additional benefit fee based on the REU criteria for the change, modification, or enlargement. The additional charge shall be directly proportionate to the additional REUs over the number previously applicable to the premises. At no time, however, shall the number of REUs be revised below the number previously applicable.

(d) For those uses listed as "custom," the city council shall make a determination of REUs to be assigned for the premises, and may require an estimated fee to be paid pending final determination. For nonresidential uses, the owner may request a similar determination if the particular use is not listed or there are special circumstances. The final determination may take into account actual usage of the facility, data from similar facilities, growth projections, or such other information as the council deems appropriate.

(e) Every connection shall be charged for on the basis of at least one unit. The connection and benefit charges shall be paid at the time of the application for the zoning permit unless other arrangements are made by the city manager on account of undue hardship only. The connection and benefit charges shall be exclusive of and in addition to any fee or payment made or required for engineering or inspection charges. The construction and installation of any such connection shall be subject to the same rules and regulations that are provided in this division.
(Code 2006, § 38-244; Ord. No. 137, art. V, § 4, 3-9-1992; Ord. No. 194, § 1, 9-9-2002)

Sec. 38-245. Records of permits and connections.

The director shall keep a record of all permits granted under the authority of this division, which will include the name of the applicant and contractor, the location of the work and the place in the street where the connection is to be made.
(Code 2006, § 38-245; Ord. No. 137, art. V, § 5, 3-9-1992)

Sec. 38-246. Connections to property outside city.

When application is made for permission to connect a building situated on property outside the city limits to the sanitary sewer system, the city council may authorize in its sole discretion the director to grant a permit for such connection upon the following terms and conditions:

Notwithstanding any charges established by this division, the city council may authorize, by contract, other charges for the right to connect to the sanitary sewer system. The owner shall pay the cost of the sewer mains to extend to the owner's property and the sewer mains so constructed shall be the sole property of the city. The owner of the property shall submit written permission from the governmental unit in which such property is located to make connection to the sanitary sewer system. The owner thereof shall pay such rates for sewer services as established by ordinances and resolutions of the city for furnishing such services to consumers outside the city. Each applicant whose premises are hereafter connected directly to a city sanitary sewer shall pay to the city a connection charge. The connection charge shall be set by resolution of the city council and changed as necessary from time to time based on the unit factors for connection charges within the city listed in section 38-244. Notwithstanding the foregoing, the city retains the right, in its sole discretion, to refuse to accept sewage from any source outside of the city's boundaries.
(Code 2006, § 38-246; Ord. No. 137, art. V, § 6, 3-9-1992)

Sec. 38-247. Separate building sewer required for each building.

Every building or premises shall have a separate and independent building sewer, except where the building is an accessory to the principal use, such as a garage or storage building.
(Code 2006, § 38-247; Ord. No. 137, art. V, § 7, 3-9-1992; Ord. No. 156)

Sec. 38-248. Persons authorized to do work.

Excavation and backfill for building sewers on private property may be made by the owner. Connection and installation of the building sewer on private property shall be made by a licensed plumbing contractor or licensed sewer contractor.
(Code 2006, § 38-248; Ord. No. 137, art. V, § 8, 3-9-1992)

Sec. 38-249. Use of existing building sewer for new building.

Existing building sewers may be used in connection with new buildings only when they are found, on examination and test by the director, to meet all requirements of this division.
(Code 2006, § 38-249; Ord. No. 137, art. V, § 9, 3-9-1992)

Sec. 38-250. Elevation of connection.

Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by means approved by the director and discharged to the building sewer.
(Code 2006, § 38-250; Ord. No. 137, art. V, § 10, 3-9-1992)

Sec. 38-251. Prohibited surface runoff connections.

No person or owner shall make connection of roof downspouts, areaway drains, or other sources of surface runoff to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer.
(Code 2006, § 38-251; Ord. No. 137, art. V, § 11, 3-9-1992)

Sec. 38-252. Prohibited groundwater connections.

Exterior foundation drains or other sources of groundwater shall not be connected to a building sewer or building drain which in turn is connected, directly or indirectly, to a public sanitary sewer.
(Code 2006, § 38-252; Ord. No. 137, art. V, § 12, 3-9-1992)

Sec. 38-253. Payment of costs; indemnification of city.

All costs and expenses incident to the installation and connection and maintenance of the building drain and building sewer shall be borne by the owner of the property. The owner shall indemnify the city from all loss or damage that may, directly or indirectly, be occasioned by the installation of the building sewer.
(Code 2006, § 38-253; Ord. No. 137, art. V, § 13, 3-9-1992)

Secs. 38-254—38-270. Reserved.

DIVISION 5. REGULATION OF PUBLIC SEWERS

Sec. 38-271. General limitations on discharges.

Use of public sewers shall be limited to those discharges that are not harmful to the public sewerage system, the sewage treatment plant or the stream receiving the sewage treatment plant effluent. If natural or manmade occurrences are detrimental to the water pollution control facilities or to the public health and welfare of the community, industrial wastes could be prohibited, wholly, or in part, at any time.
(Code 2006, § 38-271; Ord. No. 137, art. VI, § 1, 3-9-1992)

Sec. 38-272. Prohibited discharges.

Except as provided in this division, no person shall discharge or cause to be discharged any of the following described waters or wastes, directly or indirectly, to any public sewer:

(1) Any water or waste will be prohibited that may cause damaging, hazardous or unhealthful effects by:

a. Reacting chemically, either directly or indirectly, with the water pollution control works;

b. Having a mechanical action that will destroy or damage the water pollution control facilities;

c. Restricting the hydraulic capacity of the water pollution control facilities;

d. Restricting the normal inspection or maintenance of the water pollution control facilities;

e. Placing unusual demands on the water pollution control facilities or process;

f. Limiting the effectiveness of the water pollution control process;

g. Being dangerous to public health or safety; and

h. Causing obnoxious conditions inimical to the public interest.

(2) Specifically, any of the following wastes shall be prohibited:

a. Having a pH below 6.0 or above 9.0.

b. Containing more than ten mg/l of the following gases: hydrogen sulphide, sulphur dioxide, oxides of nitrogen or any of the halogens.

c. Containing any explosive liquid, solid or gas.

d. Containing any flammable substances with a flashpoint lower than 187 degrees Fahrenheit.

e. Having a temperature below 32 degrees Fahrenheit (zero degrees Celsius) or above 104 degrees Fahrenheit (40 degrees Celsius) at the sewage treatment plant.

f. Containing grease or oil or other substance that will solidify or become viscous at temperatures below 100 degrees Fahrenheit.

g. Containing insoluble substances in excess of 10,000 mg/l.

h. Containing total solids (soluble or insoluble substances) in excess of 20,000 mg/l.

i. Containing soluble substances in concentrations that could increase the viscosity to greater than 1 1/10 specific viscosity.

j. Containing insoluble substances having a specific gravity greater than 2 65/100 .

k. Containing insoluble substances that will fail to pass a no. 8 standard sieve, or having any dimension greater than one-half inch.

l. Containing gases or vapors, either free or occluded, in concentrations toxic or dangerous to humans or animals.

m. Having a chlorine demand greater than 15 mg/l in 30 minutes.

n. Containing more than five mg/l of any antiseptic substance.

o. Containing phenols in excess of two-tenths mg/l or as approved by the state water resources commission.

p. Containing any toxic or irritating substance which will create conditions hazardous to public health and safety.

q. Containing grease, oil or any oil substance exceeding 100 mg/l.

r. Containing radioactive wastes or isotopes.

s. Being of sufficient flow or concentration or both to be defined as a "slug" under this division.

t. Containing any sludge or precipitates or extractions resulting from any industrial or commercial treatment or pretreatment of any wastes of such.

u. Containing any wastes of such character and quantity that unusual attention or expense is required for processing.

v. Having discharge concentrations of incompatible pollutants exceeding the standards of the latest published guidelines established by the state and federal governments for the effluent of the city treatment plant as provided in this division.

(Code 2006, § 38-272; Ord. No. 137, art. VI, § 2, 3-9-1992)

Sec. 38-273. Point of application of restrictions.

The standards and regulations in section 38-272, unless otherwise noted, are to apply at the point where the wastes are discharged into a public sewer, and all chemical or mechanical corrective treatment must be accomplished to practical completion before this point is reached.

(Code 2006, § 38-273; Ord. No. 137, art. VI, § 3, 3-9-1992)

Sec. 38-274. Applicability of new federal categorical pretreatment standards.

Upon the promulgation of the federal categorical pretreatment standards for a particular industrial subcategory, the federal standard, if more stringent than limitations imposed under this division for sources in that subcategory, shall immediately supersede the limitations imposed under this division. The superintendent shall notify all affected users of the applicable reporting requirements under 40 CFR 403.12.
(Code 2006, § 38-274; Ord. No. 137, art. VI, § 4, 3-9-1992)

Sec. 38-275. Modification of federal categorical pretreatment standards.

(a) Where the city's wastewater treatment system achieves consistent removal of pollutants limited by federal pretreatment standards, the city may apply to the approval authority for modification of specific limits in the federal pretreatment standards.

(b) For purposes of this section, consistent removal shall mean reduction in the amount of a pollutant or alteration of the nature of the pollutant by the wastewater treatment system to a less toxic or harmless state in the effluent which is achieved by the system in 95 percent of the samples taken when measured according to the procedures set forth in section 403.7(c)(2) (40 CFR 403), "General Pretreatment Regulations for Existing and New Sources of Pollution," promulgated pursuant to the act. the city may then modify pollutant discharge limits in the federal pretreatment standards if the requirements contained in 40 CFR 403.7, are fulfilled and prior approval from the approval authority is obtained.
(Code 2006, § 38-275; Ord. No. 137, art. VI, § 5, 3-9-1992)

Secs. 38-276—38-290. Reserved.

DIVISION 6. PRETREATMENT

Sec. 38-291. Generally; discharge permit.

Persons who discharge incompatible pollutants or compatible pollutants to the public sanitary sewer in excess of the limits established in this division shall obtain a discharge permit in accordance with this division and provide pretreatment of their discharge at their expense in accordance with this division. Person who provide pretreatment shall obtain a discharge permit from the director. Grease, oil and sand traps required by the director shall be installed at no expense to the city.
(Code 2006, § 38-291; Ord. No. 137, art. VII, § 1, 3-9-1992)

Sec. 38-292. Incompatible pollutants.

(a) Persons discharging incompatible pollutants, other than those described in this division,

which are strictly prohibited from being discharged into the sewerage system, shall reduce their incompatible pollutants to levels attainable through the application of the best practicable control technology currently available, as defined in section 304(b) of the Federal Water Pollution Control Act Amendments of 1972 (PL 92-550), unless otherwise indicated in the discharge permit. If it is found by the director that certain incompatible pollutants can be reliably removed by the treatment plant, the director may enter into a contract with the person making the discharge for the purpose of treatment of the pollutants for a fee or extra strength surcharge and allowing the discharge. This shall be so indicated in the discharge permit. This credit may be rescinded at any time.

(b) All persons discharging or proposing to discharge any toxic pollutant, as defined by section 307(a)(1) of the Federal Water Pollution Control Act Amendments of 1972, shall apply for permission for such discharge from the director. Attainment of allowed concentrations by dilution will not be allowed as a manner to meet discharge standards.
(Code 2006, § 38-292; Ord. No. 137, art. VII, § 2, 3-9-1992)

Sec. 38-293. Excess pollutants.

Persons discharging pollutants in excess of the limits listed in this section shall be subject to review by the director. The director shall determine the type or amount of pretreatment required at the user's expense, or he may enter into a contract with the person making the discharge for the purpose of treatment of the pollutants for a fee and allow the discharge. The director's determination shall be based on an engineering study prepared at the user's expense. The discharge from a user shall be subject to the provisions of this subdivision when the following limits are exceeded:

(1) Five-day BOD greater than 250 mg/l.

(2) Oil or grease greater than 100 mg/l.

(3) Total phosphorous greater than 15 mg/l.

(4) Average daily flow exceeding three percent of the total daily design flow of the sewage treatment plant.

(5) Suspended solids greater than 300 mg/l.
(Code 2006, § 38-293; Ord. No. 137, art. VII, § 3, 3-9-1992)

Sec. 38-294. Control manhole requirements.

When the director has determined that it is necessary to ascertain the character of discharge to the public sewage system, the owner of such property served by a sewer connection shall install approved control manholes on the connections to allow observation, sampling and measurement

of all substances discharged therein. The cost of the manholes and all equipment considered necessary by the director for sampling and metering equipment shall be at the expense of the user. The director shall approve all equipment prior to installation.
(Code 2006, § 38-294; Ord. No. 137, art. VII, § 4, 3-9-1992)

Sec. 38-295. Control manhole locations.

All control manholes shall be located on the user's property within ten feet of the property line. The control manholes shall be constructed on the sewer connection or the storm sewer connection. If the property is fenced, a gate shall be provided at the manhole location, with provision for a lock to be provided by the director. If the user does not want direct access to his property for security or other reasons, he shall, at his expense, construct a security fence around the control manhole of an area acceptable to the director. The director may allow control manholes in the street right-of-way in an approved manner and location. Those control manholes that cannot be constructed within ten feet of the property line shall be in an open and accessible area.
(Code 2006, § 38-295; Ord. No. 137, art. VII, § 5, 3-9-1992)

Sec. 38-296. Right of inspection.

The director may inspect the facilities of any user to determine whether the purpose of this subdivision is being met and all discharge requirements are being complied with. Persons or occupants of premises where sewage or other wastes are created or discharged shall allow the director ready access at all reasonable times and make provisions for emergency access to all parts of the premises for the purposes of inspection or sampling or in the performance of such governmental function.
(Code 2006, § 38-296; Ord. No. 137, art. VII, § 6, 3-9-1992)

Sec. 38-297. Access to sewer outfalls and meters.

Access to and inspection of sewer outfalls to the river and sewer meters shall be as outlined in section 38-296.
(Code 2006, § 38-297; Ord. No. 137, art. VII, § 7, 3-9-1992)

Sec. 38-298. Approval of plans; compliance schedule.

(a) Detailed plans showing pretreatment facilities operating procedures and effluent characteristics shall be submitted to the director for review and approval before construction of the facility. The approval of such plans and procedures will in no way relieve such person from the responsibility of modifying the facility, if necessary, to provide an acceptable effluent. Any changes in the approved facilities or method of operation shall be reviewed and approved by the director.

(b) Any person to which pretreatment standards are applicable shall be in compliance with such standards in the shortest reasonable time, but not later than three years from the date of the promulgation of the U.S. EPA guidelines. In addition, pretreatment facilities for incompatible pollutants introduced into the sewer system by a major contributing industry shall commence construction within 18 months from the date of the final promulgation of the effluent limitations guidelines defining best practicable control technology currently available.

(c) The director shall require the development of a compliance schedule, by each person discharging industrial wastes, for the installation of such pretreatment or equalization technologies.
(Code 2006, § 38-298; Ord. No. 137, art. VII, § 8, 3-9-1992)

Secs. 38-299—38-310. Reserved.

DIVISION 7. DISCHARGE PERMITS

Sec. 38-311. Persons required to obtain permit.

(a) Persons required by this division to provide pretreatment and persons engaged in any activity listed in section 306(b)(1)(A) of the act, which are as follows, shall obtain a permit prior to connecting to or discharging to the sewerage system:

(1) Pulp or paper mills.

(2) Paper board, building and board mills.

(3) Meat product or rendering processing.

(4) Dairy product processing.

(5) Grain mills.

(6) Canned and preserved fruits and vegetables processing.

(7) Canned and preserved seafood processing.

(8) Sugar processing.

(9) Textile mills.

(10) Cement manufacturing.

(11) Feedlots.

(12) Electroplating and other plating.

(13) Organic chemical manufacturing.

(14) Inorganic chemical manufacturing.

(15) Plastic and synthetic materials manufacturing.

(16) Soap and detergent manufacturing.

(17) Fertilizer manufacturing.

(18) Petroleum manufacturing.

(19) Iron and steel manufacturing.

(20) Nonferrous metals manufacturing.

(21) Phosphate manufacturing.

(22) Steam and electric generation plants.

(23) Ferroalloy manufacturing.

(24) Leather tanning and finishing.

(25) Drum or barrel cleaning plants.

(26) Glass and asbestos manufacturing.

(27) Rubber processing.

(28) Timber products processing.

(b) Such person presently discharging to the sewerage system shall, within 60 days from the effective date of the ordinance from which this division is derived, complete and file an application for a permit with the director. The director may also require any other person who is discharging or proposing to discharge wastes into the system to obtain a permit. The director may change the conditions of the permit as circumstances or laws or regulations enacted by the state or federal governments may require. Limitations on the discharge of wastes into the system shall be in accordance and agreement with the current effluent guidelines developed by the federal

environmental protection agency. The director shall direct the form the permit application shall use.

(c) Users required to obtain a permit pursuant to this section shall complete and file with the city an application in the form prescribed by the city, accompanied by a fee as set by the council. In support of the application, the user shall submit, in units and terms appropriate for evaluation, the following information:

(1) Name, address and location (if different from the address).

(2) SIC number according to the Standard Industrial Classification Manual, bureau of Budget, 1972, as amended.

(3) Wastewater constituents and characteristics, including but not limited to those mentioned in this division, as determined by a reliable analytical laboratory; sampling and analysis shall be performed in accordance with procedures established by the EPA pursuant to section 304(g) of the act and contained in 40 CFR 136, as amended.

(4) Time and duration of contribution.

(5) Average daily and three-minute peak wastewater flow rates, including daily, monthly and seasonal variations if any.

(6) Site plans, floor plans, mechanical and plumbing plans and details to show all sewers, sewer connections, and appurtenances by size, location and elevation.

(7) Description of activities, facilities, and plant processes on the premises, including all materials which are or could be discharged.

(8) Where known, the nature and concentration of any pollutants in the discharge which are limited by any city, state or federal pretreatment standards, and a statement regarding whether or not the pretreatment standards are being met on a consistent basis and, if not, whether additional operation and maintenance or additional pretreatment is required for the user to meet applicable pretreatment standards.

(9) If additional pretreatment or operation and maintenance will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. The following conditions shall apply to this schedule:

a. The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and

operation of additional pretreatment required for the user to meet the applicable pretreatment standards (e.g., hiring an engineer, completing preliminary plans, completing final plans, executing contract for major components, commencing construction, completing construction, etc.).

b. No increment referred to in subsection (c)(9)a of this section shall exceed nine months.

c. Not later than 14 days following each date in the schedule and the final date for compliance, the user shall submit a progress report to the superintendent including, as a minimum, whether or not it complied with the increment of progress to be met on such date and, if not, the date on which it expects to comply with the increment of progress, the reason for delay, and the steps being taken by the user to return the construction to the schedule established. In no event shall more than nine months elapse between such progress reports to the superintendent.

(10) Each product produced by type, amount, process and rate of production.

(11) Type and amount of raw materials processed (average and maximum per day).

(12) Number and type of employees, and hours of operation of plant and proposed or actual hours of operation of pretreatment system.

(13) Any other information as may be deemed by the city to be necessary to evaluate the permit application.

(d) The city will evaluate the data furnished by the user and may require additional information. After evaluation and acceptance of the data furnished, the city may issue a permit subject to the terms and conditions provided in this division.
(Code 2006, § 38-311; Ord. No. 137, art. VIII, § 1, 3-9-1992)

Sec. 38-312. Enforcement of conditions.

The conditions of the permit shall be enforced by the director in accordance with the provisions of this division. Any permit holder who exceeds the conditions and provisions of the permit will be subject to the enforcement provisions of this division and applicable state and federal laws.
(Code 2006, § 38-312; Ord. No. 137, art. VIII, § 2, 3-9-1992)

Sec. 38-313. Annual discharge report.

Each person issued a permit shall submit a signed annual discharge report to the director. The director may require a permit holder to submit more frequent reports if in his judgment the wastes

being discharged are possibly in violation of this division. The report shall include, but are not limited to, the nature of the process, volume, rates of flow, mass emissions, production quantities, hours of operation, personnel or other information that relates to the generation, handling and discharge of wastes. The report may also include the chemical constituents and quantity of liquid or gaseous materials stored on-site. If insufficient data has been furnished, other information will be provided upon request of the director.
(Code 2006, § 38-313; Ord. No. 137, art. VIII, § 3, 3-9-1992)

Sec. 38-314. Accidental discharges.

All persons discharging wastes to the sewerage system shall notify the water pollution control plant upon accidentally discharging wastes in violation of this division or the user's permit. The notification shall be made as soon after the accidental discharge as possible, but in no case more than 30 minutes after the accidental discharge. This notification shall be followed within 15 days by a detailed written report describing the causes of the accident and measures being taken to prevent future occurrences. Dates shall be set for completion of such measures, and the completion shall be reported to the director. Notification will not relieve users of liabilities for expenses, loss or damage to the system or downstream, or for any fines imposed on the city on account thereof.
(Code 2006, § 38-314; Ord. No. 137, art. VIII, § 4, 3-9-1992)

Sec. 38-315. Confidential status of information.

All information and data on a user obtained from reports, questionnaires, permit applications, permits and monitoring programs and from inspections shall be available to the public without restriction, unless the user specifically requests the information be classified confidential on the basis of proprietary process. When information is classified confidential, the director shall provide proper and adequate facilities and procedures to safeguard the confidentiality of manufacturing proprietary processes, except that confidentiality shall not extend to waste products discharged to the waters of the state.
(Code 2006, § 38-315; Ord. No. 137, art. VIII, § 5, 3-9-1992)

Sec. 38-316. State requirements.

State requirements and limitations on discharges shall apply in any case where they are more stringent than federal requirements and limitations or those in this division.
(Code 2006, § 38-316; Ord. No. 137, art. VIII, § 6, 3-9-1992)

Sec. 38-317. City's right of revision.

the city reserves the right to establish by ordinance more stringent limitations or requirements on discharges to the wastewater disposal system if deemed necessary to comply with the objectives presented in subdivision I of this division.

(Code 2006, § 38-317; Ord. No. 137, art. VIII, § 7, 3-9-1992)

Sec. 38-318. Compliance with discharge standards; reporting requirements.

(a) It is unlawful to discharge without a city permit to any natural outlet within the city or in any area under the jurisdiction of the city, or to the POTW, any wastewater except as authorized by the superintendent in accordance with the provisions of this division.

(1) Permit modification. Within nine months of the promulgation of a national categorical pretreatment standard the wastewater permit of users subject to such standard shall be revised to require compliance with such standard within the timeframe prescribed by such standard. Where a user subject to a national categorical pretreatment standard has not previously submitted an application for a wastewater contribution permit as required by this subdivision, the user shall apply for a wastewater contribution permit within 60 days after the promulgation of the applicable addition. The user with an existing wastewater contribution permit shall submit to the superintendent within 60 days after the promulgation of an applicable federal categorical pretreatment standard the information required by this section.

(2) Permit conditions. Wastewater discharge permits shall be expressly subject to all provisions of this division and all other applicable regulations, user charges and fees established by the city. Permits may contain the following:

a. The unit charge or schedule of user charges and fees for the wastewater to be discharged to a community sewer.

b. Limits on the average and maximum wastewater constituents and characteristics.

c. Limits on the average and maximum rate and time of discharge or requirements for flow regulation and equalization.

d. Requirements for installation and maintenance of inspection and sampling facilities.

e. Specifications for monitoring programs, which may include sampling locations, frequency of sampling, number, types and standards for tests and reporting schedule.

f. Compliance schedules.

g. Requirements for submission of technical reports or discharge reports.

h. Requirements for maintaining and retaining plant records relating to wastewater discharge as specified by the city and affording city access thereto.

i. Requirements for notification of the city of any new introduction of wastewater constituents or any substantial change in the volume or character of the wastewater constituents being introduced into the wastewater treatment system.

j. Requirements for notification of slug discharges.

k. Other conditions as deemed appropriate by the city to ensure compliance with this division.

(3) Permit duration. Permits shall be issued for a specified time period, not to exceed five years. A permit may be issued for a period less than a year or may be stated to expire on a specific date. The user shall apply for permit reissuance a minimum of 180 days prior to the expiration of the user's existing permit. The terms and conditions of the permit may be subject to modification by the city as the limitations or requirements as identified in this division are modified or other just cause exists. The user shall be informed of any proposed changes in his permit at least 30 days prior to the effective date of change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.

(4) Permit transfer. Wastewater discharge permits are issued to a specific user for a specific operation. A wastewater discharge permit shall not be reassigned or transferred or sold to a new owner, a new user, different premises, or a new or changed operation without the approval of the city. Any succeeding owner or user shall also comply with the terms and conditions of the existing permit.

(5) Compliance date report. Within 90 days following the date for final compliance with applicable pretreatment standards or, in the case of a new source, following commencement of the introduction of wastewater into the POTW, any user subject to pretreatment standards and requirements shall submit to the superintendent a report indicating the nature and concentration of all pollutants in the discharge from the regulated process which are limited by pretreatment standards and requirements and the average and maximum daily flow for these process units in the user's facility which are limited by such pretreatment standards or requirements. The report shall state whether the applicable pretreatment standards or requirements are being met on a consistent basis and, if not, what additional operation and maintenance or pretreatment is necessary to bring the user into compliance with the applicable pretreatment standards or requirements. This statement shall be signed by an authorized representative of the industrial user, and certified to by a qualified professional.

(6) Periodic compliance records.

a. Any user subject to a pretreatment standard, after the compliance date of such pretreatment standard, or, in the case of a new source, after commencement of the discharge into the POTW, shall submit to the superintendent during the months of June and December, unless required more frequently in the pretreatment standard or by the superintendent, a report indicating the nature and concentration of pollutants in the effluent which are limited by such pretreatment standards. In addition, this report shall include a record of all daily flows which during the reporting period exceeded the average daily flow reported pursuant to subsection (a)(5) of this section. At the discretion of the superintendent and in consideration of such factors as local high or low flow rates, holidays, budget cycles, etc., the superintendent may agree to alter the months during which these reports are to be submitted.

b. The superintendent may impose mass limitations on users which are using dilution to meet applicable pretreatment standards or requirements, or in other cases where the imposition of mass limitations are appropriate. In such cases, the report required by subsection (a)(6)a of this section shall indicate the mass of pollutants regulated by pretreatment standards in the effluent of the user. These reports shall contain the results of sampling and analysis of the discharge, including the flow and the nature and concentration, or production and mass when requested by the superintendent, of pollutants contained therein which are limited by the applicable pretreatment standards. The frequency of monitoring shall be prescribed in the applicable pretreatment standard. All analysis shall be performed in accordance with procedures established by the administrator pursuant to section 304(g) of the act and contained in 40 CFR 136 and amendments thereto or with any other test procedures approved by the administrator. Sampling shall be performed in accordance with the techniques approved by the administrator.

(7) Monitoring facilities.

a. the city shall require to be provided and operated, at the user's own expense, monitoring facilities to allow inspection, sampling, and flow measurement of the building sewer or internal drainage systems. The monitoring facility should normally be situated on the user's premises, but the city may, when such a location would be impractical or cause undue hardship on the user, allow the facility to be constructed in the public street or sidewalk area and located so that it will not be obstructed by landscaping or parked vehicles.

b. There shall be ample room in or near such sampling manhole or facility to allow accurate sampling and preparation of samples for analysis. The facility and

sampling and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expense of the user.

c. Whether constructed on public or private property, the sampling and monitoring facilities shall be provided in accordance with the city's requirements and all applicable local construction standards and specifications. Construction shall be completed within 90 days following written notification by the city.

(8) Inspections and sampling. the city shall inspect the facilities of any user to ascertain whether the purpose of this division is being met and all requirements are being complied with. Persons or occupants of premises where wastewater is created or discharged shall allow the city or its representative ready access at all reasonable times to all parts of the premises for the purpose of inspection, sampling, or records examination or in the performance of any of their duties. the city approval authority, the state department of environmental quality and the EPA shall have the right to set up on the user's property such devices as are necessary to conduct sampling, inspection, compliance monitoring or metering operations. Where a user has security measures in force which would require proper identification and clearance before entry into the user's premises, the user shall make necessary arrangements with the user's security guards so that, upon presentation of suitable identification, personnel from the city, the state department of environmental quality and the EPA will be permitted to enter, without delay, for the purposes of performing their specific responsibilities.

(9) Pretreatment. Users shall provide necessary wastewater treatment as required to comply with this division and shall achieve compliance with all federal categorical pretreatment standards within the time limitations as specified by the federal pretreatment regulations. Any facilities required to pretreat wastewater to a level acceptable to the city shall be provided, operated and maintained at the user's expense. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the city for review, and shall be acceptable to the city before construction of the facility. The review of such plans and operating procedures will in no way release the user from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the city under the provisions of this division. Any subsequent changes in the pretreatment facilities or method of operation shall be reported to and be acceptable to the city prior to the user's initiation of the changes.

(b) the city shall annually publish in a newspaper distributed locally a list of the users which were not in compliance with any pretreatment requirements or standards at least once during the 12 previous months. The notification shall also summarize any enforcement actions taken against the users during the same 12 months.

(c) All records relating to compliance with pretreatment standards shall be made available to officials of the EPA or the state department of environmental quality upon request.

(Code 2006, § 38-318; Ord. No. 137, art. VIII, § 8, 3-9-1992)

Secs. 38-319—38-340. Reserved.

DIVISION 8. INDUSTRIAL COST RECOVERY

Sec. 38-341. Generally.

(a) Existing or future industrial users, as identified in the Standard Industrial Classification Manual, 1972, under Division A, B, D, E or I, that contribute process wastes and cooling water to the sanitary sewer system of the city shall be charged a fee in proportion to the amount of the federal grant which is allocable to the treatment of wastes from those users. The fee to be assessed will be determined by flow and strength. As a minimum, any industry's share shall be proportional to its flow in relation to treatment works flow capacity. In computing derivation of charges for cost recovery, the following strength and volume units are used as the basis of design:

Treatment	mg/l
Suspended solids	300
BOD	250
Phosphorous	15

(b) The industrial cost recovery amount shall be equal to the amount of U.S. EPA participation in project costs. An industrial user's share shall include only that portion of the grant assistance allocable to its use or to capacity firmly committed for its use.

(c) Industries' annual payment shall be amortized over a 30-year cost recovery period and shall not include an interest component.

(d) Industrial users shall be exempt in the cost recovery system if they are governmental users or discharge primarily segregated domestic wastes or other wastes in volumes less than 25,000 gallons per day or equivalent strengths thereof, the latter being calculated using the pollutant concentrations defined by the "normal domestic sewage" definition of this division.

(e) Domestic wastes attributable to the employees of the industrial facility shall be exempt from the cost recovery system and shall be 15 gallons per employee per work shift. Where the industrial facility feels its employee domestic waste exceeds the 15-gallon exemption, such substantiation shall be submitted to the director, who shall review and make a determination as to the amount of exemption. Such exemption shall be reviewed by the city on an annual basis, with new substantiation of the allowed exemption being submitted to the city upon request of the director. The industrial user shall furnish, on a periodic basis as established by the director, a certified report indicating the number of man-days worked for that period. One man-day shall be

equal to one employee working one normal work shift. This certified report shall be used as the basis for establishing the exemption of domestic waste attributable to employees of such industry.

(f) In order to determine the degree to which users must be monitored, "major" and "minor" user categories will be established. Classification of industry into such categories will be at the option of the city, but industry may petition for reclassification based on sound engineering study or certified independent laboratory analysis. Major users will be monitored on a regular basis. Minor users will be monitored only to the extent that such monitoring is reasonable insofar as it is administratively effective to do so.

(g) The initiation of the cost recovery period will be no later than 30 days after final acceptance of the plant expansion project by the U.S. EPA.

(h) The city will, at annual intervals beginning one year after the start of the industrial cost recovery period, submit the following to the regional administrator:

(1) Information listing industrial cost recovery amounts charged and collected from industries during the preceding annual accounting period.

(2) Amount of payments being submitted to the federal government for the period.

(3) Investments made and the amount of interest earned during the preceding annual accounting period.

(4) Fiscal status including accrued interest earned on 80 percent of all industrial cost recovery amounts retained by the grantee since initiation of the industrial cost recovery period.

(5) Certification by the grantee that information submitted is complete and correct and that the grantee has complied with all provisions of the approved industrial cost recovery system.

(6) A check for the annual payment to the U.S. Environmental Protection Agency.

(i) Significant revisions of the approved industrial cost recovery system must be submitted to and approved by the regional administrator prior to implementation.

(j) An industrial user's payment will be adjusted to reflect significant changes in strength or volume so that the user pays its allocable share.

(k) On abandonment of an industrial facility, the user's cost recovery obligation will cease. A new industry will be assessed cost recovery only for the unexpired portion of the cost recovery period. To accomplish compliance with the act, the following records will be maintained:

(1) Documentation of the final grant amount.

(2) The originally approved industrial cost recovery system and all materials and correspondence related thereto.

(3) Any and all subsequently approved revisions to the industrial cost recovery system and all materials and correspondence related thereto.

(4) The grantee's notification of initiation of operation of the industrial cost recovery system.

(5) All annual submissions from the grantee.

(6) All material relating to approval of the use of retained funds.

(7) The record of the grantee's annual payments to the EPA.
(Code 2006, § 38-341; Ord. No. 137, art. IX, § 1, 3-9-1992)

Sec. 38-342. Tests of measuring equipment.

(a) In order to determine the strength and volume of a user's waste, the city may require monitoring, control manholes, control manhole locations, and right of inspection.

(b) It shall be the obligation of the user to conduct a test on measuring equipment at least once every 12 months or when required by the city to determine the accuracy, and the results thereof shall be furnished in writing to the director. It shall also be the user's responsibility to notify the department within a reasonable time in advance so that the department may, if it chooses, have a witness present during such test.

(c) If upon any such test the percentage of accuracy is found to be within the accuracy tolerance as established by the manufacturer's specifications, such measuring equipment shall be determined to have correctly measured the quantity delivered to the sewer system. If, however, the percentage of accuracy tolerance is found to be outside the accuracy tolerance as established by the manufacturer's specifications, then such measuring equipment shall be immediately adjusted to register correctly the quantity delivered to the sewer system. The billings to such user shall be adjusted for a period extending back to the time when the inaccuracy began, if such time is ascertainable, or for a period extending back one-half of the time elapsed since the date of the last test or the date of the last adjustment, if the time is not ascertainable.
(Code 2006, § 38-342; Ord. No. 137, art. IX, § 2, 3-9-1992)

Sec. 38-343. Engineering study.

If, in the opinion of the director, it is impractical or infeasible for the producer to install a meter to measure the industrial waste being discharged in to the sanitary sewer, the director may require that the city perform an engineering study to determine the percentage of water being discharged

to the sanitary sewer system. Such engineering study, when approved by the director, shall constitute the basis upon which the industrial cost recovery established by this division shall be computed, and the costs of such a study shall be borne by the user.
(Code 2006, § 38-343; Ord. No. 137, art. IX, § 3, 3-9-1992)

Sec. 38-344. Determination of volume of discharge when sewage is not metered.

When it is not administratively feasible to meter the quantity of sewage delivered to the city sewers, the volume will be construed as being the same as the water delivered to the user by the city water system unless otherwise provided.
(Code 2006, § 38-344; Ord. No. 137, art. IX, § 4, 3-9-1992)

Sec. 38-345. Determination of concentration of waste.

Determination of the average concentration or strength of the waste delivered shall be the obligation of the user. Analysis shall be made on representative samples collected by the user or his agent and at such intervals as the city may designate, but not less than annually. Cost of all testing shall be at the user's expense. the city may conduct multiple discharge analysis or may require multiple discharge analysis from an independent testing laboratory. Sampling will be conducted according to accepted methods. Composite or grab sampling, depending on the user's process, may be used.
(Code 2006, § 38-345; Ord. No. 137, art. IX, § 5, 3-9-1992)

Sec. 38-346. Calculation of user's annual cost; collection; disposition of revenue.

(a) The user's annual cost will be determined by volume and strength. Specific values for volume, BOD, SS and phosphorous will be derived by dividing the federal grant cost component attributable to each of the basic design parameters so that a cost is derived per 100 cubic feet of volume and per pound for suspended solids, BOD and phosphorous.

(b) the city, by ordinance, shall establish unit charges to be used in computing the industrial cost recovery share after obtaining the recommendation of the city's engineers.

(c) Deposits; manner.

(1) Revenues collected for industrial cost recovery under this subdivision shall be deposited in one of the following accounts:

a. Industrial cost recovery fund—federal.

b. Industrial cost recovery fund—local.

c. Receiving fund—water and sewer fund.

(2) Revenues shall be deposited to these accounts in the following manner:

a. Fifty percent of all revenue collected shall be deposited in the federal industrial cost recovery fund.

b. Eighty percent of the remaining revenues shall be deposited in the local industrial cost recovery fund.

c. All remaining revenue shall be deposited in the water and sewer receiving fund.

(d) Revenues collected under this subdivision shall be restricted and may be transferred and disbursed only as provided in this division.

(e) Once a year, on an annual basis, the month of which will be agreed upon between the director and the EPA, all amounts deposited to the federal industrial cost recovery fund, plus all interest earned thereon, shall be returned to the United States Treasury in a manner as may be prescribed by the United States Treasurer or his designee.

(f) Amounts deposited in the local industrial cost recovery fund, plus all interest earned thereon, may not be transferred or otherwise expended from this fund for any purpose whatsoever, except by resolution of the city council with written approval of the regional administrator of the federal EPA and then only for the purpose of the expansion or reconstruction of water pollution control facilities.

(g) Amounts deposited to the receiving fund may be transferred or otherwise expended to meet any obligation of the sewer fund; provided, however, these funds may not be used to reduce sewer user charges or industrial cost recovery amounts for any person.

(h) Pending use as provided elsewhere in this division, all amounts deposited to the local industrial cost recovery fund for reconstruction or expansion shall be invested in obligations of the federal government, or obligations of any agency thereof, or such amounts shall be deposited in accounts fully collateralized by obligations of the federal government or by obligations fully guaranteed as to principal and interest by the federal government or any agency thereof.

(i) Charges for industrial cost recovery shall be billed and collected on an annual basis. Bills shall be rendered at least 25 days prior to the due date. The initial bill to be rendered shall be not later than one year and 30 days after final acceptance of the property by the federal environmental protection agency. All subsequent bills shall be rendered on an annual basis within the stated 30-day period.

(j) If industrial cost recovery charges are not paid on or before the due date, there shall be assessed a late charge of ten percent or at a rate as determined from time by time by council

resolution. If industrial cost recovery charges are not paid within 30 days after the due date thereof, the water services to such premises may be discontinued; and if such water is obtained from a source of supply other than the city's water supply system, the discharge thereof into the city's sewage disposal system shall be illegal and the owner of the property subject to fine or imprisonment, as provided for violation of this Code.

(k) Charges for industrial cost recovery to any premises shall be a lien thereon, and during April of each year the person charged with the management of the system shall certify any such charge which as of April 1 of that year has been delinquent six months or more to the city assessor, who shall enter the charge upon the city tax roll of that year against the premises to which such service had been rendered, and such charges shall be collected and such lien shall be enforced in the same manner as provided in respect to taxes assessed upon such roll; provided that when a tenant is responsible for payment of any such charge against any premises located within the boundary of the city and the city is so notified in writing, with a true copy of the lease of the affected property (if there be one) attached, then no such charge shall become a lien against such premises from and after the date of such notice. However, in the event of the filing of such notice, no further service shall be rendered by the system to such premises until a cash deposit not to exceed three times the average annual charge to such premises shall have been made as security for the payment of charges thereto.

(l) In the case of premises located outside the corporate limits of the city, which premises are subject to the city industrial cost recovery system, the owners of such premises shall at all times be liable for such charges and shall make such deposit to insure payment of charges as the city treasurer shall require.
(Code 2006, § 38-346; Ord. No. 137, art. IX, § 6, 3-9-1992)

Secs. 38-347—38-360. Reserved.

DIVISION 9. PROTECTION FROM DAMAGE

Sec. 38-361. Damaging or tampering with sewer system.

No 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 sewerage system. Any person violating this provision shall be subject to immediate arrest under a charge of disorderly conduct.
(Code 2006, § 38-361; Ord. No. 137, art. X, § 1, 3-9-1992)

Sec. 38-362. Liability for expense or damage caused by violation.

Any person violating any of the provisions of this division shall become liable to the city for any expense, loss, or damage occasioned the city by reason of such violation.
(Code 2006, § 38-362; Ord. No. 137, art. X, § 2, 3-9-1992)

Secs. 38-363—38-380. Reserved.

DIVISION 10. POWERS OF PUBLIC WORKS DIRECTOR

Sec. 38-381. Right of entry.

The director shall be permitted to enter all properties for purposes of inspection, observation, measurement, sampling and testing in accordance with the provisions of this division, whether or not an easement has been granted. The director shall have no authority to inquire into any processes, including metallurgical, chemical, oil, refining, ceramic, paper or other industries, beyond that point having a direct bearing on the kind and source of discharge to the sewerage system or waterways.
(Code 2006, § 38-381; Ord. No. 137, art. XI, § 1, 3-9-1992)

Sec. 38-382. Liability of city employees when working on private property.

While performing the necessary work on private properties referred to in this division, the director shall observe all safety rules applicable to the premises established by the company, and the company shall be held harmless for injury or death to the city employees, and the city shall indemnify the person against loss or damage to its property by city employees and against liability claims and demands for personal injury or property damage asserted against the person and growing out of the gauging, sampling operating and inspections, except as such may be caused by negligence or failure of the person to maintain safe conditions as required in this division.
(Code 2006, § 38-382; Ord. No. 137, art. XI, § 2, 3-9-1992)

Sec. 38-383. Entry on easements.

The director and other duly authorized employees of the city bearing proper credentials and identification shall be permitted to enter all private property through which the city holds a duly negotiated easement for the purpose of, but not limited to, inspection, observation, measurement, sampling, repair, and maintenance of any portion of the public sewage works lying within such easement. All entry and subsequent work, if any, on the easement shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.
(Code 2006, § 38-383; Ord. No. 137, art. XI, § 3, 3-9-1992)

Sec. 38-384. Sampling and testing.

All measurements, tests and analyses of the characteristics of waters and wastes to which reference is made in this division may be made in accordance with test methods as defined in this division and shall be determined at the control manhole provided, or upon suitable samples taken at the control manhole. If no special manhole has been required, the control manhole shall be

considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected. Sampling shall be carried out by customarily accepted methods to reflect the effect of the constituents upon the sewage works and to determine the existence of hazards to life, limb and property. The particular analyses involved will determine whether a 24-hour composite of all outfalls of the premises is appropriate, or whether grab samples should be taken. Normally, but not always, BOD and suspended solids analyses are obtained from 24-hour composites of all outfalls, whereas pH's are determined from periodic grab samples.
(Code 2006, § 38-384; Ord. No. 137, art. XI, § 4, 3-9-1992)

Secs. 38-385—38-400. Reserved.

DIVISION 11. ENFORCEMENT

Sec. 38-401. Suspension of service; suspension of permit.

(a) the city may suspend the wastewater treatment service or a wastewater contribution permit when such suspension is necessary, in the opinion of the city, in order to stop an actual or threatened discharge which presents or may present an imminent or substantial endangerment to the health or welfare of persons or to the environment, cause interference to the POTW, or cause the city to violate any condition of its NPDES permit.

(b) Any person notified of the suspension of the wastewater treatment service or the wastewater contribution permit shall immediately stop or eliminate the contribution. In the event of a failure of the person to comply voluntarily with the suspension order, the city shall take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW system or endangerment to any contribution permit or the wastewater treatment service upon proof of the elimination of the noncomplying discharge. A detailed written statement submitted by the user describing the cause of the harmful contribution and the measures taken to prevent any future occurrence shall be submitted to the city within 15 days of the date of occurrence.
(Code 2006, § 38-401; Ord. No. 137, art. XII, § 1, 3-9-1992)

Sec. 38-402. Revocation of permit.

Any user who violates the following conditions of this section, or applicable state and federal regulations, is subject to having his permit revoked in accordance with the procedures of this division:

(1) Failure of a user to factually report the wastewater constituents and characteristics of his discharge;

(2) Failure of the user to report significant changes in operations, or wastewater constituents and characteristics;

(3) Refusal of reasonable access to the user's premises for the purpose of inspection or monitoring; or

(4) Violation of conditions of the permit.
(Code 2006, § 38-402; Ord. No. 137, art. XII, § 2, 3-9-1992)

Sec. 38-403. Notification of violations.

Whenever the city finds that any user has violated or is violating this division, a wastewater contribution permit, or any prohibition, limitation or requirements contained in this division, the city may serve upon such person a written notice stating the nature of the violation. Within 30 days of the date of the notice, a plan for the satisfactory correction thereof shall be submitted to the city by the user.
(Code 2006, § 38-403; Ord. No. 137, art. XII, § 3, 3-9-1992)

Sec. 38-404. Show cause hearing.

(a) the city may order any user who causes or allows an unauthorized discharge to enter the POTW to show cause before the city council why the proposed enforcement action should not be taken. A notice shall be served on the user specifying the time and place of a hearing to be held by the city council regarding the violation, the reasons why the action is to be taken, and the proposed enforcement action, and directing the user to show cause before the city council why the proposed enforcement action should not be taken. The notice of the hearing shall be served personally or by registered or certified mail (return receipt requested) at least ten days before the hearing. Service may be made on any agent or officer of a corporation.

(b) the city council may itself conduct the hearing and take the evidence, or may designate any of its members or any officer or employee of an assigned department to:

(1) Issue in the name of the city council notices of hearings requesting the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in such hearings.

(2) Take the evidence.

(3) Transmit a report of the evidence and hearing, including transcripts and other evidence, together with recommendations to the city council for action thereon.

(c) At any hearing held pursuant to this section, testimony taken must be under oath and recorded electronically or stenographically. The transcript, so recorded, will be made available to any member of the public or any party to the hearing upon payment of the usual charges therefor.

(d) After the city council has reviewed the evidence, it may issue an order to the user responsible for the discharge directing that, following a specified time period, the sewer service be discontinued unless adequate treatment facilities, devices or other related appurtenances shall have been installed or existing treatment facilities, devices or other related appurtenances are properly operated. Further orders and directives as are necessary and appropriate may be issued.
(Code 2006, § 38-404; Ord. No. 137, art. XII, § 4, 3-9-1992)

Sec. 38-405. Legal action.

If any person discharges sewage, industrial wastes or other wastes into the city's wastewater disposal system contrary to the provisions of this division, federal or state pretreatment requirements, or any order of the city, the city attorney may commence an action for appropriate legal or equitable relief in the circuit court of this county.
(Code 2006, § 38-405; Ord. No. 137, art. XII, § 5, 3-9-1992)

Secs. 38-406—38-420. Reserved.

DIVISION 12. INDUSTRIAL USE OF SYSTEM

Sec. 38-421. Requirements for persons discharging industrial waste.

Any industry or structure discharging or desiring to discharge industrial waste to the system shall provide the city with the following information or material and do the following:

(1) A written statement setting forth the nature of the enterprise, the source and amount of water used, and the amount of waste to be discharged, with the present or expected bacterial, physical, chemical, radioactive or other pertinent characteristics of the wastes.

(2) A plan map of the building, works or complex, with each outfall to the surface water, sanitary sewer, storm sewer, natural watercourse, or groundwater noted and described and the waste outlets identified.

(3) A test sample and reports shall be filed with the city and the appropriate state agencies on appropriate characteristics of wastes on a schedule, at locations and according to methods approved by the city.

(4) Place waste treatment facilities, process facilities, waste streams or other potential waste problems under the specific supervision and control of persons who have been certified by an appropriate state agency as properly qualified to supervise such facilities.

(5) A report on raw materials entering the process or support systems, intermediate materials, final products and waste byproducts, as these factors may pertain to waste control.

(6) Maintain records and file reports on the final disposal of specific liquids, solids, sludge, oils, radioactive materials, solvents or other waste.

(7) If any industrial process is to be altered as to include or negate a process waste or potential waste, written notification shall be given to the city, subject to approval of the waste product.
(Code 2006, § 38-421; Ord. No. 137, art. XIII, 3-9-1992)

Secs. 38-422—38-440. Reserved.

DIVISION 13. CONNECTION OF PRIVATE SYSTEMS

Sec. 38-441. Prerequisites for connection; payment of costs.

(a) Before any sanitary sewer system constructed by private, as distinguished from public, funding (referred to in this section as a "private sanitary sewer") shall be permitted to connect to the public system, the owner of the system (referred to in this section as the "developer") shall do and provide the city with the following:

(1) Provide the city with the developer's plans and specifications for construction, an estimate of the cost of construction, and a performance bond, and deposit with the city the estimated cost of review of construction plans covering the cost of hiring a registered professional engineer to review plans and specifications, which monies shall be placed by the city in an escrow account in the name of the developer. the city shall have the right to require the developer to upsize the system for the benefit of future users, and the city shall, upon connection of future users, compute a refund to the developer based upon the percentage benefit received by the upstream users who benefit from the upsizing.

(2) Obtain approval of the city of the plans and specifications.

(3) Secure all necessary permits for construction.

(4) Upon commencement of construction of the private sanitary sewer, deposit with the city in the escrow account referred to in subsection (1) of this section a sum of 15 percent of the cost of construction of the wastewater system improvements to cover the anticipated cost of inspection of construction and payment of connection charges.

(b) Upon completion of connection of the private sanitary sewer to the system and delivery of as-built plans to the city, the performance bond, upon recommendation of the city's engineer and approval of the city council, shall be released and any monies remaining in the developer's escrow account shall be returned to the developer. Any additional expenses incurred by the city in assuring the city that the private sanitary sewer is properly operating shall be deducted therefrom or charged directly to the developer, at the option of the city.
(Code 2006, § 38-441; Ord. No. 137, art. XIV, 3-9-1992)

Secs. 38-442—38-460. Reserved.

DIVISION 15. RATES AND CHARGES FOR CITY SERVICES

Sec. 38-461. Established; applicability.

Rates and charges for the use of the city sewerage system are hereby established. Such charges and rates shall be made against each lot, parcel of land or premises which may have any sewer connection with the sewer system of the city or which may otherwise discharge sewage or industrial waste, either directly or indirectly, into such system or any part thereof. Charges for use of the city sanitary sewer collection system shall be designated as:

(1) A user charge, which shall distribute operation, maintenance and replacement costs for the city wastewater collection treatment system to each user on a proportional basis.

(2) A capital charge, which shall distribute capital costs by the city wastewater collection and treatment system to each user on an equitable basis.
(Code 2006, § 38-461; Ord. No. 137, art. XVII, § 1, 3-9-1992)

Sec. 38-462. User charge.

The user charge for service furnished by the sewerage system shall be levied upon each lot or parcel of land, building or premises having any sewer connection with such system, on the basis of the quantity of water used thereon or therein as the same is measured by meters therein used, and shall be collected in the same manner as provided for the payment of charges for water used; except, in cases where the character of the sewage from a manufacturing or industrial plant, building or premises places a burden upon the system greater than that imposed by normal domestic strength wastewater, additional charges shall be imposed over the regular rates, or the city may if it deems it advisable compel such manufacturing or industrial plant, building or premises to treat such sewage in such manner as shall be specified by the city before discharging such sewage into the sewage disposal system. Rates for users obtaining all or part of their water supply from sources other than the city's water system shall be determined by gauging or metering the actual sewage entering the system or by metering the water used by them in a manner acceptable to the city. Charges for users shall be computed on the basis of 1,000-gallon units per customer.
(Code 2006, § 38-462; Ord. No. 137, art. XVII, § 2, 3-9-1992)

Sec. 38-463. Benefit charges.

Those persons owning lands in direct proximity to a city sanitary sewer and who desire to make connection to the sewer shall pay a benefit charge for the privilege of each connection to the sewer. Such benefit charge shall be as established from time to time by resolution of the city

council. Such benefit charge shall be paid in cash or in installments, with interest and penalties, all as shall be established and provided from time to time by resolution of the city council.
(Code 2006, § 38-463; Ord. No. 137, art. XVII, § 3, 3-9-1992)

Sec. 38-464. Connection charges.

Each premises hereafter connecting to any city sanitary sewer shall pay a connection charge as established from time to time by resolution of the city council. The connection charge shall be paid in cash before a sewer permit is issued. If the developer has made substitute improvements, either as part of the development or subject to a special assessment, then the city manager shall determine a credit to be given to the developer for such improvements, and such credit shall be against the aggregate connection charges and benefit charges.
(Code 2006, § 38-464; Ord. No. 137, art. XVII, § 4, 3-9-1992)

Sec. 38-465. Upstream benefit charge.

Each premises hereafter making connection to a sanitary sewer lateral or interceptor which is upstream of a sanitary sewer interceptor upsized two inches or more in diameter at the city's expense of upsizing and which was not funded through the sale of general obligation sewer bonds shall, in addition to other applicable special assessments, benefit charges, connection charges, or permit or other charges, pay an upstream benefit charge in an amount determined by the department of public works. The amount of the upstream benefit charge shall be the relative portion of the cost of the upsizing, plus eight percent per annum interest, as the benefit of the parcel connected bears to the total benefit to all upstream parcels benefitted by the upsizing. The upstream benefit charge shall be paid in cash or in installments, with interest and penalties, all as shall be established and provided from time to time by resolution of the city council.
(Code 2006, § 38-465; Ord. No. 137, art. XVII, § 5, 3-9-1992)

Sec. 38-466. Rate for service to city.

the city shall pay the same sewer rate for service to it as would be payable by a private customer for the same service. All such charges for service shall be payable from the current funds of the city, or from the proceeds of taxes which the city, within constitutional limits, is hereby authorized and required to levy in amounts sufficient for that purpose.
(Code 2006, § 38-466; Ord. No. 137, art. XVII, § 6, 3-9-1992)

Sec. 38-467. Billing; delinquency penalty.

Charges for all sewage disposal service shall be billed and collected at least quarterly. The frequency of the billings shall be as established from time to time by resolution of the city council. All bills paid on or before the 20th day of the month next following the date of billing shall be without penalty, but if unpaid by such date the bill shall thereafter be considered

delinquent and shall be subject to a ten percent penalty, or as otherwise determined by resolution of the city council.
(Code 2006, § 38-467; Ord. No. 147, § 1, 1-10-1994)

Sec. 38-468. Enforcement of collection.

(a) Generally. the city is hereby authorized to enforce the collection of charges for sewage service to any premises by discontinuing either the water service or the sewage service to such premises, or both, and legal action may be instituted by the city against the customer to collect payment of charges. The following charges for sewage service are a lien on the premises to which furnished, under the provisions of Public Act No. 94 of 1933 (MCL 141.101 et seq.):

(1) User charges.

(2) Capital charges.

(3) Benefit charges, including upstream benefit charges, and other connection fees.

the city manager or his designee shall, annually on November 1, certify all unpaid user and capital charges for such service furnished to any premises, and any delinquent installment payments for connection fees, benefit charges and upstream benefit charges which, on October 31 preceding, have remained unpaid for a period of six months, to the city assessor, who shall place the same on the next city tax roll. Such charges so assessed shall be collected in the same manner as general city taxes. Where water service or sewer service to any premises is turned off to enforce the payment of sewage service charges, such service shall not be recommenced until all delinquent charges have been paid, and there shall be a turn-on charge to be set by resolution and changed as necessary from time to time. In such cases or any other cases where, in the discretion of the city manager or his designee, the collection of charges for sewage service may be difficult or uncertain, the city manager may require a deposit of three times the average quarterly sewage service bill for the premises as estimated by the director of public works. Such deposit may be applied against any delinquent sewage service charges and the application thereof shall not affect the right of the department to turn off the water service or sewer service to any premises for any delinquency not thereby satisfied. No such deposit shall bear interest, and such deposit, or any remaining balance thereof, shall be returned to the customer making the deposit when he shall discontinue receiving sewer service.

(b) Leased premises. The provisions of this section shall not apply in any instance where a lease has been legally executed containing a provision that the lessor shall not be liable for payment of sewer bills accruing subsequent to the filing provided for in this subsection, provided that an affidavit with respect to the execution of such a lease or a true copy of the lease of the affected premises, if there be one, shall be filed with the city clerk along with a lease monitoring fee, due annually during the duration of the lease, which amount shall be set by resolution of the council. The monitoring fee shall be due for each full or partial year of the lease. Upon filing of the lease

and the fee, then no such charge shall become a lien against the premises from and after the date of such notice. In the event of filing of such notice that the tenant is responsible, the city shall render no further service to such premises until a cash deposit as established by resolution of city council shall have been made as security for such sewer service. Thirty days' notice shall be given the city clerk by the lessor of any cancellation, change in or termination of the lease. Failure to provide such notice, or failure to file the annual fee, shall render the premises liable for the payment of sewer bills and subject to the lien as provided in this section. Notwithstanding the foregoing, the city may discontinue sewer service to the premises if the responsible person fails to pay the rates, assessments, charges, or rentals for the sewer service. Such discontinuance shall not invalidate or diminish any of the other methods employed by the city to collect any delinquent amounts due.
(Code 2006, § 38-468; Ord. No. 147, § 1, 1-10-1994; Ord. No. 156)

Sec. 5-31. Sewer charge exemption for water used in filling swimming pools.

(a) *Defined.* For the purpose of this section a "swimming pool" is any receptacle of water within the city that is used or intended to be used for the purpose of immersion or partial immersion of human beings for swimming, bathing or diving and is capable of being filled, at any point, to the depth of 24 or more inches.

(b) *Pools under construction exempted.* A swimming pool that is under construction shall not be subject to this article until construction is completed or until it fills with water to a depth of 24 inches or more, whichever occurs first.

(c) *Sewer charge adjustment applies when filling pools.* Property owners shall be encouraged to fill swimming pools from house spigots. Property owners shall be exempt from sewer charges when installing and filling a new pool or when replacing liner that requires complete filling of the pool from the tap.

(d) *Notice to city required.* The property owner must notify the public works department no less than two working days in advance prior to filling the pool.

(e) *Calculation and application of exemption.* Upon notification, a department employee will visit the property to determine the size of the pool. The department employee shall use standard pool filling quantity formulas to determine how much water will be needed. That amount shall then be credited from sewer charges at the next billing. This exemption from sewer charges shall not apply to "topping off" pools, or for leaks.

(f) *Time during which pools may be filled.* The pool filling shall only take place between 8:00 AM and 4:30 PM.

(g) *City not responsible for discolored water.* The city shall not be held responsible for any discolored (rusty) water discharged into the pool.

(Ord. No. 13-235, § 5-34, 7-18-2013)

Secs. 38-469—38-500. Reserved.

DIVISION 16. STORM SEWERS

Sec. 38-501. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Base rate means a rate established by the city council and used in the computation of the rate to be charged to each parcel under this division.

Natural waterways means the Thornapple River.

Rate means the amount of the stormwater service charge to be billed on an annual basis.

Runoff coefficient means an acceptable average coefficient of runoff for various types of land use regardless of slope or unique variables.

Stormwater means atmospheric precipitation, surface water or cooling water.

Stormwater system means public sewers, drains, ditches, retention ponds, dams, river impoundments, treatment facilities and flood control facilities used for collecting and transporting stormwater.

Surface area means the acreage amount contained within the parcel.

Usage class means the class of usage assigned to a parcel according to the records of the city assessor.

Usage class factor means a runoff coefficient assigned by the city council to each usage class and used in the computation of the storm sewer service charge.
(Code 2006, § 38-501; Ord. No. 136, § 1, 4-8-1991)

Sec. 38-502. Stormwater improvement fund established.

The stormwater improvement fund for the city is hereby established. All stormwater service charges and stormwater improvement permit fees shall be deposited into such fund. All expenditures from the stormwater improvement fund shall be used for the construction, maintenance and improvement of the stormwater system servicing the city.
(Code 2006, § 38-502; Ord. No. 136, § 2, 4-8-1991)

Sec. 38-503. Stormwater improvement permit required.

No person shall improve any site or lot within the city without securing a permit from the city clerk. Such permits shall be entitled "stormwater improvement permit." The fee to be charged for stormwater improvement permits shall be as established by resolution of the city council.
(Code 2006, § 38-503; Ord. No. 136, § 3, 4-8-1991)

Sec. 38-504. Stormwater service charge established.

All owners of real property in the city shall be charged for the use of the stormwater system based on the impact of the stormwater entering the stormwater system from the property. The impact of the stormwater from the property on the system shall be determined on the basis of the method of computation set forth in this division. The amount to be charged to each parcel shall be known as the "stormwater service charge."
(Code 2006, § 38-504; Ord. No. 136, § 4, 4-8-1991)

Sec. 38-505. Computation of charges.

The annual rate to be charged to each parcel within the city under this division shall be determined by a formula established by resolution of the council.
(Code 2006, § 38-505; Ord. No. 136, § 5, 4-8-1991)

Sec. 38-506. Determination of factors affecting charges.

Base rates, usage class factors, surface area, and runoff coefficients shall be determined by resolution of the city council.
(Code 2006, § 38-506; Ord. No. 136, § 6, 4-8-1991)

Sec. 38-507. Exempt parcels.

There shall be no exempt parcels under this division.
(Code 2006, § 38-507; Ord. No. 136, § 7, 4-8-1991)

Sec. 38-508. Billing of charges; appeals.

Stormwater service charge billings may be combined with the billing for other utility services provided by the city or may be billed separately. Disputes regarding storm sewer service charges shall be filed with the city clerk and heard by the city manager. Appeals from the city manager shall be heard by the city council if a written appeal from such determination is filed with the city clerk within ten days after the city manager's determination.
(Code 2006, § 38-508; Ord. No. 136, § 6, 4-8-1991)

Sec. 38-509. Collection of unpaid charges.

Unpaid stormwater service charges shall constitute a lien against the property affected. Charges which have remained unpaid for a period of six months prior to March 31 of any year may, after notice to the owner, by resolution of the city council, be certified to the city assessor, who shall place the charges on the next tax roll. In the alternative, the city council may direct the city attorney to file suit and to collect unpaid charges.
(Code 2006, § 38-509; Ord. No. 136, § 7, 4-8-1991)

[55] APPENDIX A

FRANCHISES

The following franchises granted by the city are currently in effect:

Grantee	Ord. No.	Adoption Date	Term
Consumers Power Co. – Electricity	121	11-11-1985	
Consumers Power Co. – Gas	140	9-14-1992	30 years

[56] ARTICLE III. CABLE TELEVISION

Sec. 34-61. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Act means the Communications Act of 1934, as amended (and specifically as amended by the Cable Television Consumer Protection and Competition Act of 1992, PL 102-385), and as may be amended from time to time.

Advertising means all matter cablecast for which any money, service or other valuable consideration is directly or indirectly paid, exchanged or promised or charged or accepted in connection with the presentation of cable services.

Associated equipment means all equipment and services subject to regulation pursuant to 47 CFR 76.923.

Basic cable service means "basic service" as defined in FCC rules, and any other cable television service which is subject to rate regulation by the city pursuant to the act and FCC rules, and shall include, at a minimum, all public, educational and governmental programming or channels required to be carried by the city.

Cable communication system, cable television system, cable system, CATV and system have that meaning given by section 602(2) of the act and shall mean a system of coaxial cables or other signal conductors and equipment used or to be used to originate or receive television or radio signals directly or indirectly off the air and to transmit them via cable to subscribers for a fixed or

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[55] **Appendix A. Franchises.** I recommend that all franchises, contractual by nature, be omitted from codification.

[56] **Art. III, Cable Television.** I suggest that these old franchise related provisions be omitted from codification.

~~variable fee, including the origination, receipt, transmission, and distribution of voices, sound signals, pictures, visual images, digital signals, telemetry, or any other type of closed circuit transmission by means of electrical or light wave impulses, whether or not directed to originating signals or receiving signals off the air.~~

~~Cable service means all of the services as defined by section 602(5) of the act which the franchisee has provided or will provide pursuant to the terms of the franchise agreement.~~

~~Channel means a portion of the electromagnetic frequency spectrum which is used in a cable system and which is capable of delivering a "television channel." For purposes of this article, a channel shall be deemed to have a bandwidth of six Mhz.~~

~~City means the city, Michigan, and all the territory within its territorial corporate limits.~~

~~Commission and cable commission mean the city cable commission provided for in this article.~~

~~FCC means the Federal Communications Commission.~~

~~FCC rules means all rules of the FCC promulgated from time to time pursuant to the act.~~

~~Franchise and franchise agreement mean the separate agreement by which the franchise is granted to the franchisee, as required by this article.~~

~~Increase in rates means an increase in rates or a decrease in programming or customer services.~~

~~Institutional network means a trunkline and that portion of the plant dedicated to use by public and private entities as provided for in a franchise.~~

~~Local gross revenues means all compensation derived by the franchisee which is attributable to the number of subscribers within the city or derived from cable or noncable service to subscribers or persons within the territorial corporate limits of the city. This term shall include, but not be limited to, all subscriber charges for basic cable service, pay TV, and premium channels, payments for advertising, fees for installation and service calls, commissions, revenue sharing or percentage of sales revenues or other compensation received from travel or home shopping services, and any and all compensation from all ancillary cable services, cable operations and cable-related activities within the city, including but not limited to the:~~

~~(1) Sale of cable equipment to subscribers;~~

~~(2) Rental or sale of descrambling converters or other devices;~~

~~(3) Rental or sale of remote control devices (including those with volume control); and~~

~~(4) Rental or sale of A/B or input switches.~~

~~Deposits and other monies which are returned to the customer (and barter services or trade-outs received or exchanged for promotion and sale of cable services) shall not be included as part of the local gross revenues. Neither the sale of cable equipment to nonsubscribers nor proceeds or disposition or retirement of assets shall be included in local gross revenue. To the extent that the franchisee's books or accounts do not reflect the source of any revenue, or where the source thereof may not be reasonably determined, that portion of gross revenue allocable to the city shall be based on the ratio of the number of subscribers in the corporate limits of the city to the total number of subscribers of the franchisee.~~

~~Pay-per-view means cable services through an arrangement under which a charge is made on a per-program or per-diem basis to a subscriber for receiving a television program or other service not a part of the basic cable service.~~

~~Pay TV means an arrangement under which a charge is made over and above the basic subscriber rate to a subscriber for receiving any particular channel or package of channels.~~

~~Producer means a user providing input services to the cable system for receipt by subscribers.~~

~~Public channels means channels which are dedicated to the public interest, according to the following categories:~~

~~(1) Public access;~~

~~(2) Educational use;~~

~~(3) Local governmental purposes; and~~

~~(4) Local interest programming.~~

~~State of the art means a cable system with production facilities, technical performance, capacity, equipment, components and service equal to or better than has been developed and demonstrated to be generally accepted and used in the cable television industry for comparable areas of equivalent population.~~

~~Subscriber means a person whose premises are physically and lawfully connected to receive any transmission from the system.~~

~~Subscriber service drop means each extension wiring from the franchisee's distribution lines to a subscriber's premises.~~

~~User means a person utilizing a system channel as a producer, for purposes of production or transmission of material, or as a subscriber, for purposes of receipt of cable services.~~

~~All other words and phrases used in this article shall have the same meaning as defined in the act and FCC rules.~~
~~(Code 2006, § 34-61; Ord. No. 111, § 2; Ord. No. 144, 1-10-1994)~~

~~Sec. 34-62. Franchise required.~~

~~(a) No person shall construct, install, maintain or operate a cable communications system in the city nor shall any person provide a cable communications service or acquire ownership or control of a cable communications company in the city without such person having first obtained a franchise therefor from the city in the form of a franchise agreement between the city and the franchisee, which franchise agreement shall include, at a minimum, compliance with the specifications of this article.~~

~~(b) No person shall use, occupy or traverse the city streets, alleys, lanes, avenues, boulevards, sidewalks, bridges, viaducts, rights-of-way or any other public place or public way in the city or any extensions thereof or additions thereto, whether on, above or under the surface of the ground, for the purposes of installing, constructing, maintaining or operating a cable communications system or facilities therefor or for the purpose of furnishing a cable communications service without such person having first obtained a franchise therefor from the city in the form of a franchise agreement between the city and the franchisee, which franchise agreement shall include, at a minimum, compliance with all the specifications of this article.~~

~~(c) The specifications required by this article are minimum requirements of a franchise agreement. Additional requirements, including, but not limited to, rates, charges, deposits, specifications regarding required interconnections, studios or other signal origination facilities, numbers of channels to be equipped and available for immediate use upon initial construction of the system, use of channels by the city, schools, and other educational institutions, quality of community access, availability of equipment to users, required establishment and expansion of service area, other use of channels and other specifications or requirements of a cable communications franchisee or system may be established in the franchise agreement.~~

~~(d) A franchise granted by the city to the company to construct, erect, operate, and maintain a cable television system for the reception, amplification and distribution of video or audio signals to subscribing members of the public for a fee shall be nonexclusive, not to exceed 15 years from and after the effective date of the signing of a franchise agreement.~~

~~(e) A franchise established by the city shall grant the company the right and privilege to construct, operate and maintain the cable television system in, upon, along, across, above, over and under the streets, alleys, public ways and public places now laid out or dedicated within the city boundaries, and all extensions thereof, and all additions thereto, in the city.~~

~~(f) Upon the expiration of the original term of the franchise, the company or its successors and assigns shall be entitled to a renewal of the franchise for an additional term of ten years if, after a public hearing affording due process to all interested parties and conducted in accordance with all applicable federal and state laws and regulations, the council shall find that the company or its successors and assigns remain qualified to operate the CATV system and have provided past service to the city and subscribers of the system in substantial compliance with the terms and conditions of the franchise.~~
~~(Code 2006, § 34-62; Ord. No. 111, § 3)~~

~~Sec. 34-63. Application for franchise.~~

~~A franchise application shall be filed with the city council and may be in the form as established by the city council by resolution.~~
~~(Code 2006, § 34-63; Ord. No. 111, § 4)~~

~~Sec. 34-64. Compliance with applicable laws.~~

~~(a) The company shall, at all times during the life of the franchise, be subject to all lawful exercises of police power of the city.~~

~~(b) The company agrees to comply with all valid local, state and federal regulations, including the rules and regulations of the FCC.~~
~~(Code 2006, § 34-64; Ord. No. 111, § 5)~~

~~Sec. 34-65. Indemnification of city; insurance.~~

~~The company shall indemnify, protect and save the city harmless from and against any and all losses, costs, expenses resulting from damage to any property or bodily injury or death to any person, including payments made under any workers compensation law, which arise out of or occur by reason of the exercise by the company of the rights granted in the franchise. The company shall carry insurance to protect itself and the city from and against all claims, demands, actions, judgments, costs, expenses and liabilities which may arise or result, directly or indirectly, from or by reason of such loss, injury or damage. The insurance policy shall specifically provide that the city shall be a named insured. The amounts of such insurance against liability due to physical damage to property and liability due to bodily injury or to death of persons shall be set by resolution of the city council and amended from time to time as necessary. The company shall also carry such insurance as it deems necessary to protect it and the city from any and all claims under the workers compensation laws in effect that may be applicable to the company. All insurance required by this section shall be and remain in force and effect for the entire period of the franchise. The policies of insurance, or certified copies thereof, shall be filed with the city clerk. No franchise granted shall become effective until such copies are filed with the city clerk.~~
~~(Code 2006, § 34-65; Ord. No. 111, § 6)~~

~~Sec. 34-66. Construction standards and timetable.~~

~~(a) The company shall construct not less than 90 percent of its total cable system, and shall commence cable television operations, within one year after the telephone company or power company has cleared the poles to permit the cable company to begin construction and the company has secured all necessary federal, state and local permits. It shall thereafter equitably and reasonably extend the system so as to enable it to render service to all feasible areas within the city. The company shall apply for the pole line agreements and necessary permits within 60 days from the enactment of the franchise agreement. A further timetable shall be set out in the franchise agreement.~~

~~(b) A strand map shall be filed with the city clerk for city council approval. Such review of the strand map shall be completed within 30 days following its submission to the council.~~

~~(c) With regard to the company's construction, operation and maintenance of its cable television system, the following standards shall apply:~~

~~(1) The construction, maintenance and use of the company's cable television system shall comply with the standards for materials and engineering and all other provisions of the National Electrical Safety Code, the National Electrical Code, the Bell Telephone System's Code of Pole Line Construction, and any other standards issued by the FCC or other federal or state regulatory agencies in relation thereto.~~

~~(2) the city shall have the right to supervise all construction and installation work performed subject to the provisions of the franchise and to make such inspections as it shall find necessary to insure compliance with governing ordinances.~~

~~(d) Any cable communications company granted a franchise pursuant to this article shall install, construct, maintain and operate its cable communications system in accordance with the accepted standards of the industry, in conformity with the state of the art and any standards of operation or maintenance for a cable communications system which may be established or issued by the Federal Communications Commission. Further, it is the intention of the city that any person granted a franchise to furnish a cable communications service to the public within the city shall possess the financial and technical qualifications necessary to provide a cable communications system which will assure its subscribers a high quality of technical and public service.~~

~~(e) Every cable communications system franchised under this article, as a minimum, shall maintain and make available without charge such public access channels, education access channels and local government access channels as may from time to time be designated, established, required or regulated by the rules and regulations of the Federal Communications Commission, including the expansion of such access channel capacity as may be required to~~

~~fulfill the needs for such access channels pursuant to those access rules of the Federal Communications Commission as may from time to time be in force and effect.~~
~~(Code 2006, § 34-66; Ord. No. 111, § 7)~~

~~Sec. 34-67. Street vacation or abandonment.~~

~~If any street, alley, public highway, or utility easement, or any portion thereof, used by the company shall be vacated by the city or the use thereof discontinued by the company during the term of the franchise, the company shall forthwith remove its facilities therefrom unless specifically permitted to leave them there, and upon the removal thereof, restore, repair or reconstruct the street area where such removal has occurred in such condition as may be required by the city. In the event of failure, neglect or refusal of the company after 30 days' notice by the council to repair, improve or maintain such street portions, the city may do such work or cause it to be done, and the cost thereof as found and declared by the city shall be paid by the company, and collection may be by court action or otherwise.~~
~~(Code 2006, § 34-67; Ord. No. 111, § 8)~~

~~Sec. 34-68. Conditions of street occupancy.~~

~~(a) Use. All transmission and distribution structures, lines and equipment erected by the company within the city shall be so located as to cause minimum interference with the rights and reasonable convenience of property owners who adjoin any of the streets, alleys or other public ways and places.~~

~~(b) Restoration. In case of any disturbance of pavement, sidewalks, driveways or other surfacing, the company shall, at its own cost and expense and in a manner approved by the city, replace and restore all paving, sidewalks, driveways or surfaces of any street or alley disturbed to as good a condition as before such work was commenced.~~

~~(c) Relocation of fixtures. If at any time during the period of the franchise the city shall lawfully elect to alter or change the grade or width of any street, alley or other public way, the company, upon reasonable notice by the city, shall remove, re-lay, and relocate its poles, wires, cables, underground conduits, manholes, and other system fixtures at its own expense.~~

~~(d) Temporary removal of wires for building moving. The company shall, on the request of any person holding a building moving permit issued by the city, temporarily raise or lower its wires to permit the moving of buildings. The expense of such temporary removal, raising or lowering of wires shall be paid by the person requesting the same and the company shall have the authority to require such payment in advance. The company shall be given not less than seven days' advance notice to arrange for such temporary wire changes.~~

~~(e) Trimming of trees. The company shall have the authority to trim trees upon and overhanging any street, alley, or other public way so as to prevent the branches of such trees from coming in contact with its wires, cables, or other equipment.~~
~~(Code 2006, § 34-68; Ord. No. 111, § 9)~~

~~Sec. 34-69. Pole use.~~

~~(a) The company shall, whenever possible and practicable, use the poles owned and maintained by the city or utility companies which serve the city. When the use of such poles is not practicable or satisfactory and rental agreements cannot be entered into with such parties, the company shall have the right to erect and maintain its own poles, as may be necessary for the proper construction and maintenance of the television distribution system.~~

~~(b) In all sections of the city where the cables, wires, or other like facilities of public utilities are presently placed underground at any time in the future, the company shall place its cables, wires, or other like facilities underground to the maximum extent technology reasonably permits the company to do so.~~
~~(Code 2006, § 34-69; Ord. No. 111, § 10)~~

~~Sec. 34-70. Operational standards.~~

~~(a) The technical standards for operation of the system shall, in addition to meeting the requirements specified in this article, conform to all further requirements specified in the franchise agreement, and any other standards or codes therefor as may be adopted by the city or the commission, provided that such subsequently adopted standards or codes do not materially affect the rights and obligations of the franchisee during the term of a franchise.~~

~~(b) A franchisee shall, at all times, meet or exceed the minimum customer service standards set forth in 47 CFR 76.309(c), which standards are hereby incorporated by reference as minimum customer service obligations and requirements of this article and any franchise granted pursuant to this article; provided, however, that nothing contained in this section shall prohibit the city from enforcing, through the end of the franchise term, any pre-existing customer service requirements that exceed the standards set forth in 47 CFR 76.309(c) and are contained in a current franchise agreement in effect on the effective date of the ordinance from which this subsection is derived, nor shall this subsection prohibit the city and any cable operator from agreeing to customer service requirements that exceed the minimum standards set forth in 47 CFR 76.309(c). If any provision of this article or any franchise granted pursuant to this article is less restrictive with respect to customer service requirements, then the provisions of 47 CFR 76.309(c) shall control. Nothing contained in this subsection shall prevent the city from establishing or enforcing any regulation concerning customer service that imposes customer service requirements that exceed or address matters not covered by the standards set forth in 47 CFR 76.309(c).~~

~~(c) the city shall have access at all reasonable hours to the company's books and records relating to the property and the operation of the company and to all other records required to be kept under this article.~~

~~(d) A copy of any and all rules, regulations, terms and conditions adopted by the company for the conduct of its business shall be filed with the city clerk, and a copy shall also be available for public inspection at the office of the company.~~

~~(e) The franchise shall not in any way be construed as a license or permit to the company to engage in the sale or service of radio or television sets. As part of the consideration for the granting of this franchise, the company shall not engage in the sale or service of TV sets or appliances.~~
~~(Code 2006, § 34-70; Ord. No. 111, § 11; Ord. No. 144, 1-10-1994)~~

~~Sec. 34-71. Service to municipal buildings and schools.~~

~~The company agrees to and shall furnish, without installation change or monthly service fee, a free connection to the city hall, municipal buildings designated by the council and to all public, elementary, secondary, schools located within the city.~~
~~(Code 2006, § 34-71; Ord. No. 111, § 13)~~

~~Sec. 34-72. Rates.~~

~~(a) Purpose; interpretation. The purpose of this section is to:~~

~~(1) Adopt regulations consistent with the act and FCC rules with respect to basic cable service rate regulation; and~~

~~(2) Prescribe procedures to provide a reasonable opportunity for consideration of the views of interested parties in connection with basic cable service rate regulation by the city. This article shall be implemented and interpreted consistent with the act and FCC rules.~~

~~(b) Rate regulations promulgated by the FCC. In connection with the regulation of rates for basic cable service and associated equipment, the city shall follow all FCC rules.~~

~~(c) Rate filing; additional information; burden of proof.~~

~~(1) A cable operator shall submit its schedule of rates for the basic service tier and associated equipment or a proposed increase in such rates in accordance with the act and FCC rules. The cable operator shall include as part of its submission such information as is necessary to show that its schedule of rates or its proposed increase in rates complies with the act and FCC rules. The cable operator shall file ten copies of the schedule or proposed increase with the city clerk. For purposes of this article, the filing by the cable operator shall be deemed to have been made when~~

~~at least ten copies have been received by the city clerk. the city council may, by resolution, adopt rules and regulations prescribing the information, data and calculations which must be included as part of the cable operator's filing of the schedule of rates or a proposed increase.~~

~~(2) In addition to information and data required by rules and regulations of the city pursuant to subsection (c)(1) of this section, a cable operator shall provide all information requested by the city manager in connection with the city's review and regulation of existing rates for the basic service tier and associated equipment or a proposed increase in these rates. the city manager may establish deadlines for the submission of the requested information and the cable operator shall comply with such deadlines.~~

~~(3) A cable operator has the burden of proving that its schedule of rates for the basic service tier and associated equipment or a proposed increase in such rates complies with the act and FCC rules, including, without limitation, 47 USC 543 and 47 CFR 76.922 and 76.923.~~

~~(d) Proprietary information. If this article, any rules or regulations adopted by the city pursuant to subsection (c)(1) of this section or any request for information pursuant to subsection (c)(2) of this section requires the production of proprietary information, the cable operator shall produce the information. However, at the time the allegedly proprietary information is submitted, a cable operator may request that specific, identified portions of its response be treated as confidential and withheld from public disclosure pursuant to the procedures and rules set forth in 47 CFR 0.459 regarding confidential business information.~~

~~(e) Public notice; tolling order; hearing on basic cable service rate following tolling order.~~

~~(1) Upon the filing of ten copies of the schedule of rates or the proposed increase in rates pursuant to subsection (c)(1) of this section, the city clerk shall publish a public notice in a newspaper of general circulation in the city which shall state that:~~

~~a. The filing has been received by the city clerk and (except those parts which may be withheld as proprietary) is available for public inspection and copying; and~~

~~b. Interested parties are encouraged to submit written comments on the filing to the city clerk not later than seven days after the public notice is published.~~

~~the city clerk shall give notice to the cable operator of the date, time and place of the meeting at which the city council shall first consider the schedule of rates or the proposed increase. The notice shall be mailed by first class mail at least three days before the meeting. In addition, if a written staff or consultant's report on the schedule of rates or the proposed increase is prepared for consideration of the city council, then the city clerk shall mail a copy of the report by first class mail to the cable operator at least three days before the meeting at which the city council shall first consider the schedule of rates or the proposed increase.~~

~~(2) After a cable operator has filed its existing schedule of rates or a proposed increase in these rates, the existing schedule of rates will remain in effect or the proposed increase in rates will become effective after 30 days from the date of filing unless the city council tolls the 30-day deadline pursuant to 47 CFR 76.933 by issuing a brief written order, by resolution or otherwise, within 30 days of the date of filing. the city council may toll the 30-day deadline for an additional 90 days in cases not involving cost-of-service showings and for an additional 150 days in cases involving cost-of-service showings.~~

~~(3) If a written order has been issued pursuant to subsection (e)(2) of this section and 47 CFR 76.933 to toll the effective date of existing rates for the basic service tier and associated equipment or a proposed increase in these rates, the cable operator shall submit to the city any additional information required or requested pursuant to subsection (c) of this section. In addition, the city council shall hold a public hearing to consider the comments of interested parties within the additional 90-day or 150-day period, as the case may be. the city clerk shall publish a public notice of the public hearing in a newspaper of general circulation within the city which shall state:~~

~~a. The date, time and place at which the hearing shall be held;~~

~~b. That interested parties may appear in person, by agent, or by letter at such hearing to submit comments on the objections to the existing rates or the proposed increase in rates; and~~

~~c. That copies of the schedule of rates or the proposed increase in rates and related information (except those parts which may be withheld as proprietary) are available for inspection or copying from the office of the clerk.~~

~~The public notice shall be published not less than 15 days before the hearing. In addition, the city clerk shall mail by first class mail a copy of the public notice to the cable operator not less than 15 days before the hearing.~~

~~(f) Staff or consultant report; written response. Following the public hearing, the city manager shall cause a report to be prepared for the city council which shall (based on the filing of the cable operator, the comments or objections of interested parties, information requested from the cable operator and its response, staff or consultant's review, and other appropriate information) include a recommendation for the decision of the city council pursuant to subsection (g) of this section. the city clerk shall mail a copy of the report to the cable operator by first class mail not less than 20 days before the city council acts under subsection (g) of this section. The cable operator may file a written response to the report with the city clerk. If at least ten copies of the response are filed by the cable operator with the city clerk within ten days after the report is mailed to the cable operator, the city clerk shall forward it to the city council.~~

~~(g) Rate decisions and orders. the city council shall issue a written order by resolution which, in whole or in part, approves the existing rates for basic cable service and associated equipment or a proposed increase in such rates, denies the existing rates or proposed increase, orders a rate~~

~~reduction, prescribes a reasonable rate, allows the existing rates or proposed increase to become effective subject to refund, or orders other appropriate relief, in accordance with FCC rules. If the city council issues an order allowing the existing rates or proposed increase to become effective subject to refund, it shall also direct the cable operator to maintain an accounting pursuant to 47 CFR 76.933. The order specified in this subsection shall be issued within 90 days of the tolling order under subsection (e)(2) of this section in all cases not involving a cost-of-service showing. The order shall be issued within 150 days after the tolling order under subsection (e)(2) of this section in all cases involving a cost-of-service showing.~~

~~(h) Refunds. the city council may order a refund to subscribers as provided in 47 CFR 76.942. Before the city council orders any refund to subscribers, the city clerk shall give at least seven days' written notice to the cable operator by first class mail of the date, time, and place at which the city council shall consider issuing a refund order and shall provide an opportunity for the cable operator to comment. The cable operator may appear in person, by agent, or by letter at such time for the purpose of submitting comments to the city council.~~

~~(i) Decisions to be in writing; effective date of decisions; public notice of decisions. Any order of the city council pursuant to subsection (g) or subsection (h) of this section shall be in writing, shall be effective upon adoption by the city council, and shall be deemed released to the public upon adoption. the city clerk shall publish a public notice of any such written order in a newspaper of general circulation within the city which shall:~~

~~(1) Summarize the written decision; and~~

~~(2) State that copies of the text of the written decision are available for inspection or copying from the office of the city clerk. In addition, the city clerk shall mail a copy of the text of the written decision to the cable operator by first class mail.~~

~~(j) Additional rules, powers and remedies.~~

~~(1) Adoption of rules and regulations. In addition to rules promulgated pursuant to subsection (c) of this section, the city council may, by resolution or otherwise, adopt rules and regulations for basic cable service rate regulation proceedings (including, without limitation, the conduct of hearings), consistent with the act and FCC rules.~~

~~(2) Failure to give notice. The failure of the city clerk to give the notices or to mail copies of reports as required by this article shall not invalidate the decisions or proceedings of the city council.~~

~~(3) Additional hearings. In addition to the requirements of this article, the city council may hold additional public hearings upon such reasonable notice as the city council, in its sole discretion, shall prescribe.~~

~~(4) Additional powers. the city shall possess all powers conferred by the act, FCC rules, the cable operator's franchise, and all other applicable law. The powers exercised pursuant to the act, FCC rules, and this article shall be in addition to powers conferred by law or otherwise. the city may take any action not prohibited by the act and FCC rules to protect the public interest in connection with basic cable service rate regulation.~~

~~(5) Remedies for failure to comply. the city may pursue any and all legal and equitable remedies against the cable operator (including, without limitation, all remedies provided under a cable operator's franchise with the city) for failure to comply with the act, FCC rules, any orders or determinations of the city pursuant to this article, any requirements of this article, or any rules or regulations promulgated under this article. Subject to applicable law, failure to comply with the act, FCC rules, any orders or determinations of the city pursuant to this article, any requirements of this article, or any rules and regulations promulgated under this article shall also be sufficient grounds for revocation or denial of renewal of a cable operator's franchise.~~

~~(6) Conflicting provisions. In the event of any conflict between this article and the provisions of any prior ordinance or any franchise, license, permit, consent agreement or other agreement with a cable operator, then the provisions of this article shall control.~~

~~(Code 2006, § 34-72; Ord. No. 111, § 14; Ord. No. 144, 1-10-1994)~~

~~Sec. 34-73. Annual fee.~~

~~(a) The company shall pay to the city, for and in consideration of the right and privilege to conduct cable television operations pursuant to the franchise, an annual fee in an amount equal to three percent of gross subscription revenue, calculated on a monthly basis, derived from its cable television operations in the city. Each year's fee shall be due and payable to the city clerk by January 31 for the preceding calendar year.~~

~~(b) In the event of revocation or termination of the franchise, the final annual fee payment shall be prorated from the immediately preceding January 1 to the date of termination of service.~~
~~(Code 2006, § 34-73; Ord. No. 111, § 15)~~

~~Sec. 34-74. Assignment of franchise or transfer of control of franchisee.~~

~~A franchise shall not be assigned nor shall control of the company be transferred without the prior approval of the council, which approval shall not be unreasonably withheld. No consent by the council shall be required for a transfer in trust, mortgage or other instrument of hypothecation to secure an indebtedness of the company.~~
~~(Code 2006, § 34-74; Ord. No. 111, § 16)~~

~~Sec. 34-75. Forfeiture and revocation of franchise.~~

~~(a) the city may declare a forfeiture of the franchise and revoke the franchise if the company:~~

~~(1) Substantially violates any provision of the franchise and the violation remains uncured for a period of 30 days subsequent to receipt by the company of a written notice of such violation, except where such violation is not the fault of the company or is due to excusable neglect.~~

~~(2) Practices any fraud or deceit upon the city.~~

~~(b) A forfeiture may be declared, for any reason, by any resolution of the council, duly adopted after 30 days' notice to the company, and shall in no way affect any of the city's rights under the franchise or any provision of law; provided, however, that before the franchise may be terminated and canceled under this section, except for nonpayment of monies due to the city from the company, the company shall be provided with an opportunity to be heard at a public hearing before the council upon ten days' written notice to the company on the time and place of the public hearing; provided that such notice shall affirmatively cite the reasons alleged to constitute a course for revocation and provided further that notice of such public hearing shall be published in a newspaper of general circulation at least ten days before the hearing.~~
~~(Code 2006, § 34-75; Ord. No. 111, § 17)~~

~~Sec. 34-76. Complaint procedures.~~

~~The company shall maintain a local business office or agent easily accessible to the citizens of the city for the purpose of receiving subscriber complaints expeditiously and normally within 24 hours. The council may designate any officer of the city with the responsibility of monitoring the company's operations and, in cases where customers complaints are unsatisfied by the company's response to the complaints, such person shall have the power, and the company shall accept and give recognition to, recommended changes in the company's complaint procedures.~~
~~(Code 2006, § 34-76; Ord. No. 111, § 18)~~

~~Sec. 34-77. Service and system maintenance.~~

~~The company shall, at its own expense, at all times maintain and furnish telephone answering service and system maintenance service to subscribers both during and after regular business hours. The company, in addition to having its telephone listed in the local telephone directory, shall advise each of its subscribers in writing of such a telephone number.~~
~~(Code 2006, § 34-77; Ord. No. 111, § 19)~~

~~Sec. 34-78. Miscellaneous provisions.~~

~~(a) Failure to enforce or comply with article provisions. Failure to enforce or insist upon compliance with any of the terms or conditions of this article shall not constitute a general waiver or relinquishment of any such terms or conditions, but the same shall be and remain at all times in full force and effect.~~

~~(b) Filing current map showing location of facilities; furnishing reports. Every cable communications company shall file annually with the city engineer a current map showing the exact location of the transmission and distribution facilities and equipment in the city used by it in providing cable communications service, and, further, shall prepare and furnish the city, on written request therefor, at such times and in such form as may be prescribed, such reports as to its operations, finances, facilities and activities as may be reasonably necessary to enable the city to perform its obligations, functions and duties under this article.~~
~~(Code 2006, § 34-78; Ord. No. 111, § 20)~~

~~Sec. 34-79. Filing of franchise agreement.~~

~~The company shall, within 15 days after the franchise becomes effective by approval of the franchise by ordinance of the city council, file in the office of the city clerk a copy of the franchise agreement. Failure on the part of the company to file such written agreement within such time shall be deemed an abandonment and rejection of the rights conferred by this article.~~
~~(Code 2006, § 34-79; Ord. No. 111, § 23)~~