CODE OF ORDINANCES

CITY OF

MUSKEGON, MICHIGAN

Published in 2014 by Order of the City Commission

municode
Municipal Code Corporation • PO Box 2235 Tallahassee, FL 32316
info@municode.com • 800.262.2633
fax 850.575.8852 • www.municode.com

OFFICIALS

of the

CITY OF

MUSKEGON, MICHIGAN

AT THE TIME OF THIS RECODIFICATION

Stephen J. Gawron
Mayor

Willie German
Eric Hood
Kenneth D. Johnson
Daniel Rinsema-Sybenga
Lawrence O. Spataro
Byron Turnquist
City Commission

Franklin J. Peterson
City Manager

John Schrier
City Attorney

Ann Marie Cummings
City Clerk

PREFACE

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

Source materials used in the preparation of the Code were the 2002 Code, as supplemented, and ordinances subsequently adopted by the city commission. 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 1975 and 2002 Codes, as supplemented, and any 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:

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STATE LAW REFERENCE TABLE	SLT:1
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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 Bill Carroll, Senior Code Attorney, and Kim Ryder, 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 Ann Cummings, City Clerk, Bryon Mazade, City Manager, and John Schrier, City Attorney, for their cooperation and assistance during the progress of the work on this publication. It is hoped that their 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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***Editor's note—**Printed herein is the City Charter, as adopted by the voters on October 16, 1919. It is derived from the compilation of the original Charter and amendments prepared by Mr. A.J. Leutscher, City Clerk. Amendments to the Charter are indicated by parenthetical history notes following amended provisions. The absence of a history note indicates that the provision remains unchanged from the original Charter. Obvious misspellings have been corrected without notation. For stylistic purposes, a uniform system of headings, catchlines and citations to state statutes has been used. Additions made for clarity are indicated by brackets.

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Chapter XX. Charter Parks

[Section 1. Establishment.]

PREAMBLE

The People of the City of Muskegon, acting in accordance with the "Home Rule Act" of the State of Michigan, do adopt the following Revised Charter:

CHAPTER I. INCORPORATION; BOUNDARIES AND GENERAL POWERS

Section 1. Body politic, etc.; official name.

The inhabitants of the city shall be a body politic and corporate under the name of the City of Muskegon and in that name the city shall hold the title to all its property and conduct all its affairs.

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

Section 2. General powers.

The City of Muskegon shall have and exercise all powers pertaining to municipal corporations and all those granted or recognized by the laws of the state, whether herein expressly mentioned or not, and the grant of any power herein contained shall not be construed as excluding any other power, but the city shall be presumed to have all powers necessary or suitable for the maintenance of good government and for the promotion of the welfare and happiness of its inhabitants, not forbidden by the constitution and general laws of the state.

State law references—Permissible Charter provisions, MCL 117.4j(3); general limitations on powers of city, MCL 117.5.

Section 3. Reserved.

Editor's note—The city boundaries formerly set out in this section are outdated and therefore were omitted.

Section 4. Four wards.

The City of Muskegon shall be apportioned into four wards in accordance with law.
(As amended November 2, 1982, § 1)

State law reference—Mandatory requirement that Charter provide for establishment of one or more wards, MCL 117.3.

Section 5. Voting precincts, boundaries.

The voting precincts of the city shall remain as they are until altered by the city commission. The city commission shall have power to increase or diminish the same and to change their boundaries as conditions shall demand.

State law reference—Election precincts, MCL 168.654 et seq.

CHAPTER II. ELECTIONS*

Section 1. Registration, elections; state law.

The general registration and election laws of the State of Michigan, except as herein otherwise provided, shall apply to and control the registration of electors and the conduct of elections in the City of Muskegon.

State law references—Michigan Election Law, MCL 168.1 et seq.; registration of electors, MCL 168.491 et seq.

Section 2. Electors; qualifications; voting precincts.

The inhabitants of the city having the constitutional qualifications of electors of the state shall be electors of the city. Each one shall vote in the voting precinct wherein he shall have lodged for 20 days prior to the date of election.

Editor's note—Residence in city as of thirtieth day prior to election required. See MCL 168.492.

Section 3. Election inspectors, appointment.

At least 30 days prior to the first election after they enter upon the duties of their office, the city commission shall appoint three qualified electors in each voting precinct to be inspectors of election for such precinct and they shall continue so to act at the will of the city commission.

Editor's note—Election inspectors are now appointed by the board of election commissioners at least 21 but not more than 40 days prior to the election. See MCL 168.674.

Section 4. Board of election commissioners.

Within the time limit in the last preceding section, the city commission shall appoint three

*__State law references—__Michigan Election Law, MCL 168.1 et seq.; mandatory that Charter provide for elections, MCL 117.3(b), (c).

qualified electors to be a board of election commissioners for the city and they shall serve in that capacity at the pleasure of the city commission.

State law reference—Board of city election commissioners, MCL 168.25.

Section 5. Nonpartisan primary required; exception; time.

A nonpartisan city primary election shall be held in each even numbered year upon the same date that the general state primary election shall be held immediately preceding the general State November election in that year, if nominating petitions for candidates eligible to be placed on the ballot to a number greater than twice the number of positions to be filled in any elective office, shall have been filed with the city clerk as provided by this Charter.

(As amended April 7, 1947)

State law references—Requirement that Charter provide for the nomination of elective officers by a primary election, MCL 117.3(c); municipal elections set in an odd year election, MCL 168.641 et seq.

Section 6. Nonpartisan regular election; time.

A nonpartisan regular city election shall be held on the first Tuesday after the first Monday of November in each even numbered year.

State law references—Mandatory that Charter provide for time, manner and means of holding elections, MCL 117.3(c); odd year elections, MCL 168.641 et seq.

Section 7. Special election; resolution required, contents.

Special elections may be held at such times and places as the city commission may by resolution designate, the purpose of which shall be fully set forth in the resolution.

State law reference—Special primaries and elections, MCL 168.631 et seq.

Section 8. Candidates; petitions; form, signatures.

Candidates for elective office shall be nominated from the city at large, or from their respective wards, by petition, blanks for which shall be furnished by the city clerk. Each petition shall be signed by not less than 50 qualified electors and shall be filed with the city clerk at such time as may be provided by law preceding a primary election. Each elector signing shall add his residential street and number and date of signature. No elector shall sign petitions for more candidates for any office than the number to be elected to such office.

(As amended November 2, 1982, § 2)

State law references—Nonpartisan nominating petitions, MCL 168.544a; last day for filing nominating petitions where local primary falls on same day as state or county primary election, MCL 168.646a.

Section 9. Nominating petitions; sufficiency, determination; candidates, certification.

The city clerk shall accept for filing only nominating petitions on official blanks containing the required number of signatures for qualified candidates. He shall forthwith determine the sufficiency of signatures on each petition filed. Petitions which are found by the clerk to contain the required number of signatures of registered electors for qualified candidates shall be marked 'approved' with the date thereof. Within three days after the time limited for filing nomination petitions the city clerk shall certify to the board of election commissioners the names of all the candidates duly nominated, and special matters, if any, to be submitted to the electors.

State law references—Certification of nominating petitions by city clerk, MCL 168.552; validity of petition or signature, MCL 168.552a.

Section 10. Ballots; contents; candidates' names; special matters.

The names of the candidates shall be placed by the board of election commissioners on the primary ballot for only such positions as shall have more than twice the number of candidates seeking each office to be filled by election. Special matters, if any, shall likewise be placed upon said ballot. The candidates in the primary election receiving the largest number of votes, to a number equal to twice the number of positions to be filled in any office, and the names of candidates not required to be placed on the primary election ballot, shall be placed on the ballot at the regular city election, together with special matters, if any, to be voted upon.

State law reference—Preparation and distribution of ballots, MCL 168.559 et seq.

Section 11. Polls; hours open.

The polls shall be open in each voting precinct from 7:00 a.m. to 8:00 p.m.

State law reference—Similar provisions, MCL 168.720.

Section 12. Canvass of votes; board of election commissioners duties.

Immediately upon the closing of the polls the precinct election inspectors shall canvass the votes and announce the results as provided in the general election laws for county and state elections. They shall first canvass the votes for city officers and shall forthwith make a statement of all votes cast at the election and file the same at once with the city clerk. The board of election commissioners shall act as a board of city canvassers to canvass the votes cast at all elections under this Charter. They shall meet at the city hall on the Thursday following each election at 9:00 in the forenoon, and publicly canvass the election returns, and shall determine the vote upon all questions and propositions and declare whether the same have been adopted or rejected and what persons have been nominated or elected at such election. The candidate or candidates, where more than one are to be nominated or elected to the same office, who shall receive the largest number of votes shall be nominated or elected. Upon the completion of the canvass, the board shall file with the city clerk a statement of their determination and the city commission shall enter the same upon the official records of the city.

Editor's note—Canvassing of elections is now done by the county pursuant to MCL 168.821 et seq.

State law reference—Canvass by the precinct inspectors, MCL 168.801 et seq.

Section 13. Tie vote; determination.

If at any city election there shall be no choice between candidates by reason of two or more candidates having received an equal number of votes, then the board of city canvassers shall determine the successful candidate or candidates by lot.

State law reference—Determination of election by lot, MCL 168.851, 168.852.

Section 14. Candidates; nomination, election; notice, time.

Within five days after the filing of the canvass the city clerk shall give notice to the persons nominated or elected of their nomination or election.

Section 15. Elections, time, place; notice required; state law.

Notice of the time and places of holding any election and the propositions to be voted upon shall be given by the city clerk in the manner as provided and required by state law relating to elections.

(As amended April 7, 1947)

State law reference—Notice of elections, MCL 168.653a.

Section 16. Ballots; form; party designation prohibited.

The form of the ballot shall conform as nearly as may be to that prescribed by the general laws of the state, except that no party designation or emblem shall appear upon any city ballot.

State law reference—Form of ballots, MCL 168.696 et seq.

Section 17. Recount; state law.

A recount of the votes cast at any city election for any office, or upon any proposition, may be had in accordance with the general election laws of the state.

State law reference—Recounts, MCL 168.861 et seq.

CHAPTER III. CITY OFFICERS

Section 1. Elective officers.

There shall be a city commission of seven members. Two shall be nominated and elected from the qualified voters of the city at-large, and one shall be nominated and elected from the qualified voters of the city at-large and shall be elected as the mayor, and one shall be nominated and elected by the qualified voters of each of the four wards as provided in Chapter I, Section 4.

(As amended November 2, 1982, § 3; as amended November 8, 1994, § 1)

State law reference—Mandatory for Charter to provide for election of certain officers, MCL 117.3(a).

Section 2. Appointive officers enumerated.

The following shall be the appointed officers of the City:

(1) To be appointed by the city commission:

City manager.

City clerk.

City attorney.

City treasurer.

City auditor.

City assessor, and one or more assistant assessors as the commission may determine.

Three members of the board of health.

Three election commissioners.

Three inspectors of election for each voting precinct.

Four members of the board of review.

Such other officers as the commission may deem necessary or suitable.

(2) To be appointed by the city manager:

All directors of departments except city attorney and city auditor.

City engineer.

City health officer.

Chief of police.

Chief of fire department.

Any such other officers as the city commission may authorize.

(As amended November 8, 1994, § 1)

Editor's note—The board of health and the position of health officer no longer exist. Their functions are performed by the county.

State law reference—Mandatory that Charter provide for appointed officers, MCL 117.3(a).

Section 3. City commissioners; qualifications, term; holding additional office, restriction.

The city commissioners elected at large shall be electors of the city and shall have resided therein at least one year immediately preceding their election and shall remain electors of the city throughout their term of office. The city commissioners elected from the respective wards shall have resided within their respective wards at least one year immediately preceding their election and shall remain electors of the city and residents of their respective wards throughout their term of office. They shall not during their term of office hold any other city office unless specifically provided in this Charter. They shall be elected at the regular city election. At the first regular city election held after the adoption of this amended section of the Charter, one commissioner shall be elected from each of the four wards for a term of four years and shall serve with the remaining three commissioners who shall serve the balance of their unexpired term. At the next succeeding regular city election following the election of commissioners for each of the four wards, three commissioners shall be elected at large for a term of four years. Thereafter their successors shall be elected for a term of four years. They shall take office on the first day of January following their election.

(As amended November 2, 1982, § 3)

Editor's note—A one year residency requirement was upheld in *Joseph* v. *City of Birmingham,* 510 F. Supp. 1319 (E.D. Mich. 1971).

State law reference—Mandatory that Charter provide for qualifications of officers, MCL 117.3(d).

Section 4. Representation in newly annexed area.

Any single area annexed to the City of Muskegon at one time and by means of a popular vote thereon, having a population of 5,000 or more on the date of said election, shall be entitled to elect an additional member to the city commission for a period of not less than five nor more than eight years as provided in this section. Said additional member shall have all the rights, powers and duties of a duly elected city commissioner and shall receive the same compensation. Said population shall be determined by the existing city commission on a basis of such evidence as may be available including the past previous federal census, school census, tax records, election records, or a special census conducted for the purpose, and its decision shall be final. A special election in the annexed area shall be called by the city commission as soon as it is reasonably practicable after the effective date of the annexation. At this election prior registration records may be used if available. Subject to the provisions of this section, the election chapter of this Charter and the state election laws shall be followed. The annexed area representative to be elected shall have been a resident of the area for at least four years prior to the date of election and nominations shall be

made by petition as provided in the election chapter hereof for city commissioners. If only one person is nominated within the time limited, the city commission shall declare such person an additional member of the city commission and cancel the election. Said additional member shall hold office from the Tuesday following the canvass of the election of the declaration above provided to the first day of January following the regular municipal election which is held more than one year after the commencement of his original term, at which election said additional membership shall again be voted upon for a full four year term commencing on the first day of January following his election. At the end of the full four year term so provided, said additional membership shall expire. Only registered electors residing within the annexed area shall be entitled to vote upon the additional membership. In filling any vacancy in such additional membership, the remaining members of the city commission shall be limited to the selection of a person having qualifications to be a candidate for such membership. In performing the mandate of this section, the city commission shall act promptly and, in good faith and in failure thereof, mandamus shall lie. The provisions of this section shall be construed as modifying and amending any other provisions of the Charter of the City of Muskegon inconsistent therewith.

(Added November 3, 1964)

Editor's note—Originally § 4 of this chapter related to justices of the peace. That section was repealed by an amendment of April 1, 1935, which added Chapter 18, relating to the municipal court. Section 4, as above set out, was added by an amendment of November 3, 1964.

State law reference—Mandatory that Charter provide for elections of certain officers, MCL 117.3(a).

Section 5. Election; city officers; appointment, time.

The city manager, city clerk, city attorney, city treasurer, city auditor, city assessor, three members of the board of health and four members of the board of review shall be appointed by the city commission at the same time.

(As amended November 8, 1994, § 1)

Section 6. Appointive officers; tenure.

All officers appointed by the city commission shall hold at the pleasure of the commission and all officers appointed by the city manager shall hold at the pleasure of the manager, unless herein otherwise provided.

Section 7. Officers; qualifications, oath, bond.

All officers shall be citizens of the United States. They shall take the constitutional oath of office and if bonds are required shall give their official bond prior to entering upon the duties of their office and within ten days after notification of their election or appointment.

State law reference—Mandatory that Charter prescribe qualifications of officers, MCL 117.3(d).

Section 8. Officers oath, bond, regulations.

The city commission may require any officer to give a bond with such condition and in such amount as the commission may determine and to be approved by the commission. The surety shall be a bonding company authorized to act under the laws of the state and the premium therefor shall be paid by the city.

Section 9. Violation.

A failure to file the oath of office or the bond when required within the time required shall render the office vacant.

Section 10. Resignations, filling vacancies.

All resignations of all elected officers and officers appointed by the city commission shall be made to the city commission. Resignations of officers appointed by the city manager shall be made to the city manager. In case of a vacancy in any elected office, the vacancy shall be filled within 30 days by a majority vote of the remaining members of the city commission in office, and the person appointed shall fill the vacancy until the next general election for any city elective office, at which time persons shall stand for election for the balance of any unexpired term of the position which has been filled by the appointment. The person elected shall take office immediately upon certification of the election results. Notwithstanding, any person thus appointed to fill a vacant elected position where the vacancy first occurs less than 180 days before the next

such general city election shall hold the position for the balance of the unexpired term of the office. (As amended November 2, 1999)

State law reference—Vacancies in city office to be filled as provided in Charter, MCL 201.37.

Section 11. Sales, purchases, contracts; financial interest prohibited, penalty.

No officer or employee of the city shall be directly or indirectly interested in the sale to or purchase from the city of any property or be directly or indirectly interested as principal, surety or otherwise, in any contract except his contract of employment, the expense or consideration whereof is paid under any ordinance, motion or resolution of the commission. Any person who shall violate any of the provisions of this section shall on conviction thereof be punished by imprisonment in the county jail or the Detroit House of Correction not longer than 90 days, or by fine not exceeding $500.00, or by both such fine and imprisonment at the discretion of the court. He shall also forfeit his office. The prohibitions of this section shall not apply to any person if the city commission shall declare on its records by a unanimous vote of the members thereof that the best interests of the city are served despite a personal interest direct or indirect.

State law reference—Conflicts of interest as to contracts, MCL 15.321 et seq.

Section 12. Mayor, city commissioners; compensation.

The salary of the mayor shall be $500.00 a year. That of the other commissioners shall be $360.00. All other salaries shall be fixed by the city commission.

Editor's note—The above provisions relative to the salary of the mayor and other commissioners are superseded by Ordinance No. 711, relating to the local officers' compensation commission and adopted pursuant to MCL 117.5c. See ch. 2, art. VII, div. 2 of the Code of Ordinances.

CHAPTER IV. CITY COMMISSION

Section 1. General legislative powers.

The seven city commissioners shall constitute the legislative body of the city under the name "city commission" and all the powers of the City of Muskegon not specifically invested by law or by this Charter in some other officer or body shall be exercised by the city commission.

State law reference—Mandatory that Charter provide for elected legislative body, MCL 117.3(a).

Section 2. Administrative service; dealing with personnel, restrictions.

The city commission shall be the judge of the election and qualification of its own members subject to the review of the courts. Neither the commission nor any of its members or committees shall dictate the appointment of any person to office or employment by the city manager or in any manner interfere with the city manager to prevent him from exercising his judgment in the appointment of officers or employees in the administrative service. Except for the purpose of inquiry, the commission and its members shall deal with the administrative service solely through the city manager and neither the commission nor any member thereof shall give orders to any of the subordinates of the city manager.

Section 3. City commission; organization, vice-mayor, meetings, order of business, records.

During the first week in January following the regular municipal election the city commission shall meet at the council chamber in the city hall and complete its organization. At the time it shall elect from its own members a vice-mayor who shall perform all the duties of the mayor when from any cause the mayor is temporarily unable to perform the duties of his office, or in case of a vacancy in the office of mayor until such vacancy is filled by the city commission. It shall then establish a time for regular meetings of the commission which shall be held at least twice in each month. Special meetings may be called at any time by the mayor or by two other commissioners by giving such notice to its members as the commission shall provide. All meetings of the city commission shall be public and any citizen shall have access to the minutes and records thereof at

all reasonable times. The commission shall determine its own rules and order of business and shall keep a record of its proceedings.

State law references—Mandatory that Charter require compliance with open meetings act, MCL 117.3(l); open meetings act, MCL 15.261 et seq.

Section 4. Quorum, adjournments, vote required.

The majority of the members of the city commission shall be a quorum to do business but in the absence of the quorum two or more commissioners can adjourn meeting to a later date except as herein otherwise provided. The affirmative vote of the majority of the members of the city commission shall be necessary to adopt any measure before it. All votes except or motion to adjourn and to refer shall be taken by "yea" and "nay" vote and entered upon the record.

CHAPTER V. ADMINISTRATIVE SERVICE*

Section 1. Mayor; powers and duties.

In so far as required by law and for all ceremonial purposes the mayor shall be recognized as the executive head of the city. He shall be chairman of the city commission and shall have a voice and vote in its proceedings, but no veto power. He shall authenticate by his signature such instruments is the city commission, this Charter or the laws of the state shall require.

State law reference—Mayor required, MCL 117.3(a).

Section 2. Administrative departments enumerated.

The following administrative departments are hereby established:

1. Department of law.
2. Department of finance.
3. Department of public works.
4. Department of public health.
5. Department of public welfare.
6. Department of public safety.

State law reference—Charter may provide for the establishment of departments, MCL 117.4j(1).

Section 3. Department heads enumerated.

Until otherwise provided by ordinance the city attorney shall be director of the department of law, the city auditor of the department of finance, the city engineer of the department of public works, the city health officer of the department of public health and welfare, and the city manager of the department of public safety.

Editor's note—The department of health and welfare and the position of health officer no longer exist. Those functions are performed by the county.

Section 4. Administrative officers; responsibility.

The directors of the departments of law and finance shall be immediately responsible to the city commission. The other directors shall be immediately responsible to the city manager for the administration of their departments.

Section 5. City departments; functions, ordinance required.

The city commission shall by ordinance determine and prescribe the functions of each department and may create new departments, combine existing departments and establish temporary departments for special work when in its opinion the proper administration of the city requires. The functions of the department of public welfare, however, shall include the supervision and management of all charitable, correctional and reformatory institutions and agencies belonging to the city, the use of recreational facilities of the city, including parks and playgrounds, the inspection and supervision of public entertainments, the study and research into causes of poverty, delinquency, crime and other social problems in the community.

Section 6. City manager; authority; absence, disability.

The city manager shall be the administrative head of the municipal government under the direction and supervision of the city commission and shall hold his office at the pleasure of the

*__State law reference—__Mandatory requirement that Charter prescribe duties of city officers, MCL 117.3(d).

commission. He need not be a resident of the city at the time of his appointment. During his absence or disability the city commission may designate some properly qualified person to execute the function of the office.

Section 7. City manager; powers and duties.

Except as herein otherwise provided, the city manager shall have the following powers and duties:

1. To enforce all city laws and ordinances.
2. To appoint and remove all administrative officials of the city subject to the civil service provisions.
3. To enforce all city contracts and franchises.
4. To supervise all public improvements, works and undertakings.
5. To attend all meetings of the city commission and to take part therein, but without vote.
6. To prepare the annual itemized budget and to keep the city commission fully advised as to the financial condition and needs of the city.
7. To recommend to the city commission for its adoption such measures as he may deem necessary or expedient.
8. To perform such other duties as may be required by this Charter, by ordinance or the direction of the city commission or as naturally pertain to the general management of the city affairs.

Section 8. City clerk; powers and duties.

The city clerk shall be clerk of the city commission, shall attend all its meetings, shall keep a permanent journal in the English language of its proceedings and shall sign the same.

He shall attest such instruments as the city commission, this Charter or the laws of the state shall require.

He shall be custodian of the seal and of all papers, documents and records of the city, the custody of which is not otherwise provided for.

He shall give to the proper officials ample notice of the expiration or termination of all franchises and contracts. He may administer all oaths required to be taken by this Charter or by the city commission. He shall act with the city assessor in making jury lists.

He shall perform such other duties of a clerical nature as naturally pertain to his office or which shall be required of him by this Charter or by the city manager.

State law reference—Mandatory requirement that Charter provide for city clerk, MCL 117.3(a).

Section 9. City auditor; powers and duties.

The city auditor shall keep the city's books of account, which shall show in accurate detail all moneys received and their several sources and all disbursements made and their purposes.

He shall establish and maintain a system of accounts suitable for all departments and officers of the city which shall conform to any uniform system required by law.

He shall examine and audit all accounts and claims against the city except claims for unliquidated damages. He shall not issue or sign any craft, check or warrant until he has verified the correctness of the account for which the same is issued; neither shall he allow the payment of any account unless the money has been appropriated therefor, nor shall he issue or sign any draft, check or warrant for any account against the city unless sufficient money is in the fund on which it is drawn.

He shall examine and audit the books of the city treasurer once each month and at the close of the fiscal year, or whenever he shall think necessary or shall be directed by the city commission. He shall examine and audit all books of account of other officers, boards or departments.

All books of account of the city shall be balanced at the close of each month and a report made thereof by the city auditor to the city commission. He shall present to the city commission each month and whenever required by the commission, a detailed statement of the financial condition of the city which shall include all receipts and expenditures of the various depart-

ments, and annually a detailed statement of the debt of the city and the purpose for which it was incurred and an inventory of the property of the city with both its cost and estimated current value.

He shall perform such other duties as naturally pertain to his office or as may be required by this Charter or by the city commission.

Section 10. City attorney; powers and duties.

The city attorney shall act as legal adviser to and as attorney and counsel for the municipality and all its officers in matters relating to their official duties. He shall give written opinions to any official or department of the city whenever requested in writing so to do, and shall file a copy of the same with the city clerk.

He shall conduct for the city all cases in court to which the city is a party.

He shall prepare, or officially pass upon, all contracts, bonds and other instruments in writing, in which the city is concerned, and shall verify before execution as to their legality and correctness of form.

He shall perform such other duties as may be prescribed by this Charter or by the city commission.

Section 11. City treasurer; powers and duties.

The city treasurer shall have the custody of all moneys, the city clerk's bond, and all evidence of value belonging to the city or held in trust by the city.

He shall receive all moneys belonging to and receivable by the city, and shall keep a correct account of all receipts and expenditures.

He shall keep and deposit all moneys or funds in such manner and in such places as the city commission may determine. He shall report in detail to the city auditor each day all moneys collected by him.

He shall pay no moneys out of the treasury except in the manner prescribed in this Charter.

He shall have such powers and duties in regard to the collection of school taxes as are given him by law, or by the Charter of the Public Schools of the City of Muskegon, and by this Charter.

He shall perform such other duties as may be prescribed for him by the laws of the state, by this Charter or by the director of finance.

State law reference—Mandatory requirement that Charter provide for treasurer, MCL 117.3(a).

Section 12. City assessor powers and duties.

The city assessor shall possess all the powers vested in and shall be charged with all the duties imposed upon assessing officers by the general laws of the state.

He shall make and prepare all regular and special assessment rolls in the manner prescribed by this Charter and the general laws of the state. He shall act with the city clerk in making jury lists.

He shall perform such other duties as may be prescribed for him by this Charter.

State law reference—Mandatory requirement that Charter provide for city assessor, MCL 117.3(a).

Section 13. Purchasing agent; appointment; powers and duties.

The city manager or some officer other than the auditor or treasurer shall be designated by the city commission to act as purchasing agent, by whom all purchases for the city shall be made and all vouchers for the payment of the same approved. He shall also conduct all sales of personal property which the city commission may authorize to be sold.

He shall see to the delivery of supplies to each department and where purchases or sales are made on joint account of several departments he shall apportion the charge of credit to such department.

All purchases and sales shall conform to such regulations as the city commission may from time to time prescribe, but in either case if the amount involved is in excess of $500.00, opportunity for competition shall be given.

Section 14. Reserved.

Editor's note—The above section related to city representation on the county board of supervisors and was omitted due to the superseding effect of MCL 46.401 et seq., which provides for the election and apportionment of members of the board.

CHAPTER VI. PUBLIC HEALTH*

Section 1. General powers.

The power of the city to preserve and promote the health of its inhabitants shall be limited only by the laws of the state and needs of the city.

State law reference—Mandatory requirement that Charter provide for public peace, health and safety of persons and property, MCL 117.3(j).

Section 2. Board of health; composition.

The board of health shall consist of three members, two of whom shall be registered physicians, residents of the City of Muskegon. The city health officer shall sit with the board of health but shall have no vote.

State law reference—Local health departments, MCL 333.2401 et seq.

Section 3. Board of health; powers and duties.

The board of health shall have and exercise for the city all the powers and authority conferred upon boards of health by the general laws of the state, by this Charter and by the ordinances of the city. It shall be its duty and duty of the health officer to see to the enforcement of all laws and ordinances pertaining to public health.

Section 4. Health officer; powers and duties.

The health officer shall have and exercise all the powers of police officers of the city and all power and authority conferred on health officers by the laws of the state, by this Charter or by the ordinances of the city and shall perform all duties required of such officer.

State law reference—Local health departments, MCL 333.2401 et seq.

***Editor's note—**This chapter is obsolete. Public health functions are now performed by the county.

State law reference—Public Health Code, MCL 333.1101 et seq.

CHAPTER VII. ORDINANCES†

Section 1. City commission; powers.

The city commission shall have power to enact, amend and repeal all ordinances that may be necessary or proper for carrying out the powers conferred and the duties imposed upon the city by this Charter and by the laws of the state.

Section 2. Ordinances; style; adoption, vote required.

The style of all ordinances shall be "The City of Muskegon Ordains." They shall require for their passage a majority vote of all members of the commission in office. No ordinance shall be adopted at the same meeting at which it is proposed except by unanimous consent of all members of the commission then in office.

Section 3. Same; effective date, publication.

Every ordinance shall prescribe the time within which it shall take effect and, in case a penalty is imposed, such time shall not be less than ten days after the first publication. All ordinances shall be published at least once in one or more of the daily newspapers of the city before they become operative.

Section 4. Initiatory petition; signatures required.

Any proposed ordinance may be submitted to the commission by petition signed by electors of the city equal in number to 15 percent of the highest vote cast in the city for commissioner in the last preceding general election. The petition shall contain a request that the ordinance be submitted to a vote of the people if not passed by the commission and the ordinance shall either be contained in the petition or shall accompany it.

State law reference—Permissible that Charter provide for initiative and referendum, MCL 117.4i(g).

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†**State law reference—**Mandatory requirement that Charter provide for adopting, continuing, amending and repealing ordinances, MCL 117.3(k).

Section 5. Same; Commission determination required.

Within 30 days after such petition is presented to the commission, the commission shall either pass the proposed ordinance without alterations or it shall amend the ordinance if it deems advisable, retaining, however, the general purpose thereof, or it shall submit the same without amendment to the vote of the electors of the city.

State law reference—Permissible that Charter provide for initiative and referendum, MCL 117.4i(g).

Section 6. Same; amendment by commission; publication, protest.

In case the commission shall amend the ordinance it shall publish the same as amended in one or more newspapers in the city and if within 15 days thereafter a protest against the adoption of the ordinance as amended be filed, signed by electors of the city equal in number to ten percent of the highest vote cast in the city for commissioner at the last preceding general election, the ordinance as amended shall be submitted to the electors of the city. If no such protest shall be filed the ordinance shall take effect at the time prescribed by the ordinance, or if that has expired, at the expiration of said period of 15 days.

State law reference—Permissible that Charter provide for initiative and referendum, MCL 117.4i(g).

Section 7. Electors; conflicting ordinances, adoption; determination.

In case the amended ordinance is submitted to the electors, the original ordinance shall be submitted at the same time as an alternative, but no elector shall vote "yes" to both ordinances. If each ordinance shall have a majority of votes cast on the adoption of the same, the one having the greater number of votes shall be considered adopted. If a single ordinance is submitted and the majority of qualified electors voting thereon shall vote in favor thereof, it shall be adopted.

State law reference—Permissible that Charter provide for initiative and referendum, MCL 117.4i(g).

Section 8. Ordinances, emergency, effective date, objections.

No ordinance passed by the commission except when otherwise required by the general laws of the state or by the provisions of this Charter (excepting ordinances for the immediate preservation of the public peace, health or safety which shall contain a statement of urgency and shall be passed by unanimous vote of the commission) shall go into effect for ten days from the time of its final passage and if during the said ten days there shall be presented to the commission a protest against the passing of said ordinance signed by electors of the city equal in number to at least 15 percent of the highest vote cast for candidates for commissioner at the last preceding general election, said ordinance shall thereupon be suspended from taking effect, and it shall be the duty of the commission to reconsider said ordinance and if the same is not entirely repealed the commission shall submit it to the vote of the electors.

Section 9. Electors; ordinances, adoption; number unrestricted.

Any number of proposed ordinances may be voted upon at the same election in accordance with the provision[s] of the Charter.

State law reference—Permissible that Charter provide for initiative and referendum, MCL 117.4i(g).

Section 10. Ordinances; repeal; submission to electors.

The city commission may submit a proposition for the repeal of any such ordinance or for amendments thereto to be voted upon at any city election and if such proposition receives a majority of the votes cast thereon at such election the ordinance shall thereby be repealed or amended.

State law reference—Permissible that Charter provide for initiative and referendum, MCL 117.4i(g).

Section 11. Same; submission to electors, time.

All ordinances submitted to the electors shall be submitted at the next general municipal election after final action taken by the commission if one is held within 90 days, but if no general election shall be held within that time, a special election shall be called by the city commission for

that purpose and held within that time. Not more than one special election shall be held for such purpose in the period of six months.

State law reference—Permissible that Charter provide for initiative and referendum, MCL 117.4i(g).

Section 12. Same; adoption, electors; effective date.

Whenever the electors shall adopt an ordinance it shall go into effect at prescribed therein, or if that time shall have expired, ten days after the election.

State law reference—Permissible that Charter provide for initiative and referendum, MCL 117.4i(g).

Section 13. Ordinances; adoption, electors; repeal, restriction.

No ordinance which as been adopted by the vote of the electors shall be repealed or amended within five years except by vote of the electors.

State law reference—Permissible that Charter provide for initiative and referendum, MCL 117.4i(g).

Section 14. Ordinances; submission to electors; publication required.

All ordinances or propositions for amendment or repealing of ordinances submitted to the voters shall be published at least once in one or more of the daily newspapers in the city not more than 30 nor less than ten days prior to the elections.

State law reference—Permissible that Charter provide for initiative and referendum, MCL 117.4i(g).

Section 15. Ordinance book, filing required.

All ordinances after having been duly passed shall at once be filed in the office of the city clerk and shall be recorded in the Book of Ordinances of the City of Muskegon. It shall not be necessary to enter any ordinance at length in the journal of the commission but reference may be made thereto by its title in all actions upon the passage thereof.

Section 16. Charter, or ordinances; publication required, time.

Within one year after this Charter takes effect the city commission shall cause to be published in pamphlet form this Charter with the amendments thereof, if any, and all ordinances then in force in the city. If any ordinance shall have been amended, the complete ordinance with the amendment incorporated therein shall be published and not the original ordinance and amending ordinances.

Section 17. Same; public utility contracts; compilation, publication required, time.

At least once in each ten years thereafter the city commission shall cause to be compiled and published in pamphlet form this Charter, all amendments to the Charter, all ordinances and all long term contracts between the city and public utility corporations. The correctness of such publications shall be certified to by the compiler.

Section 18. Ordinances, publication; evidence.

Proof of publication of any ordinance, resolution or other proceeding of the commission may be made by an affidavit of the printer or publisher of the paper in which the same has been published and such affidavit when duly filed with the clerk shall in all cases, courts and proceedings be prima facie legal evidence of the publication of such resolution, ordinance or other proceeding. All copies of the ordinance of the commission purporting to have been published or printed by its authority shall in all courts and proceedings be received as prima facie evidence thereof and of their enactment and publication.

Section 19. Ordinances; violations, penalties, imprisonment, fines, costs and expenses.

City ordinances may provide penalties for violations. Penalties for civil infractions may include, without limitation, civil fines, costs, damages and expenses in the amounts authorized by state law. For criminal violations, ordinance penalties may include, without limitation, criminal fines and imprisonment for the amounts and periods authorized by any state law, and costs and expenses in lawful amounts.

(As amended February 22, 2000)

State law reference—Restriction on fines and imprisonment, MCL 117.4i(k).

Section 20. Fines, recovery; civil action authorized.

Whenever a pecuniary penalty or forfeiture shall be incurred for violation of any ordinance and no provision shall be made for imprisonment of the offender on conviction thereof, or if the offender shall be a corporation, such penalty or forfeiture may be recovered in an action of debt or assumpsit.

Section 21. Same; civil actions, procedure.

Such action shall be brought in the name of the City of Muskegon and may be commenced by summons. All pleadings and proceedings in the case except as herein otherwise provided shall conform to and be the same as in like actions for the recovery of penalties for violation of the laws of the state. Upon rendition of judgment against the defendant execution shall issue forthwith and if not against a corporation shall require that if sufficient goods and chattels of the defendant cannot be found to satisfy the same the defendant be committed to the county jail for Muskegon County or the city jail for a period not exceeding 90 days, unless the execution be sooner paid or the defendant discharged by due course of law.

Section 22. Ordinances, violations; prosecutions, pleadings, proceedings.

Prosecutions for the violation of ordinances may be commenced by summons, and in all cases except against corporations, by warrant for the arrest of the defendant. Such warrant shall be issued upon complaint as in criminal cases cognizable by justices of the peace and shall be substantially in the form of warrants issued under criminal cases. All pleadings and proceedings in the case shall be substantially in the form of warrants issued under criminal cases. All pleadings and proceedings in the case shall, except as herein otherwise provided, be governed by and conform as nearly as may be to the provisions of law in criminal cases cognizable by justices of the peace.

Section 23. Same; county jail; use authorized.

The City of Muskegon shall be allowed the use of the county jail of Muskegon County for the confinement of persons liable to imprisonment under the ordinances thereof and under any of the other provisions of this Charter and the sheriff or other keeper of the jail shall receive and keep any person committed thereto until lawfully discharged.

Section 24. Ordinances, violations; pleadings, process.

It shall not be necessary in any suit, proceeding or prosecution for the violation of any ordinance of the city to set forth such ordinance or any provision thereof in any complaint warrant, process or pleading therein, but the same shall be sufficiently set forth or stated by reciting the title and the date of passage or approval and it shall be a sufficient statement of the offense or action complained of in the said complaint or warrant to set forth substantially with reasonable certainty the time and place of the act or offense complained of and to allege the same to be a violation or an ordinance of the city referring thereto by its title and the time of its passage or approval.

Section 25. Penalties, forfeitures; actions, appeals.

In all prosecutions and in all suits to which the city shall be a party brought to recover any penalty or forfeiture for violation or breach of any ordinance commenced by summons, warrant or other process to which the city shall be a party, brought in justice court, like proceeding shall be had except as herein otherwise provided, and the judgment rendered therein may be appealed from by the city or defendant in like manner as similar cases tried before justices of the peace, except that the City of Muskegon, if it shall appeal [will] not be required to give any bond.

Editor's note—Justice courts have been abolished. See MCL 600.9921, 600.9930.

Section 26. Process; issuance, return.

All process issued by any justice of the peace to enforce any of the ordinances of the city shall be directed to the chief of police of the City of Muskegon or to the sheriff or any constable of the County of Muskegon, and such process may be

executed by any of said officers anywhere in the state and shall be returned as any similar process issued by justices of the peace.

Editor's note—Justice courts have been abolished. See MCL 600.9921, 600.9930.

CHAPTER VIII. GENERAL FINANCE*

Section 1. Fiscal year.

The fiscal year of the city shall be established by ordinance adopted by the city commission.
(Res. No. 2009-48a, 6-8-2009)

Section 2. Revenue; division into specific funds.

The revenues of the city shall be divided among such funds as the city commission may determine which shall, however, include:

Contingent fund to defray contingent and other expenses for the payment of which from some other fund no provision is made.

Interest and sinking fund to defray expenditures for the payment of the public debt and interest thereon.

Special assessment fund to defray expenditures from moneys raised by special assessments for public improvements.

Section 3. Contemplated annual expenditures; estimate, submission; city manager; duty.

By the dates established by ordinance adopted by the city commission, the city manager shall submit to the city commission an estimate of the contemplated expenditures and revenues for the ensuing year and the city commission shall determine the amount and purpose of the necessary expenditures for such year and shall adopt a resolution fixing the amount of the appropriation to be made therefor. Provided, however, that the amount appropriated shall comply with Section 21 of Article 10 of the State Constitution of Michigan [1904] and be based on the assessable property of the city as established by the assessment roll for the current year.
(As amended May 8, 1920, and September 11, 1934; Res. No. 2009-48, 6-8-2009)

State law references—See Art. 9, § 15 of Mich. Const. of 1963; mandatory requirement that Charter provide for annual appropriation of money for municipal purposes, MCL 117.3(h).

Section 4. Receipts, delivery to city treasurer.

All moneys received, regardless of the source from which they come, shall be paid to, the city treasurer, shall be entered in the proper fund relating to the purpose for which they are designed to be used and shall be applied only to such purpose.

Section 5. Special assessment funds, interest, sinking fund; special account required.

All moneys belonging to special assessment funds and to the interest and sinking fund shall be kept in a single bank account separate from all other moneys.

Section 6. Transfer of funds.

No transfer shall be made from one fund to another except where there is an unappropriated balance in the contingent fund. Transfers not in excess of such unappropriated balance may be made from that fund to any other.

Section 7. Funds, insufficiency; warrants prohibited.

No warrant shall be drawn on the city treasury against any fund which after deducting all prior warrants thereon has not a sufficient amount therein to pay such warrant.

Section 8. Same; Charter violation, officers; penalty.

If any commissioner shall vote for a transfer of funds or for the use of moneys or if the city auditor or city manager shall draw or sign any warrant contrary to the provisions of this Charter, he shall be at once subject to removal from his office and shall be ineligible to hold any office in the City of

*__State law references—__Revised municipal finance act, MCL 141.2101 et seq.; uniform budgeting and accounting act, MCL 141.421 et seq.

Muskegon for the period of five years thereafter. If the city commission shall fail to make such removal within 30 days after such fact is known, any elector may apply to the circuit court for the County of Muskegon on the law or chancery side as the case may be, to compel the removal of such officer.

Section 9. Payment vouchers; certification required; warrants, signatures.

Payments by the city shall be made only on vouchers certified by the head of the appropriate department or other division of the city government, and by warrants on the city treasury issued by the city manager and countersigned by the city clerk.

CHAPTER IX. BONDS

Section 1. Bonds, issuance; city commission, authority.

The city commission shall borrow no money and issue no bonds unless herein authorized or unless authorized by the electors of the city at an election wherein the question is lawfully submitted.

State law reference—Authority to borrow money, MCL 117.4a.

Section 2. Bonds, issuance; purposes enumerated.

The city commission is hereby authorized to borrow money and issue bonds for the payment therefor for the following purposes:

1. To pay for any public improvement in anticipation of a special assessment lawfully authorized at or prior to the time such loan is made and to be paid in installments approximately corresponding to the installments of such assessments.

   Said bonds may be issued at the time of the letting of the contract for the improvement, if the work is to be done by contract, or upon the estimated cost of the improvement on the determination by the city commission that the work shall not be done by contract. The loan shall not exceed in amount the contract price or the estimated cost of the improvement after deducting the city's share of such cost. The city commission shall pledge the faith and credit of the city for the payment of such bonds, and the special assessment when collected shall be placed in a sinking fund for their payment.
   (As amended May 4, 1922, November 5, 1946, and November 7, 1950)

[2.] To pay the city's share for the cost of water mains, street and sewer improvements, not to exceed the sum of $50,000.00 in any one year, but no sum shall be borrowed for such purpose in excess of 75 percent of the cost of such improvement nor for a longer time than ten years, and the bonds issued therefor shall be paid at maturity.

3. For emergency purposes in accordance with the provisions of the Home Rule Act of the State of Michigan [MCL 117.1 et seq.].

4. For the renewal of bonds falling due from time to time the payment of which at maturity is not required by this Charter or by the laws of the State of Michigan.

5. To pay any judgment or decree that shall have been rendered against the city for payment of which there are no available funds.

6. To defray the expenses of the city from July first, 1920, to December thirty-first following, if the amount levied on the tax roll of the city for 1919, together with the receipts from all other sources shall not be sufficient for that purpose and to pay the existing indebtedness of the city for the payment of which no provision has been made, not exceeding, however, the sum of $350,000.00.

Section 3. Bonds, issuance; submission to electors.

The city commission may borrow money and issue bonds therefor for public purposes, not how-

ever, including current city expenses, whenever authorized so to do by a three-fifths vote of the electors of the city cast at an election wherein the matter of issuing such bonds is lawfully submitted.

Section 4. Total bonded indebtedness, restriction.

The total amount of bonded indebtedness of the city shall at no time exceed ten percent of the value of the assessable property in the city as shown by the tax roll for the preceding year.

State law reference—Limitation on net bonded indebtedness, MCL 117.4a(2).

Section 5. Bonds; sinking fund required, exception.

The city commission shall make provision for a sinking fund with which to pay at maturity all bonds issued by the city except serial bonds which fall due annually.

State law reference—Sinking fund required, MCL 117.5(g).

Section 6. Bonds; terms, forms.

All details as to the terms and form of bonds and the issue thereof shall be determined by the city commission.

CHAPTER X. CLAIMS

Section 1. Damages, claims; affidavit required, contents.

No claims against the city for damages growing out of negligence or default of the city or any officer or employee thereof shall be allowed unless it shall be accompanied with an affidavit of the person sustaining the damage or of someone in his behalf having knowledge of the facts, stating the time and place at which and the cause and manner in which such damage was sustained, the facts connected therewith and the witnesses, if any, present when the damages or injuries were received or sustained and in all claims for damage in consequence of any personal injury such affidavit shall also state the name of the attending physician, the amount of money paid for medical attendance, the loss of time and the value thereof, the extent of injury received, and the amount of compensation claimed for such damage or injury.

Annotation—The former Charter of the city contained a provision similar to the first paragraph of the above section. Plaintiff, who did not file the claim within six months, sued the city for damages resulting from personal injuries received or a defective sidewalk. It was urged that the requirement for filing a claim did not apply because the plaintiff was an infant at the time and also because the term "damages," as used in the Charter, did not refer to damages for personal injuries. It was held that the Charter provision applied to infants, as well as adults, and to claims for personal injuries and that the plaintiff's claim was barred. See *Davidson* v. *City of Muskegon,* 69 N.W. 670 (1897).

Editor's note—The above section is superseded by MCL 691.1401 et seq.

Section 2. Claims; filing required, time; fires, destruction of buildings.

All claims for damages against the city growing out of the negligence or default of the city or any officer or employee thereof, shall be filed with the city clerk within six months after such damage shall have been sustained or injury received, and in default thereof shall be forever barred.

All claims for damages against the city occasioned by reason of the destruction of any building for the purpose of arresting any fire shall be filed with the city clerk within six months after the destruction of such building and the commission in its discretion may make such compensation thereof as it may deem just, but no compensation shall be paid for a loss which would probably have occurred to such building if it had not been destroyed.

State law references—Filing notice for claim based on defective highway, MCL 691.1404; filing notice for claim based on dangerous public buildings, MCL 691.1406.

Section 3. Claims, requisites; city liability.

In any action in any court on any claim whatsoever, the claimant shall be required to show that such claim has been duly presented in the manner hereinabove provided to the city commission for audit, investigation and allowance, and that the commission has had reasonable time to investigate and pass upon it before the bringing of such action. In case, however, there shall be any defect in the claim presented the city shall be deemed to have waived the same unless the commission shall cause notice thereof to be given

to the claimant within 30 days after the claim is filed. If the claim shall have been filed in due time the claimant shall have ten days after receiving notice in which to correct the defect even if the time would then otherwise have expired.

State law references—Filing notice for claim based on defective highway, MCL 691.1404; filing notice for claim based on dangerous public buildings, MCL 691.1406.

Section 4. Annual appropriation resolution; delivery to assessor.

On or before the date necessary in order to levy the city's and the board of education's millage, in each year, the city clerk shall make and deliver to the assessor a certified copy of the annual appropriation resolution and of the statement of school taxes as prepared by the board of education of the public schools of the City of Muskegon filed in the city clerk's office.

(Res. No. 2009-48b, 6-8-2009)

Editor's note—The above section is superseded by MCL 691.1403.

CHAPTER XI. TAXATION*

Section 1. Taxation; state law.

All the provisions of the General Tax Law of the State of Michigan except as herein otherwise provided, shall apply to and control the assessment of property and the collection of taxes in the City of Muskegon and the taxing officers of the city shall have the same powers and shall be subject to the same duties as like officers under that law. The city clerk, city assessor and city treasurer shall take notice of said law and comply therewith.

State law reference—The general property tax act, MCL 211.1 et seq.

*__State law reference—__Mandatory requirement that Charter provide for levy, collection and return of state, county and school taxes in conformity with the general laws of the state, MCL 117.3(i).

Section 2. Board of review; composition; sessions; regulations.

The composition of the board of review, schedule of meetings, the purpose of the board of review and order of proceedings shall be as specified in Michigan General Property Tax Act.

(Res. No. 2009-48c, 6-8-2009)

State law references—Meetings of board of review, MCL 211.30; completion of review of assessments, MCL 211.30a.

Section 3. Same; meetings, notice required.

The city clerk shall give notice to the public of the time and place of meeting of the board of review by publication in at least one newspaper published and circulated in the city at least six days immediately preceding such meeting and also by posting three copies of such notice in each voting precinct in the city.

Section 4. Annual appropriation resolution; delivery to assessor.

On or before the date necessary in order to levy the city's and the board of education's millage, in each year, the city clerk shall make and deliver to the assessor a certified copy of the annual appropriation resolution and of the statement of school taxes as prepared by the board of education of the public schools of the City of Muskegon filed in the city clerk's office.

(Res. No. 2009-48b, 6-8-2009)

Section 5. Taxes; interest, sinking fund; assessor, duty.

The assessor in assessing the taxes shall place in a separate column those included in the interest and sinking fund.

Section 6. Taxes, due date; collection fees.

Collection fees, penalties and interest on taxes shall be collected by the city treasurer in accordance with the provisions of state law.

(As amended November 8, 1994, § 2)

State law reference—Tax collections, MCL 211.44 et seq.

CHAPTER XII. PUBLIC WORKS AND IMPROVEMENTS

Section 1. Public improvements; authority, state law.

The right to make public improvements and public works for municipal purpose and to acquire

lands therefor either within or without the city, by gift, purchase or condemnation, shall be exercised by the city commission subject only to the limitations of the laws of the state and of this Charter.

State law reference—Permissible Charter provisions, MCL 117.4e.

Section 2. Same; costs payable from the public funds.

The cost of all public improvements that benefit the city as a whole, and the cost of paving or improving street and alley intersections and such portion of the cost of the construction of water mains, main or lateral sewers, as the city commission may determine to be just shall be defrayed from public funds.

Section 3. Same; costs, special assessments.

If, in the judgment of the city commission, any such improvement made by it shall confer special benefit on any property in addition to that conferred on the city as a whole, such part of the cost thereof as the city commission shall consider just shall be levied as a special assessment against such property.

State law reference—Permissible Charter provisions, MCL 117.4d(1)(a).

Section 4. Public ways; control, etc.; city authority.

The city shall have the power to use, control and regulate the streets, alleys and public grounds of the city and the spaces above and below the same, subject only to the laws of the state and limitations of this Charter, but no use thereof shall be granted that shall be exclusive or inconsistent with the public interests.

Section 5. Streets, paving; prerequisites.

No street shall be paved until all water pipes, sewer pipes and other conduits or subterranean works necessary or proper for the people along the street shall first have been laid and the city commission shall not allow after the laying of any pavement any opening to be made therein for the purpose of laying or connecting with any such pipes or subterranean works, but at the time such works or pipes are laid suitable connections shall be installed that shall extend beyond the pavement.

State law reference—Permissible that Charter provide for the control and use of streets, MCL 117.4h.

Section 6. Public improvements; purchases, contracts, competitive bids.

The city commission shall have power to make any public works or improvement by the employment of necessary labor and the purchase of necessary supplies and materials, or to do the same by contract duly let which shall be after competitive bidding in case the cost thereof shall exceed $500.00.

Section 7. City jurisdiction, boundaries.

The jurisdiction of the city for all municipal purposes shall extend over the waters of Muskegon Lake and River within its boundaries and over the waters of Lake Michigan adjoining the city for a distance of two miles from shore, and all process issued from any of the city courts may be served within said limits.

Section 8. Plats; lands, sale; restriction.

The city commission shall have power to approve all plats of land within the city whether private or public and to prohibit and prevent the sale of lots by use of plats in which the streets therein contained shall not conform in width and location to the streets of the city in that locality.

State law reference—Land division act, MCL 560.101 et seq.

Section 9. Public utilities; acquisition, authority.

The city shall have the power to acquire by construction, purchase or condemnation, public utilities of all kinds and to operate and maintain the same.

State law reference—Authority to establish and operate public utilities, MCL 117.4e.

CHAPTER XIII. SPECIAL ASSESSMENTS*

Section 1. Charter provisions applicable.

Special assessments shall be made in accordance with the provisions of this chapter.

***State law references—**Notice of special assessment hearings, MCL 211.741 et seq.; deferment of special assessments on homesteads, MCL 211.761 et seq.

Section 2. Special assessments; intention, notice required, contents.

The city commission shall give notice of its intention to make a special assessment by publication in one or more papers published and circulated in the City of Muskegon, which notice shall contain:

1. A description of the improvement for the payment of which the assessment is to be made.
2. A description of the district on which the assessment is to be made.
3. The portion of the cost to be paid by special assessment.
4. A statement that plans of the improvement and estimates of the cost are on file in the office of the clerk and subject to examination.
5. The time and place where the commission will meet to hear objections to the making of the improvement and the levying of the assessment.

Section 3. Same; hearing; objections, regulations.

If at or prior to the hearing the owners of more than one-half of the property to be assessed shall object thereto in writing, the improvement shall not be made unless the commission shall determine by the affirmative vote of all its members that the safety or health of the public necessitates the improvement, in which case it may be made.

State law reference—Power relative to special assessments, MCL 117.4a, 117.4b, 117.4d, 117.5(e).

Section 4. Special assessment roll; omissions; city assessor, authority.

If any lot or parcel of land shall for any reason have been omitted from the said roll or exempted or partially exempted thereon, it shall nevertheless be subject to such special assessment and the city assessor shall place on the special assessment roll a fair valuation thereof corresponding to the values of other property in the special assessment district and such valuation shall be used for the purpose of such special assessment.
(As amended November 7, 1950)

Section 5. Special assessments; costs, determination.

In determining the amount of the special assessment the cost of such improvement shall include the cost of everything pertaining thereto and to the making of the assessment.

Section 6. Same; levy, prerequisites.

No special assessment shall be levied before the letting of the contract for the improvement, if the work is to be done by contract, or the determination by the commission that it shall not be done by contract.

Section 7. Assessments according to frontage or benefits.

Special assessments may be made according to frontage or benefits as the commission shall determine. When made according to frontage they shall be made by the city assessor. When made according to benefits they shall be made by a board of three members, one of whom shall be the city assessor and the other two shall be members of the commission designated by the commission.

Section 8. Resolution required; contents.

The commission shall order a special assessment by resolution which shall determine whether it is to be made by frontage or benefits, shall designate the several lots or premises to be assessed, the amount of the assessment and the number and amount of installments, if it is to be paid in installments.

Section 9. Assessments, frontage or benefits; regulations.

If the assessment is to be made according to frontage, each lot or parcel of land shall be assessed such relative portion of the whole amount to be levied as the frontage of such lot or parcel on the improvement bears to the whole frontage of all the lots or parcels to be assessed, provided, if by reason of the shape or size of any parcel such assessment may be inequitable the relative frontage may be changed to meet such condition. If the assessment is to be made according to benefits, each lot or parcel shall be assessed such relative

portion of the whole sum to be levied as shall be proportionate to the benefits of such lot or parcel from the improvement.

Section 10. Special assessment roll; contents.

The special assessment roll shall contain an accurate description of each parcel of land in the special assessment district, the frontage on the improvement if the assessment is to be made according to frontage, the valuation of the parcel as shown by the last preceding assessment roll, or as determined by the assessor as the case may be, and the amount of the special assessment chargeable against each parcel.
(As amended November 7, 1950)

Section 11. Same; review, notice required.

The assessor or board of assessors, as the case may be, shall attach to such special assessment roll a certificate showing the action taken by him or them, and shall thereupon file the roll with the clerk who shall give notice of the time and place when the commission shall review said roll and hear objections thereto, by publishing such notice for at least two successive weeks in one or more papers published and circulated in the City of Muskegon.

Editor's note—The notice provisions in the above section are superseded by MCL 211.741 et seq.

Section 12. Special assessment roll; review, confirmation.

At the time appointed or at some adjourned meeting the commission shall review the roll and shall hear and consider all objection thereto, whether written or oral. The commission may make any correction necessary or just or may refer the roll back to the assessor or board of assessors with directions to correct the same or to make a new roll as conditions may require. If the roll shall be approved, the commission shall pass a resolution confirming the same and the clerk shall endorse thereon a certificate showing the confirmation and the date thereof.

Section 13. Same; lien on premises.

Special assessment shall from the date of confirmation thereof constitute a lien on the respective lots or parcels of land assessed and shall be a charge against the owner thereof until paid.

Section 14. Special assessment roll; mayor's warrant; due date, interest.

Upon the confirmation of such roll the mayor shall endorse thereon or attach thereto a warrant bearing date the day of confirmation, commanding the city treasurer to collect the several sums thereon assessed. On all special assessments unpaid more than 60 days after the date of confirmation the city treasurer shall collect interest from the expiration of said period at the rate of five percent per annum. The warrant shall remain in full force and effect until the special assessment is paid or until it shall be levied on the general tax roll of the city as herein provided.

Section 15. Assessed premises; apportionment.

In case there shall be a change in ownership of a portion of any of the lots or parcels described on said roll, the treasurer may divide such portion and allow each portion to be paid by itself. In case of assessment by frontage the division shall be made in proportion to the number of feet frontage. In case of assessment by benefits it shall be made in proportion to the area of the respective portions.

Section 16. City treasurer duties.

Upon receiving any special assessment roll and warrant, the city treasurer shall proceed to collect the amounts assessed thereon and the interest, if interest is payable.

Section 17. Unpaid special assessments; interest; city treasurer, duties.

Between the first and fifteenth days of October in each year, the city treasurer shall make return duly certified by him of all special assessments or installments thereof then in his hands which are due and have remained unpaid and shall add thereto interest at the rate of five percent per annum from the confirmation of the roll to the first day of December following, and the city assessor shall levy and assess the same on the general assessment roll for that year in a separate column headed "Special Assessments."

Section 18. Invalid, defective assessments; reassessment authorized.

Whenever the commission shall deem any special assessment invalid or defective for any reason whatever, or if any court of competent jurisdiction shall have adjudged such assessment to be illegal for any reason whatever, the commission shall have power to cause a new assessment to be made for the same purpose for which the former assessment was made, whether the improvement or any part thereof has been made or not, and whether any part of the assessment has been paid or not. All proceedings on such reassessment and for the collection thereof shall be made in the same manner as provided for the original assessment. If any portion of the original assessment shall have been paid and not refunded, it shall be applied upon the reassessment and the reassessment shall to that extent be deemed satisfied. If more than the amount reassessed shall have been paid, the balance shall be refunded to the person making such payment.

Section 19. Same; court determination, restriction.

No special assessment shall be held invalid by any court by reason of the failure of the commission to take any of the steps herein prescribed before the assessment is ordered, provided the notice of hearing prescribed in section two of this chapter shall have been given and the hearing actually had, and no objections on the ground of such failure shall have been made; nor shall any such special assessment be held invalid by reason of any default of the city or its officers in the making of said assessment provided the notice of the confirmation of the assessment roll shall have been given and the hearing thereof had and such objections shall not have been raised or urged on such hearing.

Section 20. Unpaid assessments; action in assumpsit authorized.

At any time after any special assessment has become due and payable the same may be collected by suit in the name of the city against the person assessed in an action of assumpsit in any court having jurisdiction of the amount. In every such action a declaration upon the common counts for money paid shall be sufficient. The special assessment roll and the certificate of the confirmation thereof endorsed thereon and the warrant for the collection thereof shall be evidence of the regularity of all the proceedings in making the assessment, and of the right of the city to recover judgment therefor.

State law reference—Authority for an action in assumpsit to recover unpaid assessments, MCL 211.501 et seq.

Section 21. Same; assumpsit, defense, limitation.

If in such action it shall appear that by reason of any irregularity or informality the assessment has not been properly made against the defendant or the lot or premises sought to be charged the court nevertheless on proof that the expense has been incurred by the city which is a proper charge against the defendant or the lot or premises in question, shall render judgment for the amount properly chargeable against such defendant or upon such lot or premises.

Section 22. Judgments, decrees; lien, impairment.

No judgment or decree or any act of the commission vacating a special assessment shall destroy or impair the lien of the city upon the premises assessed for such amount of the assessment as may be equitably charged against the same or by a regular mode of proceeding might have been lawfully assessed thereon, nor shall the bringing of any suit by the city for such assessment be deemed a waiver of such lien nor of the right to enforce the same.

Section 23. Land, particular parcel; assessment authorized.

Whenever the commission shall direct the construction or repair of any work whereby a particular piece or parcel of land shall be benefited, or the abatement of any nuisance on any such piece or parcel of land and by reason of default of the owner or occupant of such parcel in performance thereof, the same has been done by the city, the expense thereof shall be a lien on such premises and may be assessed as a special assessment on the general assessment roll of the city.

Section 24. Same; notice required, regulations.

Before any such work or act shall be ordered the commission shall give to the parties interested a notice of not less than 14 days of the time when they may be heard concerning the same. Such notice shall be in writing and may be served personally or by registered mail. If the residence of the owner of an premises to be affected shall not be known, service may be made by publication in one of the newspapers of this city not less than three times. In case of abatement of nuisances or other work requiring prompt action, such notice may be of reasonable length as the conditions may require and as the commission shall determine.

Editor's note—The notice provisions in the above section are superseded by MCL 211.741 et seq.

Section 25. Same; costs, computation; due date, interest.

The cost of such work shall include the cost of publication, if any, and all other expenses incident thereto, and as soon as the same is ascertained the clerk shall certify the amount thereof to the treasurer, giving the name of the person liable therefor and a description of the premises chargeable therewith. The treasurer shall thereupon give notice to the person named of the amount thereof, personally or by registered mail, and that the same may be paid at his office within 30 days thereafter without additional cost. If the same shall remain unpaid after that time he shall charge interest at the rate of six percent per annum from the date of notice.

Section 26. Appeals; time, hearing; commission authority.

Any person interested in such assessment may appeal to the commission from such determination at any time within 20 days after the service of notice by the treasurer and may petition for hearing on the same. On receipt of such petition the commission shall appoint a time for hearing, of which notice shall be given to the petitioner. At the time fixed the commission shall hear and consider all objections that may be urged against the assessment and then or at some subsequent meeting shall act on the same and shall affirm, modify or cancel such assessment, as the case may require. Such assessment shall then be recertified to the treasurer and may be paid without additional charges within 30 days after the determination by the commission.

Section 27. Unpaid special assessments; certification to Assessor, levy.

Between the first and fifteenth days of October of each year the treasurer shall certify to the assessor the amount of all such special charges in his hands that shall have remained unpaid for the period of 30 days and he shall include in said amount interest thereon from the date the same were certified to him until the first day of December following, at the rate of five percent per annum, and the assessor shall levy the same on the general tax roll in a column headed "Special Assessments" against the person or property to be charged therewith. No special assessment shall be declared and held to be invalid by reason of any defect or default in the proceeding herein prescribed provided the notice of hearing provided for in section 24 has been given or provided that the person whose duty it was to do such work had notice or knowledge that the same was being done by the City of Muskegon and did not make objections thereto before the completion of the same.

Section 28. Railroads; land subject to special assessments.

The lands and premises of railroad corporations within the City of Muskegon, regardless of the use which may be made thereof, shall be subject to special assessments as in this chapter provided, the same as the lands and premises of other individuals or corporations, and the owners or lessees in control thereof shall be liable for the payment of such special assessments the same as are the owners of other lands.

State law reference—Authority to levy special assessments for local improvements against railroad property, MCL 211.7v.

CHAPTER XIV. FRANCHISES FOR PUBLIC UTILITIES AND OTHER FACILITIES

[Section 1. Right and jurisdiction reserved.]

The city reserves the right and jurisdiction provided by the laws of the State of Michigan for the granting, refusal, administration and revocation by Home Rule Cities of franchises. The city shall provide by ordinance for the requirements and conditions pursuant to which franchises may be granted, refused, administered and revoked, concerning public utilities and other franchisees. Franchises may be granted, refused, administered and revoked pursuant to city ordinance in accordance with the constitution and the laws of the State of Michigan.
(As amended November 4, 1997)

CHAPTER XV. CIVIL SERVICE*

Section 1. Board of civil service commissioners; appointment, term, filling vacancies, compensation.

The mayor by and with the consent and advice of the city commission shall appoint three persons, citizens and residents of said city, who shall constitute and be known as the board of civil service commissioners of such city, and shall designate one of the persons so appointed to serve for a term of two years, one for a term of four years and one for a term of six years from the first day of January in the year of their appointment and until their respective successors are appointed and qualified. Each alternate year thereafter the mayor with the advice and consent of the city commission shall appoint one person as the successor of the member whose term shall expire to serve for six years. Any vacancy shall be filled by the mayor with the advice and consent of the city commission for the unexpired term. No member shall hold any other lucrative office or employment, except notaries public under the United States, the State of Michigan, or any municipal corporation or political division thereof, and each commissioner shall before entering upon the discharge of the duties of his office and within ten days after receiving notice of his appointment, take and subscribe the oath of office prescribed by the constitution of this state, and file the same, duly certified by the officer administering it with the clerk of this city. The commission shall at a meeting in January of each alternate year following the appointment of the commissioner to be appointed at each alternate year, elect one member to act as president and one member to act as vice president, each for a term of two years, and until successor is duly elected. Two commissioners shall constitute a quorum necessary for the transaction of business. The mayor with the advice and consent of the city commission may remove a commissioner during a term of office only upon stating in writing the reasons for removal and allowing him an opportunity to be heard in public in his own defense and to be represented by counsel at any and all hearings on proceedings of removal from office. The commission shall serve without salary.

Section 2. Powers and duties.

The commission shall classify all the offices of employment; shall make rules for the examination and selection of persons to fill the offices and positions in the classified service; shall supervise the administration of the civil service rules, hold examinations thereunder from time to time, giving due notice thereof, prepare and keep an eligible list of persons passing such examinations, and certifying the names of persons thereon to appointing officers of the several departments; shall by itself or otherwise investigate the enforcement of the provisions of this chapter of the Charter, of its own rules and of the action of appointees in the classified service; provided however, that the rules made by the commission and the system in marking examinations thereunder shall not be changed for a period of 30 days prior to or after such examinations and such systems of marking shall be published in advance of such examinations and copies furnished to all applicants. No credit shall be allowed for experience until the applicant taking the examination has at least attained the percentage fixed as the minimum.

***Editor's note—**This chapter is an amendment adopted November 5, 1936.

State law reference—Charter may provide for a system of civil service for its employees, MCL 117.4i(h).

Section 3. Classified service; applicants, examination required.

All applicants for office or positions in said classified service, except those otherwise specified, shall pass an examination. All persons desiring to appear for examination shall file with the commission a statement in relation to their name, residence and post office address; their citizenship; their age, place of birth, health and physical capacity for the public service; previous employment in the public service; business or employment and residence for the previous five years and their education.

Section 4. Eligible lists, grades; leaves, transfers, resignations.

For [from] the returns of the examinations held by the commission, it shall prepare an eligible list for each grade or class of position in the competitive classified service of the city. The commission shall strike off the names of candidates from the eligible list after they have remained thereon one year, provided however, that any list may be extended by the commission for a period of not exceeding one year. The commission may upon the written request of any person who has previously been in the classified service for a continuous period of not less than three years grant upon request to such person a leave of absence to engage in other work of a governmental nature or character provided that the reasons for the requesting and granting of such leave of absence are at the time of such request and permission made a part of the minutes of the proceedings of the commission. The commission may grant leaves of absence for reasons of health or for service in defense of country and upon the expiration of the term of leave as fixed by the commission or extended by it upon further application for an extension, reinstate said person in the service in the same kind and grade of work he was performing at the time of his request for leave of absence. The commission may upon written request of any person who has previously been in the classified service for a continuous period of not less than three years and who shall not have been out of the service for more than one year, and who shall have resigned from the service in good standing, reinstate said person in the service by placing him at the foot of the eligible list applicable to such kind and grade of service.

Section 5. Filling positions, procedure.

The head of any department in which a position is to be filled shall notify the commission of that fact and in the event the position is to be filled by promotion from one grade of service to another, then the commission shall certify to the appointing officer the name and address of the person standing highest on the eligible list for promotion, but in the event that the position to be filled is one for which a vacancy exists, then the commission shall certify to the appointing officer the names and addresses of the three persons standing highest on the eligible list. At or before the expiration of the period of probation the head of the department or office in which a candidate is employed may, with the consent of said commission, based upon the written reasons submitted to it, discharge him, or the commission may transfer him to another department with the consent of the head of such department, but if not discharged prior to the expiration of the period of probation, as hereinafter fixed, his appointment shall be deemed complete.

Annotation—Employees of the fire department brought an action for a declaratory judgment for construction of the provisions of the Charter concerning the eligible list and the effect of promotion of the person standing highest on the list. The civil service commission argued that, after the top person on the list has been promoted, the list can serve no further purpose. The plaintiffs argued that, after the top person is promoted, the list is still viable and the person next in line moves up to the priority position. The Supreme Court of Michigan adopted the latter argument as being "the clear intent" of the Charter and affirmed a decree for the plaintiff firemen. See *Caswell* v. *Board of Civil Service Commission of Muskegon,* 25 N.W. 2d 178 (1946).

Section 6. Promotions; regulations authorized.

The commission shall provide the rides for promotion to all offices in the classified service, based upon merit, efficiency, character, conduct and seniority.

Section 7. Appointive officers; civil service regulations inapplicable.

The following officers and employees shall not be affected by the provisions of the civil service:

officers appointed by the city commission; directors of the several city departments as in this Charter defined.

Section 8. Temporary appointments; procedure.

To prevent the delay of special business or to meet extraordinary exigencies, the appointing officer of each department with the approval of the civil service commission, may make temporary appointments to remain in force not exceeding 60 days, and only until legal appointments under the provisions of this chapter can be made, provided, however, that no person who does not possess the minimum requirements for such position as may be prescribed by the rules of the civil service commission shall be permitted to serve in such temporary positions. No person shall receive more than one temporary appointment in any one fiscal year. In case of an emergency or in the event of the necessity for filling such positions created by an emergency, an appointment may be made of not to exceed 30 days duration, which appointment shall be immediately reported to the Civil Service Commission.

An appointment or promotion shall not be deemed complete until a period of probation of not to exceed six months has elapsed and a probationer may be discharged or reduced at any time within said period of probation upon written recommendation of the department head with the advice and consent of the civil service commission.

If at any time it shall be deemed necessary by the municipal government or any division thereof to reduce the personnel of any department such reduction shall be had by suspending in numerical order, commencing with the probationers, if any, then the last appointee and continuing until such reduction in personnel as may be required by the particular exigencies of the time, shall have been made. Any increase of personnel of such department to the status or number existing prior to said reduction shall be by reinstating the last employee so suspended and continuing in numerical order until all such reinstatements shall have been made.

Section 9. Classified service, unclassified service; composition.

The civil service of the city is hereby divided into classified and unclassified service. The unclassified service shall include the several officers and positions hereinbefore described to be excepted from the provisions of this chapter. The classified service shall comprise all positions not specifically included in this Charter in the unclassified service. There shall be in the classified service three classes to be known as the competitive class, noncompetitive class and labor class. The competitive class shall include all positions and employment for which it is practical to determine the merit of applicants by competitive examination. The noncompetitive class shall consist of all positions requiring peculiar and exceptional qualifications of a scientific, managerial, professional or educational character as may be determined by the rules of the civil service commission. The labor class shall include ordinary unskilled labor.

Section 10. Classified service; discharge, suspension, reduction in rank, compensation; hearing required.

No employee under the classified service shall be discharged or reduced in rank or compensation until he has been presented with the reasons for such discharge or reduction specifically stated in writing, and has been given an opportunity to be heard in his own defense and any counsel retained by him may present his cause to the civil service commission. The reasons for such discharge or reduction and any report in writing thereunder by such employee shall be filed with the civil service commission. Any employee of any department in the classified service who is suspended, reduced in rank or dismissed, may appeal to the civil service commission which shall designate the manner, time and place by and at which such appeal shall be heard. All hearings before the said civil service commission shall at all times be open to the public. In the event that the civil service commission shall not sustain the charges made against such employee, the said employee shall thereupon be entitled to resume his position and to receive compensation for the time lost.

Section 11. Civil Service commission; members; gifts, compensation, etc.; prohibited.

No member of the civil service commission shall receive any money or other valuable consideration from any candidate for appointment, for examination or from any other person for or on account of said candidate, nor shall any officer or employee of the city be permitted to give either directly or indirectly to any person any money or other valuable consideration whatsoever for, or on account of his promotion.

Section 12. Personnel director; appointment authorized; compensation, restriction.

The civil service commission may appoint a personnel director who shall act and serve under the direction of said commission and at the pleasure of such commission, and such personnel director may be an employee in the municipal service. The salary of such personnel director, if he is taken from other than a municipal service, shall be fixed by the commission, but if taken from the municipal service, he shall fill the duties of personnel director without other compensation than that paid him in his other employment.

Section 13. Present employees; appointments, eligibility; examinations waived.

All persons in the employ of the city holding positions in the classified service at the time of the going into effect of the Charter as such services are defined by this chapter of the Charter, are hereby declared eligible for permanent appointment without examination or other act on their part.

Section 14. Political, religious, etc., beliefs; discrimination prohibited.

No discrimination shall be exercised, threatened or promised to any person coming under the provisions of this chapter of the Charter because of his political or religious opinions, beliefs or affiliations.

Section 15. Department payrolls; delivery to commission.

The commission shall be furnished by each department under its jurisdiction with a copy in duplicate of each payroll on the day designated by the commission, and the commission shall examine such copies to determine if all the names and no other names are on said payroll than those on the active list and that they have been properly certified by the commission.

Section 16. City commission; civil service, maintenance; annual appropriation required.

The city commission shall appropriate each year a sufficient sum to carry out the several provisions of the chapter of the Charter.

Section 17. Conflicting provisions repealed.

Any provisions of any chapter or section thereof of the Charter of the City of Muskegon which may be found to be in conflict with any of the provisions of this chapter and the several sections thereof or inconsistent therewith are hereby repealed.

CHAPTER XVI. RETIREMENT SYSTEM FOR THE EMPLOYEES OF THE CITY OF MUSKEGON EXCLUSIVE OF POLICEMEN, FIREMEN, ET AL*

Section 1. Employee retirement system to be provided by ordinance.

A complete retirement system shall be provided for the employees of the City of Muskegon, exclusive of policemen and firemen, by general ordinance. The benefits applicable to the members of the Charter retirement system at the time of the adoption of this Charter amendment shall not be diminished by the ordinance retirement system.

*__Editor's note—__This chapter is an amendment adopted November 5, 1946, as amended August 7, 1975.

Section 2. Administration board of trustees.

The retirement system shall be administered by a board of trustees consisting of:

(1) Two members of the city commission to be selected by the commission, to serve at the pleasure of the commission.

(2) The city manager by virtue of his office.

(3) A citizen who is an elector of the city, to be appointed by the mayor with consent of the city commission.

(4) Three members of the retirement system to be elected by the members of the system under such rules and regulations as the board of trustees shall from time to time adopt, provided that no more than one such trustee shall be from any one city department.

Section 3. Effective date.

The effective date of this Charter amendment shall be January 1, 1976, but Chapter XVI of the Charter as it existed at the time of the adoption of this amendment shall continue in full force and effect until the enactment by the city commission, and the taking effect of the ordinance provided for in Section 1 hereof.

Section 4. Repeal of former Sections 5 to 38 and conflicting provisions.

Sections 5 to 38, both inclusive, of chapter XVI of the Charter of the City of Muskegon are hereby repealed. All provisions of the Charter inconsistent with the provisions of this Charter amendment are hereby repealed to the extent of such inconsistency. The adoption of this Charter amendment shall not be construed as reenacting any Charter provisions heretofore repealed by said chapter XVI.

Sections 5—38. Reserved.

Section 39. Amendment; effective date.

The 1956 amendments to chapter XVI (sections 1 through 39) of the City Charter shall become effective as of the social security date.

CHAPTER XVII. MISCELLANEOUS

Section 1. Trades, occupations, amusements; regulations, licenses, expiration date.

The city commission may regulate and license trades, occupations and amusements within the city boundaries and prescribe the terms and conditions of such licenses, but every license shall terminate on or before May first after it is granted.

State law reference—Authority to regulate trades and business, MCL 117.4i(d).

Section 1a. Employees; life, health, accident benefits.

The city commission shall be authorized to provide group life, health and accident and/or hospitalization insurance, including surgical and medical expense and dependent coverage, for city employees, either with or without participation in the cost thereof by said employees, and to appropriate the necessary funds therefor.

(As amended November 4, 1952)

State law reference—Authority to provide employee accident and death benefits, MCL 117.4i(h).

Section 2. Streets, alleys; plan.

It may make a plan of streets and alleys within its limits and for a distance of three miles beyond and require all streets and alleys laid out and dedicated to the public within the territory covered by such plan to correspond therewith.

State law reference—Authority to make a plan for streets and alleys, MCL 117.4h.

Section 3. Zoning.

It may prescribe by ordinance districts within the city which shall be used only for residence purposes and residence districts within which a limited amount of business to be fixed by the ordinance may be allowed and districts within which business, trades and occupations may be carried on, and make reasonable regulations concerning the same.

State law reference—Authority to provide for zoning districts, MCL 117.4i(c).

Section 4. Buildings; construction, repair; building lines.

It may regulate the construction and repair of buildings within the city and establish building lines.

Section 5. Real estate taxes; indigent persons; payment, requisites.

It may pay the real estate taxes of any person who in the judgment of the commission is too poor to pay the same, but in all cases where the commission shall pay such taxes it shall take and retain a mortgage lien upon the land against which the taxes are assessed, the form of which shall be determined by the city attorney, and which shall take precedence over all subsequent transfers or incumbrances and shall be recorded and enforced as other mortgages.

Section 6. Employees, contractors; working hours; ordinance authorized.

Eight hours per day (48 hours per week) shall constitute the regular working time for all persons engaged in work for or sublet by the city and every contract involving the hiring of help to be employed on city work shall contain a provision so fixing the hours of employees engaged on work for which such contract provides, provided however, that this section shall not apply to city officers nor boards and that the city commission may by ordinance fix the working time of the city's clerical force and the members of the fire department.

Section 7. City litigation; bonds, not required.

In case the city shall take an appeal in any court or shall cause a writ of error to be issued in its behalf in any suit brought by or against the city it shall not be necessary in order to perfect such appeal or to stay proceedings upon any judgment or decree for the city to execute any bond or other undertaking.

Section 8. City council; continuance in office; successors.

The existing council at the time this Charter takes effect shall continue in the administration of the city's affairs under the prior Charter until the first day of January, 1920, and the then existing officers and employees of the city shall continue to perform the duties of their respective positions until their successors are chosen and qualified.

Section 9. Initial election under Charter, requisites.

The council in office at the time of the adoption of this Charter shall make all necessary arrangements in accordance with the provisions hereof for the first election under its provisions which shall be held on the fourth day of November, A.D., 1919, and shall appoint temporary inspectors of registration and election therefor and shall meet and canvass the votes cast at such election in place of the board of election commissioners and shall do everything in that regard prescribed by this Charter to be done by such election commissioners or the city commission; provided, however, that the ballots shall be prepared by the city recorder.

Section 10. Previous Charter; superseded by this Charter; saving clause.

This Charter shall supersede the existing Charter of said city but all rights and rights of action now existing, all suits in course of prosecution for or against the city under the former act of incorporation shall remain unimpaired and all taxes levied and uncollected shall be collected the same as if this Charter had not been adopted and in case the course of proceeding provide for in this Charter shall differ from that in the one which it supersedes, either method may be followed, it being the intention that no rights of any name or nature in existence at the time of the adoption of this Charter shall be lost or jeopardized.

CHAPTER XVIII. RESERVED*

CHAPTER XIX. POLICEMEN AND FIREMEN RETIREMENT SYSTEM†

Section 1. To be established by ordinance; existing benefits not to be diminished.

A complete retirement system shall be provided for policemen and firemen of the City of Muskegon, by general ordinance. The benefits applicable to the members of the Charter Retirement System at the time of the adoption of this Charter Amendment shall not be diminished by the Ordinance Retirement System.
(As amended August 7, 1973)

Section 2. Repealer.

Sections 2 to 45 both inclusive of chapter XIX of the Charter of the City of Muskegon are hereby repealed. All provisions of the Charter inconsistent with the provisions of this Charter Amendment are hereby repealed to the extent of such inconsistency. The adoption of this Charter Amendment shall not be construed as reenacting any Charter provisions heretofore repealed by said chapter XIX.
(As amended August 7, 1973)

Section 3. Effective date; continuation of existing system until ordinance adopted.

The effective date of this Charter Amendment shall be January 1, 1974, but chapter XIX of the Charter as it existed at the time of the adoption of this Amendment shall continue in full force and effect until the enactment by the city commission, and the taking effect of the ordinance provided for in section one hereof.
(As amended August 7, 1973)

***Editor's note—**This chapter was adopted April 1, 1935, and amended November 6, 1956, and related to the municipal court. It has been omitted, since such courts have been abolished by MCL 600.9921.

†**Editor's note—**This chapter was adopted November 7, 1944, and originally set out the retirement system in detail. The amendment of August 7, 1973, amended the chapter to read as set out herein.

CHAPTER XX. CHARTER PARKS

[Section 1. Establishment.]

The city commission may establish, by resolutions from time to time, on lands in the city owned by it in fee simple, parks and park land, to be called Charter Parks. A resolution establishing such Charter Park or Parks shall contain the complete legal description of the land to be included, and shall refer to the City Charter as constituting the authority for such establishment. Upon the final adoption of such resolution it shall be certified and recorded at the register of deeds, in addition to any other required public notice. Thereafter, land established by any such resolution as a Charter Park shall not be sold, mortgaged, transferred or conveyed by the city except with the approval of the majority of the electors voting at an election held in the city. The establishment of a Charter Park by this method shall be irrevocable. The city commission may in its discretion prescribe that public notice shall be given, and direct the form thereof, before consideration of any such resolution. This provision shall not prevent other lands from being city parks or park land.
(Added August 4, 1998)

CHARTER COMPARATIVE TABLE

This table shows the location of the sections of the basic Charter and any amendments thereto.

Date	Section	Section this Charter
5- 8-1920		Ch. VIII, § 3
7-11-1934		Ch. VIII, § 3
4- 7-1947		Ch. II, § 5
		Ch. II, § 15
11- 7-1950		Ch. XIII, § 4
		Ch. XIII, § 10
11- 4-1952		Ch. XVII, § 1a
11- 3-1964		Ch. III, § 4
8- 7-1973		Ch. XVII, § 10
		Ch. XIX, § 2
		Ch. XIX, § 3
11- 2-1982	1	Ch. I, § 4
	2	Ch. II, § 8
	3	Ch. III, § 1
		Ch. III, § 3
11- 8-1994	1	Ch. III, § 1
		Ch. III, § 2
		Ch. III, § 5
	2	Ch. XI, § 6
11- 4-1997		Ch. XIV, § 1
8- 4-1998		Ch. XX, § 1
11- 2-1999		Ch. III, § 10
2-22-2000		Ch. VII, § 19

PART II

CODE OF ORDINANCES

Chapter 1

GENERAL PROVISIONS

Sec. 1-1.	How Code designated and cited.
Sec. 1-2.	Definitions and rules of construction.
Sec. 1-3.	Catchlines of sections; history notes; references.
Sec. 1-4.	Effect of repeal of ordinances.
Sec. 1-5.	Amendments to Code; effect of new ordinances; amendatory language.
Sec. 1-6.	Supplementation of Code.
Sec. 1-7.	General penalty; continuing violations.
Sec. 1-8.	Severability.
Sec. 1-9.	Provisions deemed continuation of existing ordinances.
Sec. 1-10.	Code does not affect prior offenses or rights.
Sec. 1-11.	Certain ordinances not affected by Code.

Sec. 1-1. How Code designated and cited.

The ordinances embraced in this and the following chapters shall constitute and be designated the "Code of Ordinances, City of Muskegon, Michigan" and may be so cited. Such ordinances may also be cited as the "Muskegon City Code." (Code 1975, § 1-1; Code 2002, § 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 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 Muskegon, Michigan.

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

City commission and *commission.* The terms "city commission" and "commission" mean the city commission of the City of Muskegon.

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 Muskegon, Michigan, as designated in section 1-1.

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 included 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.

County. The term "county" means Muskegon 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 any one or more of the following:

(1) Imprisonment.

(2) Fine not designated a civil fine.

(3) Other penal discipline.

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.

Gender. Words of one gender include the other genders.

Health department and *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 and *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 or revised, and any successor statute.

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

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

Number. The singular includes the plural and the plural 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, board, commissions or employees are to city officers, city departments, city boards, city commissions and city employees.

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

Premises. The term "premises," as applied to real property, includes lands 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. The term "real property" includes lands, tenements and hereditaments.

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 and *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 1975, § 1-3; Code 2002, § 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 parenthesis after sections in this Code have no legal effect and only indicate legislative history. 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 1975, § 1-2; Code 2002, § 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 nor 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 2002, § 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 Muskegon, Michigan, is hereby 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 Muskegon, Michigan, is hereby created to read as follows: . . . ."

(d) All provisions desired to be repealed should be repealed specially by section, subdivision, division, article or chapter number, as appropriate, or by setting out the repealed provisions in full in the repealing ordinance.
(Code 1975, § 1-7; Code 2002, § 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 1975, § 1-8; Code 2002, § 1-6)

Sec. 1-7. 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 or city ordinance, all violations of this Code are misdemeanors. Except as otherwise provided by law or 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 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 93 days, or by both such fine and imprisonment.

(e) The commission of any violation of this Code that is declared to be a civil infraction shall subject the violator to a civil penalty as provided

by state law for municipal civil infractions or trailway municipal infractions, whichever is applicable, and as determined by city ordinance.

(1) The sanction for a municipal civil infraction or trailway civil infraction shall be a civil fine in the amount determined by ordinance, plus any costs, damages, expenses and other sanctions, as authorized by state law.

(2) Unless otherwise specifically provided for a particular civil infraction, the civil fine for a violation shall be not less than $50.00, plus costs and other sanctions, for each infraction.

(3) Increased civil fines may be imposed for repeat offenses. In this subsection, the term "repeat offense" means a second or any subsequent municipal civil infraction violation of the same requirement or provision committed by the same person within any 24-month period and for which the person has admitted responsibility or is determined responsible. Unless specifically provided for a particular civil infraction violation, the increased fine for a repeat offense shall be as follows:

a. For the first repeat offense, a fine of not less than $250.00, plus costs.

b. For a second repeat offense, or any subsequent repeat offense, a fine of not less than $500.00, plus costs.

(4) The civil infraction fine schedule in section 46-204 is hereby adopted by reference.

(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 unless provided otherwise.

(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.

(Code 1975, § 1-6; Code 2002, § 1-7)

State law reference—Penalty for ordinance violations, MCL 117.4i(k), 117.41.

Sec. 1-8. Severability.

If any provision of this Code or its application to any person or circumstances is held invalid or unconstitutional, the invalidity or unconstitutionality does not affect other provisions or application 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 1975, § 1-9; Code 2002, § 1-8)

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

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 2002, § 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.

(a) 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.

(b) 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 1975, § 1-5; Code 2002, § 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 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 assessment.

(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, including, but not limited to, the basic zoning ordinance and ordinances rezoning property.

(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 1975, § 1-4; Code 2002, § 1-11)

Chapter 2

ADMINISTRATION*

Article I. In General

Secs. 2-1—2-30. Reserved.

Article II. City Commission

Secs. 2-31—2-60. Reserved.

Article III. Officers and Employees

Secs. 2-61—2-90. Reserved.

Article IV. Departments

Division 1. Generally

Secs. 2-91—2-105. Reserved.

Division 2. Department of Administration

Sec. 2-106. Established.
Sec. 2-107. Assistant city manager; appointment, responsibility.
Sec. 2-108. Construction of division.
Secs. 2-109—2-125. Reserved.

Division 3. Department of Public Works

Sec. 2-126. City manager to be executive officer; appointment of director.
Sec. 2-127. Appointment of assistants and other employees.
Sec. 2-128. Report of resignations; assignments for personnel.
Sec. 2-129. Departmental orders.
Sec. 2-130. Supervision of division superintendents.
Sec. 2-131. Moonlighting by employees.
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Division 4. Department of Community Development

Sec. 2-146. Created; function.
Sec. 2-147. Appointment and responsibilities of director.
Sec. 2-148. Employees.
Sec. 2-149. Construction of division.
Secs. 2-150—2-165. Reserved.

Division 5. Department of Affirmative Action

Sec. 2-166. Established; functions.
Sec. 2-167. Director of affirmative action; appointment, responsibility.
Secs. 2-168—2-230. Reserved.

***State law references—**Home rule city act, MCL 117.1 et seq.; standards of conduct and ethics, MCL 15.341 et seq.; open meetings act, MCL 15.261 et seq.; freedom of information act, MCL 15.231 et seq.

Article V. Finance

Division 1. Generally

Sec. 2-231. Money received for city by officers and employees; payment made to treasury.
Sec. 2-232. Charges for collection of debts, civil fines, expenses and costs of the city in connection with property and ordinance violations involving property.
Secs. 2-233—2-250. Reserved.

Division 2. Purchasing and Sales

Sec. 2-251. Appointment and general duties of purchasing agent.
Sec. 2-252. Requisition and purchase orders.
Sec. 2-253. Payment and accounting.
Sec. 2-254. Purchasing procedures.
Sec. 2-255. Recovery of overhead and indirect costs.
Sec. 2-256. Board of review.
Secs. 2-257—2-259. Reserved.

Division 3. Budget Procedure

Sec. 2-260. Fiscal year.
Sec. 2-261. Budget procedures.
Sec. 2-262. Hearing.
Sec. 2-263. Adoption of budget.
Secs. 2-264—2-280. Reserved.

Article VI. Boards and Commissions

Division 1. Generally

Secs. 2-281—2-295. Reserved.

Division 2. Local Officer's Compensation Commission

Sec. 2-296. Definition.
Sec. 2-297. Created; composition; appointment and terms of members.
Sec. 2-298. Certain persons not eligible for membership.
Sec. 2-299. Compensation of members.
Sec. 2-300. Election of chairperson.
Sec. 2-301. Quorum.
Sec. 2-302. Determination of salaries of elected officials.
Sec. 2-303. When salary determinations effective; rejection of determinations by city commission; payments to officials in addition to salaries.
Sec. 2-304. Meetings; public notice.
Sec. 2-305. Public availability of records.

ARTICLE I. IN GENERAL

Secs. 2-1—2-30. Reserved.

ARTICLE II. CITY COMMISSION

Secs. 2-31—2-60. Reserved.

ARTICLE III. OFFICERS AND EMPLOYEES

Secs. 2-61—2-90. Reserved.

ARTICLE IV. DEPARTMENTS

DIVISION 1. GENERALLY

Secs. 2-91—2-105. Reserved.

DIVISION 2. DEPARTMENT OF ADMINISTRATION

Sec. 2-106. Established.

There is hereby established a department of administration, the functions of which shall be inclusive of, but not limited to, administration, control and supervision of all city forces as a direct extension of the city manager's office.
(Code 1975, § 2-37; Code 2002, § 2-106)

Sec. 2-107. Assistant city manager; appointment, responsibility.

The city manager shall appoint, subject to the advice and consent of the city commission, a qualified person to be the assistant city manager who shall be responsible for carrying out the functions of this department and any directives of the city manager in connection herewith.
(Code 1975, § 2-38; Code 2002, § 2-107)

Sec. 2-108. Construction of division.

No provision in this division shall be construed as conflicting with the regular functions of any department of the city heretofore established by ordinance.
(Code 1975, § 2-40; Code 2002, § 2-108)

Secs. 2-109—2-125. Reserved.

DIVISION 3. DEPARTMENT OF PUBLIC WORKS

Sec. 2-126. City manager to be executive officer; appointment of director.

The city manager shall be the executive officer of the department of public works. The city manager shall appoint a director of public works, who may also be the city engineer, who shall be responsible to the city manager for the management and operation of the department.
(Code 1975, § 2-71; Code 2002, § 2-126)

Sec. 2-127. Appointment of assistants and other employees.

The director of public works may appoint, with the consent and approval of the city manager, an assistant director of public works, an assistant director of equipment maintenance, an assistant city engineer and a surveyor. The director of public works may also appoint, with the consent and approval of the city manager, such other employees as may be required from time to time by the department of public works.
(Code 1975, § 2-72; Code 2002, § 2-127)

Sec. 2-128. Report of resignations; assignments for personnel.

The director of public works shall report in writing the resignation of any member of the department of public works, or notice of intended resignation, transmitting such report to the city manager. The director of public works shall have power to detail any member of the department to perform any service, if the good of the department shall demand.
(Code 1975, § 2-73; Code 2002, § 2-128)

Sec. 2-129. Departmental orders.

The director of public works shall have power to promulgate such orders to the department as may be necessary. All important orders shall be given in writing and a record of such orders kept by the director of public works in a book provided especially for that purpose. It shall be the duty of

the entire force to render to the director of public works and to his orders unquestioned obedience. All such orders shall be in conformity to the laws and to the rules and regulations prescribed in this division.
(Code 1975, § 2-75; Code 2002, § 2-129)

Sec. 2-130. Supervision of division superintendents.

Superintendents of divisions of the department of public works shall take orders from the director of public works and the city manager, and from them only. Obedience to orders of a superior in rank shall be faithfully observed, and any member of the department offending in this regard will be held strictly accountable, unless such order has been properly countermanded, and no plea of ignorance of the law, rules, rights and duties on the part of the offender will avail to relieve him of the liabilities imposed.
(Code 1975, § 2-76; Code 2002, § 2-130)

Sec. 2-131. Moonlighting by employees.

Members and employees of the department of public works shall devote their whole time and attention to the service of the department, except as provided in this section. During their off-duty hours, they may engage in outside business activities so long as such activities shall in no way impair or affect their efficiency or interfere with the performance of their official departmental duties. When engaged in such outside activities, they shall file with the director of public works a written notice of the character of work engaged in and the place where engaged, and shall make themselves available and be prepared at all times to respond immediately on call if their services are required by the department. It shall be the duty of the director of public works to determine whether such outside activities of any member of the department are impairing or affecting his efficiency or interfering with his official duties, and if so, such member shall be required to discontinue such activity. Members may engage in work for other city departments whenever authorized by the director of public works.
(Code 1975, § 2-77; Code 2002, § 2-131)

Secs. 2-132—2-145. Reserved.

DIVISION 4. DEPARTMENT OF COMMUNITY DEVELOPMENT

Sec. 2-146. Created; function.

There is hereby established a department of community development whose function shall be the supervision and coordination of all redevelopment activities relating to projects dealing with the expenditures of the U.S. Department of Housing and Urban Development funds, and redevelopment of areas for community betterment as prescribed by the city commission, including, but not limited to, the management of real property outside of development areas.
(Code 1975, § 2-106; Code 2002, § 2-146)

Sec. 2-147. Appointment and responsibilities of director.

The city manager shall appoint a qualified person, subject to the advice and consent of the city commission, as director of the department of community development, who shall be responsible for carrying out the functions of the department and any directive of the city manager in connection therewith.
(Code 1975, § 2-107; Code 2002, § 2-147)

Sec. 2-148. Employees.

The director of the department of community development may appoint, with the consent and approval of the city manager, such employees as may be required from time to time by the department.
(Code 1975, § 2-108; Code 2002, § 2-148)

Sec. 2-149. Construction of division.

No provision in this division shall be construed as conflicting with the regular functions of any department of the city heretofore established by ordinance.
(Code 1975, § 2-109; Code 2002, § 2-149)

Secs. 2-150—2-165. Reserved.

DIVISION 5. DEPARTMENT OF AFFIRMATIVE ACTION

Sec. 2-166. Established; functions.

There is hereby established a department of affirmative action, the functions of which shall be inclusive of, but not limited to:

(1) Receiving of complaints on any discrimination or affirmative action matter and acting on such complaints;

(2) Reviewing and advising the city of equal employment rules, regulations and legislation;

(3) Establishing, updating and monitoring a city equal opportunity policy;

(4) Working with and providing staffing for the equal opportunity commission; and

(5) Carrying out other matters as assigned by the city manager.

(Code 1975, § 2-191; Code 2002, § 2-166)

Sec. 2-167. Director of affirmative action; appointment, responsibility.

The city manager shall appoint a qualified person to be the director of the department of affirmative action, who shall be responsible for carrying out the functions of the department and any directives of the city manager in connection therewith.

(Code 1975, § 2-192; Code 2002, § 2-167)

Secs. 2-168—2-230. Reserved.

ARTICLE V. FINANCE*

DIVISION 1. GENERALLY

Sec. 2-231. Money received for city by officers and employees; payment made to treasury.

All funds collected or received for the city from fines, fees, penalties or from other sources, by any officer or employee, under the authority of the provisions of the Charter or any rule, regulation or ordinance in force in the city or fixed or prescribed by any state law, shall be paid by such officer or employee promptly into the city treasury.

(Code 1975, § 2-2; Code 2002, § 2-231)

Sec. 2-232. Charges for collection of debts, civil fines, expenses and costs of the city in connection with property and ordinance violations involving property.

In connection with the enforcement of several ordinances, the city experiences extraordinary costs for the collection of fines, costs and expenses which the city incurs or which are due to the city as a result of violations of this Code or the existence of nuisances, including, without limitation, the failure to maintain properties, the allowance of noxious weeds, damage to public and private property and violations or maintenance of nuisances involving the use or occupancy of properties. The amounts due arise from municipal civil infraction violations, fines, costs and sanctions, expenses incurred by the city to remedy conditions on properties which violate ordinances or constitute nuisances, and court orders. The city incurs costs in the process of placing liens on property, including, without limitation, placing amounts due on the tax roll. The city has determined its administrative costs (in addition to out of pocket costs) in pursuing collection of such amounts by liens and tax collection. Based upon investigation by the city, the following charges shall be made against persons or property:

(1) *Amount and levy of service charge; lien on property.* In all cases where a lien is authorized against property as a result of a violation of the Code of Ordinances, the existence of a nuisance, or a finding by a court and an entry of a written order or judgment, including a fine, sanction, costs (including out of pocket costs and any costs ordered by a court) or the expense of city remedial action or work on a property, or the remedying of a nuisance on a property by the city, a service charge shall be made and levied in the amount of $25.00

*State law references—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.

or 20 percent of the entire amounts due, not to exceed $100.00, whichever is greater. The charge shall be included in the amount set forth in the lien on the property and in the amount added to the property tax roll concerning the property.

(2) *Avoidance of service charge by prompt payment, no duplication of service charge.* No such service charge shall be made in the event an amount due is voluntarily paid within 30 days after written notice is sent by first class mail to any person liable therefor at the last known address of such person; or, in the absence of mailing, within 30 days of the date that a notice of the amount due is posted on the property involved. In the event both a lien on property and personal collection efforts are utilized by the city, the service charge shall be added only once.

(3) *Service charge not applicable to special assessment districts or special assessments for public improvements by consent.* In the case of special assessments in assessment districts or special assessments by consent or contract, and provided such assessments do not arise from a court order, a violation of ordinance, a nuisance, or the remedies therefor, the service charge shall not apply.

(4) *Certificates of compliance or occupancy.* In the case of property to which any such unpaid amount is applicable, no certificate of compliance or occupancy for the property shall be issued by the city until the judgment, amount due or lien is satisfied by payment of the total amounts due including the service charge authorized by this article.

(Code 1975, § 1-10; Code 2002, § 2-232)

Secs. 2-233—2-250. Reserved.

DIVISION 2. PURCHASING AND SALES

Sec. 2-251. Appointment and general duties of purchasing agent.

The city manager, or designated subordinates acting on behalf of the city manager, shall make all purchases of supplies, materials and personal property for the city and shall also conduct all sales of personal property which the city commission may authorize to be sold.

(Code 1975, § 2-17; Code 2002, § 2-251)

Sec. 2-252. Requisition and purchase orders.

(a) All purchases of supplies, materials and personal property shall be made pursuant to the provisions of this division and procedures approved by the city commission.

(b) Any requisition for the purchase of supplies, materials or personal property exceeding $4,000.00 shall require the prior approval of the city commission.

(c) Following approval of a requisition and prior to any purchase of $500.00 or more, opportunity for competition shall be given in accordance with procedures approved by the city commission.

(d) All purchase orders must obtain the approval of the city manager in accordance with procedures approved by the city commission.

(e) Blanket purchase orders may be utilized in accordance with procedures approved by the city commission.

(f) If, in the sole discretion of the city manager, immediate procurement action is required to prevent delays of city services that may adversely affect the life, health or safety of the public or the security of city-owned assets, emergency purchase may be made by the city manager in accordance with procedures approved by the city commission.

(Code 1975, § 2-18; Code 2002, § 2-252)

Sec. 2-253. Payment and accounting.

Following delivery to the city of supplies, materials or personal property purchased in accordance with the provisions of this division, and after determining compliance with the purchase order as to price, quality and quantity, the city manager shall authorize payment of the purchase order and forward such purchase order to the director of finance for payment.

(Code 1975, § 2-19; Code 2002, § 2-253)

Sec. 2-254. Purchasing procedures.

The city manager shall prepare and submit to the city commission for approval any necessary written procedures to implement the provisions of this division.
(Code 1975, § 2-20; Code 2002, § 2-254)

Sec. 2-255. Recovery of overhead and indirect costs.

In all contracts made between the city and persons, corporations, entities or governmental units, whereby the city or its personnel acting under the authority of the city, perform services for such third parties, there shall be charged, in addition to charges for labor or personnel costs, materials, use of equipment and any other direct costs, an indirect cost charge not less than 15 percent of the charges. The indirect cost charge shall be used to compensate the city for indirect cost not reflected in the direct charge for services. The percentage amount is found by the city commission based upon the records, experience and findings of the city, to equal the indirect costs incurred by the city when performing such services. Contracts and memoranda shall be prepared in connection with all such agreements and performances of service reflecting the inclusion of the indirect percentage costs in or with the charges made by the city in each instance.
(Code 1975, § 2-21; Code 2002, § 2-255)

Sec. 2-256. Board of review.

(a) Pursuant to the authority granted by section 28 of the general property tax act (MCL 211.28), the board of review for the city, beginning with all meetings in 1993, shall consist of six members, to be appointed by the city commission.

(b) The assessor and chief deputy assessor shall act as the secretary and clerk, respectively, of the board of review and shall not be voting members of such board of review.

(c) This provision for the composition and membership of the board of review is by this section made in place of the provisions of the city Charter. In all other respects, the provisions of the city Charter and the state general tax laws shall determine the procedures and functions of the board of review.
(Code 1975, § 2-22; Code 2002, § 2-256)

Secs. 2-257—2-259. Reserved.

DIVISION 3. BUDGET PROCEDURE

Sec. 2-260. Fiscal year.

The fiscal year of the city shall begin on July 1.
(Ord. No. 2277, § 1(2-260), 5-25-2010)

Sec. 2-261. Budget procedures.

The city manager shall submit to the commission, on or before the second regular meeting in May, a recommended budget covering the next fiscal year. The recommended budget shall include the following:

(1) Detailed estimates, with supporting explanations, of all proposed expenditures, including the corresponding expenditures for the last preceding fiscal year and estimated expenditures for the balance of the current fiscal year.

(2) Statements of the bonded and other indebtedness of the city, showing debt redemption and interest requirements.

(3) Detailed estimates of all anticipated revenues of the city from sources other than taxes, with a comparative statement of revenues received by the city from each of the same or similar sources for the last preceding fiscal year and estimated revenues for the balance of the current fiscal year.

(4) An estimate of the fund equity or deficit for the current fiscal year.

(5) An estimate of the amount of money to be raised from current and delinquent taxes and the amount to be raised from bond issues which, together with any available unappropriated surplus and any revenues from other sources, will be available to meet proposed expenditures.

(6) Such additional information as the commission may request or as required by law.

(Ord. No. 2277, § 1(2-261), 5-25-2010)

Sec. 2-262. Hearing.

A public hearing on the budget shall be held before its final adoption at the time and place established by the commission. Notice of the public hearing and that the proposed budget is on file with the city shall be published at least ten days in advance of the hearing. The proposed budget shall be kept on file for public inspection during regular business hours at the city clerk's office for a period of not less than ten days prior to the hearing.

(Ord. No. 2277, § 1(2-262), 5-25-2010)

Sec. 2-263. Adoption of budget.

After the public hearing, and not later than the last regular meeting in June, the commission shall, by resolution, adopt a budget for the next fiscal year and provide for a levy of the amount necessary to be raised by taxes, as required by law.

(Ord. No. 2277, § 1(2-263), 5-25-2010)

Secs. 2-264—2-280. Reserved.

ARTICLE VI. BOARDS AND COMMISSIONS

DIVISION 1. GENERALLY

Secs. 2-281—2-295. Reserved.

DIVISION 2. LOCAL OFFICER'S COMPENSATION COMMISSION*

Sec. 2-296. Definition.

As used in this division, the term "commission" shall mean the local officers' compensation commission created by section 2-297, unless clearly indicated to the contrary.

(Code 1975, § 2-170; Code 2002, § 2-296)

*__State law reference—__Local officer's compensation commission, MCL 117.5c.

Sec. 2-297. Created; composition; appointment and terms of members.

A local officers' compensation commission is hereby created for the city. The commission shall consist of seven members who are registered electors of the city, appointed by the mayor, subject to confirmation by a majority of the members elected and serving on the city commission. The term of office shall be seven years (the terms having been staggered at the time of the original appointment by law). Members shall be appointed before October 1 of the year of appointment. Vacancies shall be filled for the remainder of the unexpired term.

(Code 1975, § 2-171; Code 2002, § 2-297)

State law reference—Similar provisions, MCL 117.5c(a).

Sec. 2-298. Certain persons not eligible for membership.

No member or employee of the legislative, judicial or executive branch of any level of government or members of the immediate family of such member or employee shall be eligible to be a member of the commission.

(Code 1975, § 2-172; Code 2002, § 2-298)

State law reference—Similar provisions, MCL 117.5c(a).

Sec. 2-299. Compensation of members.

The members of the commission shall receive no compensation, but shall be entitled to their actual and necessary expenses incurred in the performance of their duties.

(Code 1975, § 2-173; Code 2002, § 2-299)

State law reference—Similar provisions, MCL 117.5c(c).

Sec. 2-300. Election of chairperson.

The commission shall elect a chairperson from among its members.

(Code 1975, § 2-174; Code 2002, § 2-300)

State law reference—Similar provisions, MCL 117.5c(c).

Sec. 2-301. Quorum.

A majority of the members of the commission constitute a quorum for conducting the business of the commission. The commission shall take no

action or make determinations without a concurrence of a majority of the members appointed and serving on the commission.
(Code 1975, § 2-175; Code 2002, § 2-301)
State law reference—Similar provisions, MCL 117.5c(c).

Sec. 2-302. Determination of salaries of elected officials.

(a) The commission shall determine the salaries of all local elected officials. The commission shall meet, for not more than 15 session days, in every odd-numbered year and shall make its determination within 45 calendar days of its first meeting.

(b) The term "session days," as used in this section, means any calendar days on which the commission meets and a quorum is present.
(Code 1975, § 2-176; Code 2002, § 2-302)
State law reference—Similar provisions, MCL 117.5c(b), (c).

Sec. 2-303. When salary determinations effective; rejection of determinations by city commission; payments to officials in addition to salaries.

(a) The determinations of salaries by the commission, as provided for in section 2-302, shall constitute such salaries and shall be effective 30 days following their filing with the city clerk, unless the city commission, by resolution adopted by two-thirds of the members elected to and serving on the city commission, rejects such salaries. In case of rejection, the existing salaries shall prevail.

(b) Any expense, allowance or reimbursement paid to elected officials in addition to salary shall be for expenses incurred in the course of city business and accounted for to the city.
(Code 1975, § 2-177; Code 2002, § 2-303)
State law reference—Similar provisions, MCL 117.5c(c).

Sec. 2-304. Meetings; public notice.

The business which the commission may perform shall be conducted at a public meeting of the commission held in compliance with Public Act No. 267 of 1976 (MCL 15.261 et seq.). Public notice of the time, date, and place of the meeting of the commission shall be given in the manner required by such Act.
(Code 2002, § 2-304)
State law reference—Similar provisions, MCL 117.5c(d).

Sec. 2-305. Public availability of records.

A writing prepared, owned, used, in the possession of, or retained by the commission in the performance of an official function shall be made available to the public in compliance with Public Act No. 442 of 1976 (MCL 15.231 et seq.).
(Code 2002, § 2-305)
State law reference—Similar provisions, MCL 117.5c(e).

Chapters 3—5

RESERVED

Chapter 6

ANIMALS*

Sec. 6-1.	Definitions.
Sec. 6-2.	Penalties.
Sec. 6-3.	Reserved.
Sec. 6-4.	Responsibilities; authority.
Sec. 6-5.	Owner responsibility.
Sec. 6-6.	Interference; authority of police and animal control officers.
Sec. 6-7.	Impoundment.
Sec. 6-8.	Licensing; rabies vaccination.
Sec. 6-9.	General prohibitions.
Sec. 6-10.	Reserved.
Sec. 6-11.	Abandonment.
Sec. 6-12.	Animals running loose.
Sec. 6-13.	Removal of animal excrement.
Sec. 6-14.	Confinement of animals; number of dogs and cats which may be kept.
Sec. 6-15.	Dangerous dogs; confinement and handling; number.
Sec. 6-16.	Other dangerous animals; confinement.
Sec. 6-17.	Livestock and poultry.

*__State law references—__Animal control ordinances, MCL 287.290; Dogs Law of 1919, MCL 287.261 et seq.; dangerous animals, MCL 287.321 et seq.

Sec. 6-1. 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:

Animal control authority means the county and the city and their designated officers. The licensing authority and the animal control authority may be, but are not necessarily, the same entity.

Animal control shelter means a facility operated by the county and, in addition, if designated and contracted, other facilities under contract with the city for the impoundment and care of animals that are found in the streets or at large, animals that are otherwise held due to the violation of a municipal ordinance, county ordinance or state law, or animals that are surrendered to the animal control shelter.

Control means having an animal in confinement as described or required by this chapter, or restrained by its owner on a leash no greater than six feet in length and of sufficient strength to confine the animal, or in certain cases where specified in this chapter, a shorter leash. The term "control" shall not mean allowing an animal to go unleashed outside of its confinement or pen.

Dangerous animal means any and all of the following:

(1) Any mammal, amphibian, reptile, or fowl of a species which, due to size, vicious nature or other characteristic, would constitute a danger to human life, physical well-being or property, including, but not limited to, lions, tigers, leopards, panthers, bears, wolves or wolf hybrids, apes, gorillas, monkeys of a species with an average adult weight in excess of 20 pounds, foxes, elephants, alligators, crocodiles and snakes which are poisonous or otherwise present a risk of physical harm or death to human beings as a result of their nature or physical makeup, including all constrictors.

(2) Any dog or cat having a disposition or propensity to attack or bite any person or animal without provocation.

(3) Any pit bull dog. The term "pit bull dog" means any dog of one of the breeds known as Staffordshire Bull Terrier, American Staffordshire Bull Terrier, or American Pit Bull Terrier, or any dog with the appearance and characteristics of being predominantly of any one of such breeds, or combination thereof, or in combination with other breeds.

Handler means any person having control of an animal, whether or not by the consent or direction of the owner.

Impound means to place any animal in the custody or control of an animal control shelter.

Licensing authority means the county, in accordance with state law and county ordinance.

Livestock means horses, cows, swine, sheep, goats, or any hoofed animal.

Owner means a person having the custody of an animal or who keeps or harbors an animal, a person having the authority of the owner to be the handler of the animal, or a person who knowingly permits an animal to remain on or about any premises occupied by that person.

Poultry includes chicken, ducks, geese, pheasants, or other fowl of a type normally used for food or egg production.

Restraint. A dog or cat shall be considered under restraint if it is within the real property limits of its owner or secured by its owner on a leash or lead no greater than six feet in length and of sufficient strength to confine the animal. Any other animal is considered restrained only if it is effectively prevented from escape by appropriate means.

Wild animal means any living member of the animal kingdom, including those born or raised in captivity, except the following:

(1) Domestic dogs (excluding hybrids with wolves, coyotes, or jackals).

(2) Domestics cats (excluding hybrids with ocelots or margays).

(3) Ferrets.

(4) Rodents.

(5) Captive-bred species of common cage birds.
(Code 2002, § 6-1; Ord. No. 2064, § 3.2, 12-11-2001; Ord. No. 2222, 5-22-2007; Ord. No. 2268, 12-8-2009)

Sec. 6-2. Penalties.

Any person violating this chapter shall be subject to one or more of the following penalties as applicable:

(1) Any person violating section 6-15 involving dangerous dogs shall be guilty of a misdemeanor.

(2) Any person violating any other prohibition of this chapter shall be responsible for a municipal civil infraction. The schedule of fines for municipal civil infractions is set forth in section 46-204.

(3) All persons found in violation shall be subject to further injunctive or other equitable relief as the city may determine to pursue, including destruction of the animal in question.

(Code 2002, § 6-2; Ord. No. 2064, § 3.16, 12-11-2001)

Sec. 6-3. Reserved.

Sec. 6-4. Responsibilities; authority.

(a) It is determined by the city that ownership of an animal is a privilege which carries with it responsibilities to the city and all persons therein with regard to the care, custody, and handling of the animal.

(b) This chapter shall not be construed to limit or substitute for the authority or functions of the county animal control shelter or animal control department.

(c) The regulations set forth in this chapter are supplemental to and not in substitution of the county animal control department, any county ordinance related thereto or the state law regarding county animal control.

(d) The provisions of this chapter shall be construed to impose the primary responsibility for compliance with its provisions on the owner, the handler, or on any person in control of any animal. No animal of any kind shall be kept in the city or be present in the city in violation of the provisions of this chapter.

(Code 2002, § 6-4; Ord. No. 2064, §§ 3.0, 3.1, 3.3, 12-11-2001; Ord. No. 2268, 12-8-2009)

Sec. 6-5. Owner responsibility.

(a) All dogs and cats shall be kept under restraint, except for a service animal actively engaged in performing its duty or a dog actively engaged in training or performance event or competition. Dogs or cats shall not be permitted to be at large in the city.

(b) Every vicious dog or cat, as determined by a police officer or the animal control authority, shall be confined by its owner within a building or secure enclosure and shall be securely muzzled or caged whenever off the premises of its owner.

(c) The owner of every dog or cat shall be held responsible for every behavior of such dog or cat under the provisions of this chapter.

(d) Fecal matter shall be collected and removed from the area where the animal is harbored or kept.

(Code 2002, § 6-5; Ord. No. 2064, § 3.9, 12-11-2001; Ord. No. 2229, 7-10-2007; Ord. No. 2268, 12-8-2009)

Sec. 6-6. Interference; authority of police and animal control officers.

(a) No person shall interfere with, oppose, hinder, or molest any agent of the animal control authority in the performance of any duty as provided in this chapter.

(b) If seizure and impoundment of a dangerous animal is not possible without risk of serious physical harm or death to any person, the animal may be killed by a police officer or animal control officer at the time of seizure or impoundment.

(Code 2002, § 6-6; Ord. No. 2064, § 3.7, 12-11-2001)

Sec. 6-7. Impoundment.

(a) Impoundment shall occur, where authorized by this chapter, at the county animal shelter or at an animal control shelter or other desig-

nated contracted facility registered under Public Act No. 287 of 1969 (MCL 287.331 et seq.) to provide services to include impounding of animals delivered to the shelter by authority of the city or the county. A contract with an animal control shelter may include shelters in addition to the county animal shelter for services, impoundment, confinement or other functions which the county elects not to perform or is unable to perform. The services and functions of the animal control shelter are governed by state law and county ordinance, if any.

(b) Any animal control shelter in which an animal is impounded shall carry on release, treatment, adoption or disposal of animals in accordance with the requirements of state law. No dog or cat shall be released for adoption to any person without being neutered. If the animal is too young to neuter at the time of adoption, the fee shall be paid for services, which shall be performed at a later date.
(Code 2002, § 6-7; Ord. No. 2064, § 3.6, 12-11-2001)

Sec. 6-8. Licensing; rabies vaccination.

(a) No person shall own, keep, or harbor any dog over four months of age within the city unless such dog is vaccinated and licensed, as required by state law, county ordinance or both. The provisions of this section do not apply to animals owned by a licensed research facility or held in a veterinary medical facility or government operated or licensed animal shelter.

(b) All dogs shall be vaccinated against rabies, and certified as so vaccinated, as required by state law, county ordinance or both.
(Code 2002, § 6-8; Ord. No. 2064, § 3.5, 12-11-2001; Ord. No. 2268, 12-8-2009)

Sec. 6-9. General prohibitions.

The following actions or failures to act shall constitute a violation of this chapter, in addition to other prohibitions or violations found in this chapter.

(1) Training an animal to engage in vicious behavior.

(2) Training any animal for fighting or contests with other animals; carrying on, promoting or being present at such a fighting event between animals.

(3) Cruelty to any animal or poisoning an animal.

(4) Molesting small wild animals, birds or birds' nests.

(5) Allowing an animal to constitute a nuisance to surrounding properties or other persons in the vicinity.

(6) Harboring or keeping any dog which commits frequent or habitual barking, yelping or howling.

(7) Having a dog on any beach in the city, even if controlled, except for a blind person controlling a guide dog at any time, and except during the months of October through March, or except as allowed by park rules promulgated from time to time by the city.

(8) Engaging in the feeding of wild animals, stray cats, or stray dogs.

(Code 2002, § 6-9; Ord. No. 2064, § 3.14, 12-11-2001; Ord. No. 2268, 12-8-2009)

State law references—Cruelty to animals, MCL 750.50; poisoning, MCL 750.437.

Sec. 6-10. Reserved.

Sec. 6-11. Abandonment.

Abandonment of animals is prohibited within the city.
(Code 2002, § 6-11; Ord. No. 2064, § 3.8.3, 12-11-2001)

Sec. 6-12. Animals running loose.

All animals, whether dangerous or not, shall be subject to the following:

(1) No person shall allow an animal to run loose or be unconfined in the city.

(2) If an animal is upon the premises of the owner, the animal shall be effectively confined as provided in this chapter.

(3) No dog shall be allowed to run on any beach, except a dog completely controlled

by a person during the months of October through March, or as permitted by park rules promulgated by the city from time to time.

(4) No unrestrained, unleashed or uncontrolled dog shall be allowed in any park.

(Code 2002, § 6-12; Ord. No. 2064, § 3.13, 12-11-2001; Ord. No. 2268, 12-8-2009)

Sec. 6-13. Removal of animal excrement.

(a) It shall be unlawful for any person to appear with any animal on public property or the private property of another, unless that person has in his possession an appropriate device for removal of animal excrement.

(b) It shall be unlawful for any person to allow any animal to leave its excrement on any public property, or upon the private property of another, unless the excrement is promptly and thoroughly removed from the property by the use of a removal device; provided, a person may fail to remove the excrement if entry on the private property of another for such purpose is prevented by the person owning or controlling the property.

(c) This section shall not apply to a person with a leader, guide or service animal where the person is unable to comply due to their disability.

(Code 2002, § 6-13; Ord. No. 2064, § 3.15, 12-11-2001)

Sec. 6-14. Confinement of animals; number of dogs and cats which may be kept.

(a) In other than a permitted veterinary clinic or kennel, no person shall maintain more than three adult dogs and four adult cats in the city. Animals born on the premises to a legally confined pet may remain thereon until four months of age, after which they shall be considered adult dogs or cats.

(b) All dogs kept in the city must be licensed in accordance with state law and county ordinances.

(c) All animals shall be confined in a pen or inside the dwelling, under conditions which are sanitary, safe and secure. Any pen utilized for the outdoor confinement of a dog shall be of sturdy and secure construction designed to prevent the escape of the dog.

(d) No female animal in heat shall be confined in a place where other animals may have access or a nuisance may be created.

(e) Any dog which habitually barks shall be kept inside the dwelling.

(Code 2002, § 6-14; Ord. No. 2064, § 3.10, 12-11-2001; Ord. No. 2268, 12-8-2009)

Sec. 6-15. Dangerous dogs; confinement and handling; number.

(a) All dangerous dogs, including pit bulls and other dogs meeting the definition of a dangerous animal, shall be especially confined and treated as follows:

(1) *Leash and muzzle.* No person shall permit a pit bull or dangerous dog to go outside its kennel or pen unless it is securely leashed with a leash no longer than four feet in length. No such dog shall be kept on a chain, rope or other type of leash outside its kennel or pen unless a person is in physical control of the leash. Such dogs may not be leashed or tied to inanimate objects. Any such dog on a leash outside its kennel or pen must be muzzled by a muzzling device sufficient to prevent the dog from biting persons or other animals.

(2) *Confinement.* All pit bulls and dangerous dogs shall be securely confined indoors or in a securely enclosed and locked pen or kennel, except when leashed, muzzled and controlled as provided in subsection (a)(1) of this section. Such pen, kennel or structure must have secured sides and a secured top attached to the sides. All structures used to confine pit bulls or dangerous dogs must be locked with a key or combination lock when such animals are within the structure. The structure must have a secure bottom or floor attached to the sides of the pen or the sides of the pen must be embedded in the ground no less than two feet from the grade. All such

structures must be adequately lighted and ventilated and kept in a clean and sanitary condition.

(3) *Confinement indoors.* No pit bulls or dangerous dogs may be kept on a porch, patio, or any part of a house or structure that would allow the dog to exit such a building. No such animal may be kept in a vacant house or structure.

(4) *Signs.* All owners or handlers of pit bulls or dangerous dogs within the city shall display in a prominent place on the premises and on the pen or kennel a sign stating the words "Beware of Dog." The letters shall be at least three inches in height.

(5) *Insurance.* All owners or handlers of pit bulls or dangerous dogs must obtain public liability insurance in a single incident amount of at least $50,000.00 for bodily injury, death or property damage resulting from the ownership, keeping or maintenance of such animal.

(6) *Number.* No more than one dog of the breed or description determined by this chapter to be dangerous shall be kept on any premises in the city.

(b) Violations of the requirements of the provisions in subsection (a) of this section concerning dangerous dogs and pit bull dogs shall carry special penalties set forth in this chapter.
(Code 2002, § 6-15; Ord. No. 2064, § 3.11, 12-11-2001; Ord. No. 2268, 12-8-2009)

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

Sec. 6-16. Other dangerous animals; confinement.

(a) All other dangerous animals besides dogs shall be kept and confined in completely secure cages or containers which allow no access by any persons except by unlocking such cages or containers for the feeding of the animal. Such dangerous animals shall be confined so that there is no access to any other animal or humans by the animals.

(b) No lions, tigers, leopards, panthers, bears, wolves or wolf hybrids, apes, gorillas, monkeys in excess of 20 pounds, elephants, alligators, crocodiles, or poisonous or constrictor snakes shall be kept in the city, except in a licensed zoo.
(Code 2002, § 6-16; Ord. No. 2064, § 3.12, 12-11-2001)

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

Sec. 6-17. Livestock and poultry.

(a) No livestock shall be kept in the city.

(b) No live poultry shall be kept in the city except in a commercial establishment legally licensed and zoned therefor, except that one pet may be kept in a pen or confinement which is at least 25 feet from any dwelling.

(c) No more than two rabbits shall be kept on any premises in the city, except in a commercial establishment licensed and zoned therefor. The two rabbits which may be kept at premises, other than a legal commercially licensed and zoned establishment, shall be in a pen located at least 25 feet from any dwelling and constructed and maintained in accordance with standards published in the industry or by a 4-H organization.

(d) No wild animal shall be kept permanently or temporarily in the city unless affiliated with a transient circus or carnival having all required permits to operate in the city, or a licensed zoo.
(Code 2002, § 6-17; Ord. No. 2064, § 3.4, 12-11-2001; Ord. No. 2268, 12-8-2009)

State law reference—Livestock at large, MCL 433.51 et seq.

Chapters 7—9

RESERVED

Chapter 10

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***State law reference—**State construction code act of 1972, MCL 125.1501 et seq.

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Sec. 10-409. Exits unblocked.
Sec. 10-410. Space and area occupancy requirements.
Sec. 10-411. Use of basement or cellar as habitable room.
Sec. 10-412. Fire protection.
Sec. 10-413. Security.
Sec. 10-414. Prohibited uses.
Sec. 10-415. Maintenance requirements.

ARTICLE I. IN GENERAL

Sec. 10-1. Registration of contractors.

Any contractor applying for a permit under any construction code of the city shall, upon application, or annually, register such contractors' name, address, telephone number and full information concerning such contractors' state license, if required, including the number of the license, with the city. At the time of registration a fee in the amount established by resolution shall be paid to the city. No permit under any construction code in effect or enforced by the city shall be issued without such information being on file. In the event any of the information changes, the contractor shall immediately notify the city in writing, as a condition of the issuance or continuance in force of any permit required by the city codes.
(Code 1975, § 4-8; Code 2002, § 10-1)

State law references—Residential building contractor's license, MCL 339.2401 et seq.; electrical administrative act, MCL 338.881 et seq.; mechanical contractors, MCL 338.971 et seq.

Sec. 10-2. Department and director of inspections.

(a) A department of inspections is established with a director of such department who shall be appointed by the city manager and who, for the performance of those duties described in this section, shall be immediately responsible to the city manager. Such director shall be known as the director of inspections, inspector or building official with full power and authority to administer and enforce any code or ordinance described in this section, and shall receive such compensation as shall be fixed and determined by the city commission.

(b) The director of inspections shall have primary responsibility for the administration and enforcement of all state construction codes and all other city codes and ordinances which regulate the construction and maintenance of buildings and structures within the city, together with the regulation of their use and occupancy.

(c) With the approval of the city manager, such director may delegate administer and enforcement authority of the codes and ordinances described in this section to any person employed in the department of inspections.

(d) In the enforcement of the codes and ordinances described in this section, the director of inspections and those employees of the department of inspections delegated enforcement authority shall have the authority provided by law for the enforcement thereof, including, but not by way of limitation, the authority to issue and serve appearance citations, as provided by MCL 764.9c, and the right to enter private premises as provided by law.

(e) The director of inspections shall, in addition to the foregoing, assume and perform such other duties or assignments as shall be required of him by the city manager or the city.
(Code 1975, § 4-1; Code 2002, § 10-2)

State law reference—Building officials and inspectors registration act, MCL 338.2301 et seq.

Secs. 10-3—10-30. Reserved.

ARTICLE II. CONSTRUCTION CODES*

Sec. 10-31. Agency designated.

(a) Pursuant to the provisions of the state building, electrical, mechanical, plumbing, and residential codes, in accordance with Section 8b(6) of Public Act No. 230 of 1972 (MCL 125.1508b(6), the building, electrical, mechanical and plumbing officials employed or retained by the building inspection department of the city are hereby designated as the enforcing agencies to discharge the responsibilities of the city under Public Act No. 230 of 1972 (MCL 125.1501 et seq.). The city assumes responsibility for the administration and enforcement of the Act throughout its corporate limits.

(b) Any person violating the provisions of the codes mentioned in subsection (a) of this section shall be responsible for a municipal civil infraction, and shall pay a fine as set forth in the schedule of municipal civil infraction fines in section 46-204.
(Code 2002, § 10-31; Ord. No. 2048, §§ 1, 3, 8-14-2001)

*__State law reference—__State construction code act of 1972, MCL 125.1501 et seq.

Sec. 10-32. Construction board of appeals.

(a) *Establishment.* There is hereby established a construction board of appeals as authorized, and to be organized, in accordance with the Michigan construction code commission act, specifically MCL 125.1514.

(b) *Composition.* The construction board of appeals shall consist of seven members who must be qualified by experience or training to perform their duties as members of the board.

(c) *Appointment and terms.* Members of the board shall be appointed for two-year terms, such appointments to be made by the city manager with the advice and consent of the city commission. Persons eligible for appointment who are residents of the city shall be preferred; however, city residence is not required for appointment, since, by statute, the members of the construction board of appeals may serve in more than one jurisdiction.

(d) *Rules for procedure and operation, meetings and business.* The construction board of appeals shall have the right to adopt its own rules of procedure and guidelines for meetings and hearings, provided that all proceedings of the board shall be conducted in accordance with MCL 125.1514. All proceedings of the construction board of appeals shall be held in accordance with the Michigan open meetings act (MCL 15.261 et seq.), and all records of decisions and any other records shall be subject to the Michigan freedom of information act (MCL 15.231 et seq.).

(e) *Appeals.* In addition to the duties set forth elsewhere in this section for the construction board of appeals, it shall also have jurisdiction to hear appeals taken from decisions of the appropriate authorities, or make interpretations, pursuant to the International Fire Code, 2009 edition, or other fire and safety code in effect in the city from time to time.
(Code 2002, § 10-32; Ord. No. 2051, §§ 1—5, 8-28-2001; Ord. No. 2056, § 1, 9-11-2001)

Secs. 10-33—10-60. Reserved.

ARTICLE III. DANGEROUS BUILDINGS*

DIVISION 1. GENERALLY

Sec. 10-61. 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:

Dangerous building means any building or structure which has any or all of the conditions or defects described in this definition, which shall be deemed to be a dangerous building, provided that such conditions or defects exist to the extent that the life, health, property, or safety of the public or its occupants are endangered:

(1) Whenever any door, aisle, passageway, stairway or other means of exit is not of sufficient width or size, or is not so arranged as to provide safe and adequate means of exit in case of fire or panic;

(2) Whenever the stress in any materials, member or portion thereof, due to all dead and live loads, is more than 1½ times the working stress or stresses allowed in the state construction code for new buildings of similar structures, purpose or location;

(3) Whenever any portion thereof has been damaged by fire, earthquake, wind, flood, or by any other cause, to such an extent that the structural strength or stability thereof is materially less than it was before such catastrophe and is less than the minimum requirements of the state construction code for new buildings of similar structure, purpose or location;

(4) Whenever any portion or member or appurtenance thereof is likely to fail, or to become detached or dislodged, or to collapse and thereby injure persons or damage property;

(5) Whenever any portion of a building, or any member, appurtenance or ornamentation on the exterior thereof, is not of

*State law reference—Dangerous buildings, MCL 125.538 et seq.

sufficient strength or stability, or is not so anchored, attached or fastened in place so as to be capable of resisting a wind pressure of one-half of that specified in the state construction code for new buildings of similar structure, purpose or location without exceeding the working stresses permitted in the state construction code for such buildings;

(6) Whenever any portion thereof has wracked, warped, buckled, or settled to such an extent that walls or other structural portions have materially less resistance to winds or earthquakes than is required in the case of similar new construction;

(7) Whenever the building or structure, or any portion thereof because of:

a. Dilapidation, deterioration, or decay;

b. Faulty construction;

c. The removal, movement or instability of any portion of the ground necessary for the purpose of supporting such building;

d. The deterioration, decay or inadequacy of its foundation; or

e. Any other cause;

is likely to partially or completely collapse;

(8) Whenever, for any reason, the building or structure, or any portion thereof, is manifestly unsafe for the purpose for which it is being used;

(9) Whenever the exterior walls or other vertical structural members list, lean or buckle to such an extent that a plumb line passing through the center of gravity does not fall inside the middle one-third of the base;

(10) Whenever the building or structure, exclusive of the foundation, shows 33 percent or more damage or deterioration of its supporting members, or 50 percent damage or deterioration of its nonsupporting members, enclosing or outside walls or coverings;

(11) Whenever the building or structure has been so damaged by fire, wind, earthquake, or flood, or has become so dilapidated or deteriorated as to:

a. Become an attractive nuisance to children;

b. Enable persons to resort thereto for the purpose of committing unlawful acts;

(12) Whenever any building or structure has been constructed, exists or is maintained in violation of any specific requirement or prohibition applicable to such building or structure provided by the building regulations of this city, as specified in the state construction code, or housing code, or any law or ordinance of this state or city relating to the condition, location, or structure of buildings;

(13) Whenever any building or structure which, whether or not erected in accordance with all applicable laws and ordinance, has in any nonsupporting part, member or portion, less than 50 percent, or in any supporting part, member or portion, less than 66 percent of the:

a. Strength;

b. Fire or weather-resisting qualities or characteristics required by law in the case of a newly constructed building of like area, height and occupancy in the same location;

(14) Whenever a building or structure, used or intended to be used for dwelling purposes, because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangement, inadequate light, air or sanitation facilities, or otherwise is determined by the health officer to be unsanitary, unfit for human habitation or in such a condition that is likely to cause sickness or disease;

(15) Whenever any building or structure, because of obsolescence, dilapidated condition, deterioration, damage, inadequate exits, lack of sufficient fire-resistive construction, faulty electric wiring, gas con-

nections or heating apparatus, or other cause, is determined by the fire marshal to be a fire hazard;

(16) Whenever any building or structure is in such a condition as to constitute a public nuisance known to the common law or in equity jurisprudence;

(17) Whenever any portion of a building or structure remains on a site after the demolition or destruction of the building or structure or whenever any building or structure is abandoned for a period in excess of six months so as to constitute such building or portion thereof an attractive nuisance or hazard to the public; or

(18) Whenever any building or structure shall be unoccupied and unsecured. Any such building or structure shall be deemed unsecured when the building or structure can be entered by trespassers without breaking. Any such building or structure shall be deemed secured when all its exterior openings are intact and locked.

Substandard buildings means any building or portion thereof, including any dwelling unit, guest room or suite of rooms, or the premises on which the building is located, in which there exists any of the following listed conditions to an extent that endangers the life, limb, health, property, safety, or welfare of the public or the occupants thereof, which shall be deemed and hereby is declared to be a substandard building:

(1) *Inadequate sanitation.* Inadequate sanitation shall include, but not be limited to, the following:

a. Lack of, or improper water closet, lavatory, bathtub or shower in a dwelling unit.

b. Lack of, or improper water closets, lavatories, and bathtubs or showers per number of guests in a hotel.

c. Lack of, or improper kitchen sink.

d. Lack of hot and cold running water to plumbing fixtures in a hotel.

e. Lack of hot and cold running water to plumbing fixtures in a dwelling unit.

f. Lack of adequate heating facilities.

g. Lack of, or improper operation of required ventilating equipment.

h. Lack of minimum amounts of natural light and ventilation required by the housing code.

i. Room and space dimensions less than required by the housing code.

j. Lack of required electrical lighting.

k. Dampness of habitable rooms.

l. Infestation of insects, vermin or rodents as determined by the health officer.

m. General dilapidation or improper maintenance.

n. Lack of connection to required sewage disposal system.

o. Lack of adequate garbage and rubbish storage and removal facilities as determined by the health officer.

(2) *Structural hazards.* Structural hazards shall include, but not be limited to, the following:

a. Deteriorated or inadequate foundations.

b. Defective or deteriorated flooring or floor supports.

c. Flooring or floor supports of insufficient size to carry imposed loads with safety.

d. Members of walls, partitions, or other vertical supports that split, lean, list or buckle due to defective material or deterioration.

e. Members of walls, partitions, or other vertical supports that are of insufficient size to carry imposed loads with safety.

f. Members of ceiling, roofs, ceiling and roof supports or other horizontal

members which sag, split, or buckle due to defective material or deterioration.

g. Members of ceilings, roofs, ceiling and roof supports or other horizontal members that are of insufficient size to carry imposed loads with safety.

h. Fireplaces or chimneys which list, bulge, or settle, due to defective material or deterioration.

i. Fireplaces or chimneys which are of insufficient size or strength to carry imposed loads with safety.

(3) *Nuisance.* Any nuisance as defined in this Code.

(4) *Hazardous wiring.* All wiring, except that which conformed with all applicable laws in effect at the time of installation and which has been maintained in good condition and is being used in a safe manner.

(5) *Hazardous plumbing.* All plumbing, except that which conformed with all applicable laws in effect at the time of installation, and which has been maintained in good condition and which is free of cross connections and siphonage between fixtures.

(6) *Hazardous mechanical equipment.* All mechanical equipment, including vents, except that which conformed with all applicable laws in effect at the time of installation and which has been maintained in good and safe condition.

(7) *Faulty weather protection.* Faulty weather protection shall include, but not be limited to, the following:

a. Deteriorated, crumbling, or loose plaster.

b. Deteriorated or ineffective waterproofing of exterior walls, roof, foundations, or floors, including broken windows or doors.

c. Defective or lack of weather protection for exterior wall coverings, including lack of paint, or weathering due to lack of paint or other approved protective covering.

d. Broken, rotted, split, or buckled exterior wall coverings or roof coverings.

(8) *Fire hazard.* Any building or portion thereof, device, apparatus, equipment, combustible waste, or vegetation which, in the opinion of the chief of the fire department or his deputy, is in such a condition as to cause a fire or explosion or provide a ready fuel to augment the spread and intensity of fire or explosion arising from any cause.

(9) *Faulty materials of construction.* All materials of construction, except those which are specifically allowed or approved by this Code and the state construction code, and which have been adequately maintained in good and safe condition.

(10) *Hazardous or unsanitary premises.* Those premises on which an accumulation of weeds, vegetation, junk, dead organic matter, debris, garbage, offal, rat harborages, stagnant water, combustible materials, and similar materials or conditions constitute fire, health or safety hazards.

(11) *Inadequate maintenance.* Any building or portion thereof which is determined to be an unsafe building in accordance with the state construction code.

(12) *Inadequate exits.* All buildings or portions thereof not provided with adequate exit facilities as required by the state construction code, except those buildings or portions thereof whose exit facilities conformed with all applicable laws at the time of their construction and which have been adequately maintained and increased in relation to any increase in occupant load, alteration or addition, or any change in occupancy. When an unsafe condition exists through lack of or improper location of exits, additional exits may be required to be installed.

(13) *Inadequate fire protection or firefighting equipment.* All buildings or portions thereof which are not provided with the fire resistive construction or fire extinguishing systems or equipment required by the International Fire Code, except those buildings or portions thereof which conformed with all applicable law at the time of their construction and whose fire resistive integrity and fire extinguishing systems or equipment have been adequately maintained and improved in relation to any increase in occupant load, alteration or addition, or any change in occupancy.

(14) *Improper occupancy.* All buildings or portions thereof occupied for living, sleeping, cooking or dining purposes which were not designed or intended to be used for such occupancies.

(Code 1975, § 4-23; Code 2002, § 10-61)

Sec. 10-62. Purpose and scope.

(a) *Purpose.* It is the purpose of the provisions of this article to provide a just, equitable, and practicable method, to be cumulative with and in addition to any other remedy provided by the city's adopted codes, concerning buildings, structures, housing or construction, and related regulations and ordinances, whereby buildings or structures which, from any cause, endanger the life, limb, health, morals, property, safety or welfare of the general public or their occupants, may be required to be repaired, vacated, or demolished.

(b) *Scope.* The provisions of this article shall apply to all dangerous buildings, as defined in this article, which are now in existence or which may hereafter become dangerous in this city.

(Code 1975, § 4-16; Code 2002, § 10-62)

Sec. 10-63. Rights of action; penalties for violation.

Any violation of this article concerning dangerous buildings shall constitute a municipal civil infraction. The foregoing shall not preclude the city from making application to a court of competent jurisdiction for equitable or injunctive relief.

(Code 1975, § 4-27; Code 2002, § 10-63; Ord. No. 2032, § 4, 9-12-2000)

Secs. 10-64—10-80. Reserved.

DIVISION 2. ADMINISTRATION AND ENFORCEMENT

Subdivision I. In General

Sec. 10-81. Generally.

(a) *Administration.* The building official is hereby authorized to enforce the provisions of this Code.

(b) *Inspections.* The fire marshal and the building official are hereby authorized to make such inspections and take such actions as may be required to enforce the provisions of this Code.

(Code 1975, § 4-18; Code 2002, § 10-81)

Sec. 10-82. Inspection of unoccupied building; initiation of proceedings.

When an unoccupied and secured building, as defined in section 10-61, continues to exist in such unoccupied and secured condition for a period of six months, the director of inspections shall make an inspection of such building, entering such building in accordance with the provisions of section 10-415, and if the inspector finds that the building violates any of the provisions of this article, he shall initiate proceedings against the owner of such building as required pursuant to sections 10-103 through 10-105.

(Code 1975, § 4-23(a)(19); Code 2002, § 10-82)

Sec. 10-83. Inspection of work.

All buildings or structures within the scope of this article and all construction or work for which a permit is required shall be subject to inspection by the building official in accordance with and in the manner provided by this article and the state construction code.

(Code 1975, § 4-21; Code 2002, § 10-83)

Sec. 10-84. Building board of appeals.

In order to provide for final interpretation of the provisions of this article and to hear appeals, there is created a building board of appeals. The membership of the building board of appeals shall be identical to and the same persons as are

appointed to the housing board of appeals set forth at article VI, division 2, subdivision IV of this chapter. The building board of appeals shall follow the same procedures for meetings and hearings, adhere to the standards and consist of the same membership as the housing board of appeals. The officers of the housing board of appeals shall be the officers of the building board of appeals.
(Code 1975, § 4-22; Code 2002, § 10-84)

Secs. 10-85—10-100. Reserved.

Subdivision II. Abatement

Sec. 10-101. Abatement of dangerous buildings.

All buildings or portions thereof which are determined after inspection by the building official, to be dangerous, as defined in this article, are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition or removal in accordance with the procedure specified in sections 10-103 through 10-105, inclusive.
(Code 1975, § 4-19; Code 2002, § 10-101)

Sec. 10-102. Violations.

No person, whether as owner, lessee, sublessee, or occupant, shall erect, construct, enlarge, alter, repair, move, improve, remove, demolish, equip, use, occupy, or maintain any building or premises, or cause or permit such work to be done, contrary to or in violation of any of the provisions of this article or any order issued by the building official under this article. Any person violating the provisions of this section shall be responsible for a municipal civil infraction.
(Code 1975, § 4-20; Code 2002, § 10-102)

Sec. 10-103. General procedure.

(a) *Commencement of proceedings.* Whenever the building official has inspected or caused to be inspected any building and has found and determined that such building is a dangerous building, the building official shall commence proceedings to cause the repair, vacation, or demolition of the building.

(b) *Notice and order.* The building official shall issue a notice and order directed to the record owner of the building. The notice and order shall contain:

(1) The street address and a legal description sufficient for identification of the premises upon which the building is located.

(2) A statement that the building official has found the building to be dangerous with a brief and concise description of the conditions found to render the building dangerous under the provisions of section 10-61.

(3) A statement of the action required to be taken as determined by the building official:

a. If the building official has determined that the building or structure must be repaired, the order shall require that all required permits be secured therefor and the work physically commenced within 30 days from the date of the order and completed within the time limits of the building permit, which limits, for dangerous buildings, shall be determined by the building official, taking into account the condition of the building or structure, but not to exceed one year.

b. If the building official has determined that the building or structure must be vacated, the order shall require such vacation within a reasonable time certain from the date of the order.

c. If the building official determines the building must be demolished (removed) the order shall state the date by which removal must be accomplished.

(c) *Noncompliance.* Where an order under this section is not complied within the time specified, the city shall institute proceedings to repair or demolish (remove) the structure. The proceedings shall be as follows:

(1) A hearing before the housing board of appeals shall be scheduled.

(2) Notice of the hearing shall be sent by certified mail to all owners shown on the tax assessment records, the holder of a recorded mortgage, a tenant under any written lease which has been recorded, any principal occupant and any owner otherwise known to the city, such as land contract vendors and vendees (also called "interested persons" in this section). The notice shall specify the time and place of the hearing, and notify all interested persons that they shall have the opportunity to show cause why the structure should not be demolished or repaired. The notice shall be mailed at least ten days before the hearing date. Personal service may be used in lieu of certified mail. In all cases a copy of the notice shall be posted upon a conspicuous part of the structure and shall constitute notice to all interested persons.

(d) *Notice; hearings.* The notice shall specify the time and place of the hearing on the condition of the building or structure at which time and place the person to whom the notice is directed shall have the opportunity to show cause why the building or structure shall not be ordered to be demolished, secured and thereafter demolished, secured and thereafter repaired, or otherwise made safe. The hearing shall be held before the housing board of appeals of the city and the director of inspections shall file a copy of the notice of the dangerous and unsafe conditions with the housing board of appeals. All notices shall be in writing and shall be served upon the person to whom they are directed personally or, in lieu of personal service, may be mailed by certified mail, return receipt requested, addressed to such owner or party in interest at the address shown on the tax records at least ten days before the hearing described in the notice. If any person to whom a notice is directed is not personally served in addition to mailing a notice, a copy thereof shall be posted upon a conspicuous part of the building or structure and shall constitute notice to all occupants and all interested parties. (Code 1975, § 4-24; Code 2002, § 10-103; Ord. No. 2032, §§ 1, 2, 9-12-2000)

Sec. 10-104. Hearings.

(a) *Housing board of appeals hearing.* The housing board of appeals shall take and record testimony of the inspection personnel, the owner of the property and any interested party. The housing board of appeals shall make written findings of fact and conclusions concerning the applicability of this article and render its decision, either dismissing the proceedings, ordering the building to be demolished or providing for an opportunity to repair or demolition.

(1) If it is determined by the housing board of appeals that the building or structure should be demolished, it shall so order, recommending a time to comply after city commission final action. The housing board of appeals may enter a conditional order giving an opportunity to repair, simultaneously ordering demolition if repairs are not timely accomplished.

(2) A copy of the findings and order of the housing board of appeals shall forthwith be served on the owner and other interested parties in the manner set forth in section 10-103.

(3) Following such determination by the housing board of appeals, it shall file a written report of its findings and its order with the city commission and request that the city commission review and concur with its decision.

(4) If demolition is ordered, or if the interested party or parties fail to comply with the requirements of an opportunity to repair, the city shall issue a notice giving the date and time the matter is to be heard by the city commission and serve same on all interested parties at least ten days prior to the hearing and in the manner provided in section 10-103.

(b) *City commission hearing.* At the city commission hearing, the owner or other interested persons shall be given the opportunity to show cause why the structure should not be demolished

but repaired, and the city commission shall either approve, disapprove or modify the order of the housing board of appeals.

(1) After the hearing, the order of the city commission shall be served on the owner and all interested parties in the manner provided in section 10-103.

(2) The city commission may require a deposit of funds adequate for demolition if it allows an interested person to repair, and it may determine and attach any conditions to the permit.

(3) Any permit issued by the city in a dangerous building case shall be limited in time for completion during a period reasonably determined by the city, taking into account the condition of the building or structure, but not to exceed one year.

(4) If the owner or other interested parties fail to comply with the order of the city commission within the time limited or as conditioned, the city may cause the building or structure to be demolished or repaired, first utilizing any funds deposited. The cost (in excess of the deposit) of the demolition or repair shall be collected by the city in the manner following: An interested party shall be notified of the amount of such costs by first class mail; if he fails to pay within 30 days after the mailing of the notice, the city may recover the costs from the owner, owners or person interested as a personal obligation by filing an action for recovery in the courts. The city may further, or alternatively, add the premises to the next tax roll of the city and collect the costs in the same manner in all respects as provided by law for the collection of taxes. Defendants in the personal action, if any, shall receive credit for all amounts collected through the tax collection procedure, but shall be liable for any uncollected amounts. If the city collects through the personal action any amount of the costs incurred, the tax lien shall be thus reduced.

(Code 1975, § 4-25; Code 2002, § 10-104; Ord. No. 2032, § 3, 9-12-2000)

Sec. 10-105. Emergency proceedings.

(a) Whenever any building or structure shall be unoccupied and unsecured as defined in section 10-61, and when, in such event, the director of inspections shall deem such structure an immediate hazard or danger to trespassers, the director of inspections shall notify the record owner of such structure as shown by the last local tax assessment records by certified mail, return receipt requested, at the address as shown on the local tax assessment records, that unless such structure is made secure as defined in section 10-61 within seven days following the mailing of such notice, the structure shall be made secure at the owner's cost and expense.

(b) Whenever any building or structure shall be found to be in immediate danger of collapse because of fire, natural disaster, neglect of maintenance or repair, or because of cessation of demolition, the director of inspections shall notify the record owner of any such structure as shown by the last local tax assessment records by certified mail, return receipt requested, at the address shown on the local tax assessment records that, unless such structure is demolished and removed within five days following the mailing of such notice, the structure will be demolished and removed at the owner's costs and expense.

(c) In the event the owner or other interested parties shall fail to comply with the order of the city commission within the time limited therein, the city may cause the building or structure to be demolished, secured or made safe, and in such event, the cost of the demolition, securing or making the building safe shall be collected by the city in the manner following: The owner or party interested in whose name the property appears upon a last local tax assessment record shall be notified of the amount of such costs by first class mail at the address shown on the records; if he fails to pay such costs within 30 days after the mailing of the notice, the city may recover the costs from the owner, owners or parties interested as a personal obligation by filing an action for recovery in the courts. The city may further add the premises to the next tax roll of the city and collect the costs in the same manner in all respects as provided by law for the collection of

taxes. Any defendants in the personal action, if any, shall receive credit for all amounts collected through the tax collection procedure, but shall be liable for any uncollected amounts. In the event the city collects through the personal action any amount of the costs incurred, the tax lien shall be thus reduced and the amounts received applied to any obligation of the city arising from corresponding tax anticipation payments.
(Code 1975, § 4-26; Code 2002, § 10-105)

Sec. 10-106. Appeals.

An owner or interested person aggrieved by any final decision or order of the city commission may appeal the decision or order to the circuit court for the county by filing a petition for an order of superintending control within 21 days from the date of mailing of the city commission decision. The order of the city commission shall be stayed pending the outcome of all court proceedings if a petition is timely filed.
(Code 1975, § 4-28; Code 2002, § 10-106; Ord. No. 2032, § 5, 9-12-2000)

Sec. 10-107. Annual registration of vacant buildings and registration fees.

(a) *Purpose.* The purpose of this section requiring the registration of all vacant buildings, including dwellings that are subject to this chapter as referenced below, and the payment of registration fees is to assist the city government, particularly the department of public safety (DPS) and planning departments in protecting the public health, safety and welfare, to monitor the number of vacant buildings in the city, to assess the effects of the condition of those buildings on nearby businesses and the neighborhoods in which they are located, particularly in light of fire safety hazards and unlawful, temporary occupancy by transients, including illicit drug users and traffickers, and to require of the owners of such vacant buildings their registration and the payment of related fees, and to promote substantial efforts to rehabilitate such vacant buildings. The provisions of this section are applicable to the owners of such vacant buildings as set forth herein and are in addition to and not in lieu of any and all other applicable provisions of this chapter, the health and sanitation code, and any other applicable provisions of this Code.

(b) *Definitions and applicability; registration statement and fees.*

(1) *Definitions.* For purposes of this section, the following words and phrases shall have the meanings respectively ascribed to them as follows:

Boarded. A building or structure subject to the provisions of this section shall be deemed to be "boarded" if in place of one or more exterior doors, other than a storm door, or of one or more windows, there is a sheet or sheets of plywood or similar material covering the space for such door or window.

Exterior maintenance and major systems. The phrase "exterior maintenance and major systems" shall mean the safe and lawful maintenance of the facade, windows, doors, roof, and other parts of the exterior of the building and the maintenance of its major systems consisting of the roof, the electrical and plumbing systems, the water supply system, the sewer system, and the sidewalk, driveway, if any, area of the lot, as applicable and as enforced by the DPS, particularly in connection with sections 10-82 (inspection of unoccupied building; initiation of processing) and 10-101 (abatement of dangerous buildings).

Occupied. Any building or structure shall be deemed to be occupied if one or more persons actually conducts a lawful business or resides in all or any part of the building as the licensed business-occupant, or as the legal or equitable owner/occupant or tenant on a permanent, nontransient basis, or any combination of the same. For purposes of this section, evidence offered to prove that a building is so occupied may include, but shall not be limited to, the regular receipt of delivery of regular mail through the U.S. Postal Service; proof of continual telephone, electric, gas, heating, water

and sewer services; a valid city business license, or the most recent federal, state, or city income tax statements indicating that the subject property is the official business or residence address of the person or business claiming occupancy; or proof of pre-rental inspection.

Open. A building or structure subject to the provisions of this section shall be deemed to be "open" if any one or more exterior doors other than a storm door is broken, open and, or closed but, without a properly functioning lock to secure it, or if one or more windows is broken or not capable of being locked and secured from intrusion, or any combination of the same.

Owner. An owner of the freehold of the premises or any lesser estate therein, a mortgagee, a vendee-in-possession, assignee of rents, receiver, executor, trustee, lessee, agent or any other person that is directly or indirectly in control of a building subject to the provisions of this section, and as set forth below.

Seasonal residence. A legal residential structure that has been used as a residence by the owner for a period of at least three consecutive months within the previous nine months and the same owner intends to resume residing at the property. A non-owner-occupied home does not qualify as a seasonal residence.

Vacation home. A secondary legal residential dwelling used by the owner or one or more immediate member of the owner's family, such as a son or daughter, for a period less than three consecutive months out of the previous nine months but still has verifiable occupancy periods spread throughout the year. If the home is rented or leased it does not qualify as a vacation home.

Vacant. A building or structure shall be deemed to be vacant if no person actually, currently conducts a lawfully licensed business, or lawfully resides or lives in any part of the building as the legal or equitable owner or tenant-occupant, or owner-occupants, or tenant on a permanent, nontransient basis, unless the structure is legally being used for storage purposes. Such storage use must be a legally allowed principal use of the zoning district where the structure is located and the use must be in compliance with all appropriate provisions of city ordinances, building and fire codes pertaining to the storage use.

Vacancy date. The date when the building or structure became vacant. This is not the same as the date the property was purchased/sold.

(2) *Applicability.* The requirements of this section shall be applicable to each owner of any building that is not a dwelling that shall have been vacant for more than 90 consecutive days and to each owner of residential property consisting of one or more vacant dwellings that shall have been vacant for more than 90 consecutive days. Each such owner shall cause to be filed a registration statement, which shall include the street address and parcel number of each such vacant building, the names and addresses of all owners, as hereinafter described, and any other information deemed necessary by the city. The registration fees as required by subsection (b)(3) of this section shall be billed annually by the city and shall be paid within 30 days of the invoice date. For purposes of this section, the following shall also be applicable:

a. If the owner is a corporation or a limited liability corporation, the registration statement shall provide the names and residence addresses of all officers, directors and/or members and shall be accompanied by a copy of the most recent annual tax report filed with the state;

b. If an estate, the name and business address of the executor of the estate;

c. If a trust, the name and address of all trustees, grantors, and beneficiaries;

d. If a partnership, the names and residence addresses of all partners with an interest of ten percent or greater;

e. If any other form of unincorporated association, the names and residence addresses of all principals with an interest of ten percent or greater;

f. If an individual person, the name and residence address of that individual person.

(3) *Registration statement and fees; local agent.* If none of the persons listed, as above, are shown at an address within the state or the home is a qualified vacation home or seasonal residence, the registration statement also shall provide the name and address of a person who resides within the state and who is authorized to accept service of process on behalf of the owners and who shall be designated as a responsible, local party or agent, both for purposes of notification in the event of an emergency affecting the public health, safety or welfare and for purposes of service of any and all notices or registration statements as herein authorized and in connection herewith. Registration shall be required for all vacant buildings, whether vacant and secure, vacant and open or vacant and boarded, and shall be required whenever any building has remained vacant for 90 consecutive days or more. In no instance shall the registration of a vacant building and the payment of registration fees be construed to exonerate the owner, agent or responsible party from responsibility for compliance with any other state construction code requirement. The owner of the vacant property, at the time of billing, shall be responsible for the payment of the nonrefundable registration fee. Said fee shall be billed annually by the city and based on the duration of the vacancy as determined by the master fee resolution.

(4) *Appeal rights.* The owner shall have the right to appeal the imposition of the registration fees to a committee appointed by the city manager, upon filing an application in writing with the applicable $50.00 nonrefundable filing fee to the city manager's office no later than 30 calendar days after the date of the billing statement. On appeal, the owner shall bear the burden of providing satisfactory objective proof of occupancy.

(5) *One-time waiver of registration fee.* A one-time waiver of the registration fee may be granted by the committee appointed by the city manager upon application of the owner, if all taxes and fees, such as, but not limited to, property taxes, mowing charges, past vacant building registration fees, landlord registrations, business registrations, utilities and any other applicable charges, have been paid prior to application for the waiver. If the owner:

a. Demonstrates with satisfactory proof that he is in the process of demolition, rehabilitation, or other substantial repair of the vacant building; and

b. Objectively demonstrates the anticipated length of time for the demolition, rehabilitation, or other substantial repair of the vacant building; or

c. Provides satisfactory proof that he was actively attempting to sell or lease the property during the vacancy period.

(6) *Two-year waiver.*

a. Upon application by the owner and satisfaction of subsection (b)(5) of this section, the committee appointed by the city manager may grant a two-year waiver of the registration fee if the owner meets the criteria for nonprofit organizations as defined by Section 501(c)(3) of the Internal Revenue Code.

b. Upon application by the homeowner who is temporarily residing in a medical care facility, or a legal representative of the homeowner, the committee may grant a renewable two-year

waiver of the registration fee. To be eligible for a two-year waiver of fee, satisfactory proof that the structure will only be temporarily vacant and the property and structures must remain in good repair and free of any enforcement actions by city departments. Should the structure or property not be properly maintained, or be in violation of city Code, the waiver may be revoked by the appeal committee.

c. Upon application by the homeowner or a legal representative, the committee may grant a two-year waiver of the registration fee. To be eligible for a two-year waiver of fee, satisfactory proof that the structure will only be temporarily vacant due to property being in probate court, being actively rehabbed to city code so it may become occupied or the structure is in good repair and has the presence that the structure is not vacant (per zoning code for allowable uses), and free of any enforcement actions by city departments. Should the structure or property not be properly maintained or in violation of city code, the waiver may be revoked by the appeal committee.

(7) *Delinquent registration fees as a lien.* After the owner is given notice of the amount of the registration fee due, except for those owners that have properly perfected an appeal pursuant to subsection (b)(4) of this section, and the owner fails to pay the amount due, said amount shall constitute a debt due and owing to the city, and the city may commence a civil action to collect such the unpaid debt.

(c) *Duty to amend registration statement.* If the status of the registration information changes during the course of any calendar year, it is the responsibility of the owner, responsible party or agent for the same to contact the planning department within 30 days of the occurrence of such change and advise the department in writing of those changes. Except that valid seasonal residence or vacation home, as defined by this section, are not required to notify the city of changes in occupancy status.

(d) *Exceptions.* The fees imposed by this section shall not apply to any legitimate vacation or seasonal residence, as defined by this section, or any building owned by the United States, the State of Michigan or a governmental entity. Any fees billed prior to their ownership are a lien against the property, unless extinguished by operation of law. Notwithstanding a waiver of the fee, registration of all structures outlined in this section is still required.

(e) *Violations; penalties.* The failure or refusal for any reason of any owner, or agent of an owner acting on behalf of the owner, to register a vacant building or to pay any fees required to be paid pursuant to the provisions of this section, within 30 days after they become due, shall constitute a violation punishable upon conviction thereof by a fine in the amount of not less than $100.00 nor more than $500.00 for each failure or refusal to register, or for each failure or refusal to pay a required vacant building fee, as applicable. In such cases, whenever the minimum fine of $100.00 is imposed, it shall not be subject to suspension or reduction for any reason.
(Ord. No. 2240, § 10.107, 1-8-2008; Ord. No. 2256, § 10.107, 12-9-2008; Ord. No. 2260, § 10.107, 12-9-2009; Ord. No. 2276, § 10.107, 4-27-2010; Ord. No. 2300, § 10.107, 11-7-2011)

Secs. 10-108—10-130. Reserved.

ARTICLE IV. DEMOLITION OF BUILDINGS

Sec. 10-131. Violations.

Any person demolishing or causing the demolition of a structure in violation of the standards of this article shall be responsible for a municipal civil infraction.
(Code 1975, § 4-115; Code 2002, § 10-131)

Sec. 10-132. Demolition to comply with existing codes.

All demolition of buildings in the city shall be accomplished using procedures and complying with the standards of all codes in force at the time of demolition.
(Code 1975, § 4-114; Code 2002, § 10-132)

Sec. 10-133. Protection of property and free passage.

Structures shall be demolished in such manner as to avoid hazards to persons and property, interference with the use of adjacent buildings, and interruption of free passage to and from such buildings.
(Code 1975, § 4-114(1); Code 2002, § 10-133)

Sec. 10-134. Dust control.

During the demolition of any building or structure the work shall be kept thoroughly wetted down to prevent the spread of dust. The owner or contractor shall provide water and necessary connections therefor. The department of inspections may require in appropriate cases, a suitable fence to be constructed around the work site, where conditions indicate that the safety of the public requires such fence.
(Code 1975, § 4-114(2); Code 2002, § 10-134)

Sec. 10-135. Removal of materials.

(a) All buildings and structures to be demolished shall be completely razed and all materials shall be removed from the site, and disposed of in accordance with all applicable laws and regulations. All materials, including, without limitation, every installation, part of a building or accessory building or other improvement on the premises, whether above or below grade, shall be completely removed from the site. No part of any basement or infrastructure below grade shall remain.

(b) Under unusual and extraordinary circumstances and upon written request of the landowner, the city manager may waive all or part of the above requirement regarding removal of below grade materials or infrastructure. Upon approval of the waiver, the landowner shall execute and record with the county register of deeds a notice indicating to future owners of the property that underground materials or infrastructure remains on the property.
(Code 1975, § 4-114(3); Code 2002, § 10-135; Ord. No. 2213, 1-9-2007)

Sec. 10-136. Explosives prohibited; exception.

Explosives shall not be used for demolition except by prior written permission of the city and after the owner and contractor have obtained and exhibited all necessary permits therefor.
(Code 1975, § 4-114(4); Code 2002, § 10-136)

Sec. 10-137. Disposal of debris and materials.

All debris, combustible and noncombustible, hazardous materials of any kind and all other materials shall be disposed of in accordance with all applicable statutes, ordinances and regulations of the United States, the state, or any local ordinance, rule or regulation, including those of locations where the materials are deposited or transported for disposal.
(Code 1975, § 4-114(5); Code 2002, § 10-137)

Sec. 10-138. Fill of below grade spaces.

All below grade spaces, depressions or excavations, including, without limitations, former basements, cellars, septic tanks, pits, wells and any other excavation, shall after removal of all installations and materials, be filled with clean sand, except for the top three inches, which shall be filled with black dirt, seeded with grass seed.
(Code 1975, § 4-114(6); Code 2002, § 10-138)

Sec. 10-139. Inspection and certification.

No excavation hole or depression shall be filled until an authorized representative of the city has inspected and certified that all existing material located below grade has been removed.
(Code 1975, § 4-114(7); Code 2002, § 10-139)

Sec. 10-140. Removal of sidewalk openings.

Sidewalk openings and the covers of all sidewalk openings such as coal holes, vaults or stairwells connected with buildings or premises in the

demolition area shall be removed and the openings filled with approved material tamped level with the sidewalk. An approved installation of the resulting sidewalk surface shall be installed with city approval.
(Code 1975, § 4-114(8); Code 2002, § 10-140)

Sec. 10-141. Obstruction of traffic.

The contractor shall not close or obstruct any street, sidewalk, alley or passageway unless specifically authorized by the city. No material whatsoever shall be placed or stored in any such area. The owner or contractor shall not interfere with the use of roads, streets, alleys, driveways, passageways, sidewalks or other travel facilities.
(Code 1975, § 4-114(9); Code 2002, § 10-141)

Sec. 10-142. Cleanup.

The owner or contractor shall remove all debris and equipment and dispose of all material, as above required, and leave the ground clear of all materials, rubbish or debris.
(Code 1975, § 4-114(10); Code 2002, § 10-142)

Sec. 10-143. Burning prohibited.

No burning shall be permitted within the project area.
(Code 1975, § 4-114(11); Code 2002, § 10-143)

Sec. 10-144. Permits.

Demolition permits must be obtained from the department of inspections of the city. Fees for such permit shall be determined by resolution.
(Code 1975, § 4-114(12); Code 2002, § 10-144)

Secs. 10-145—10-220. Reserved.

ARTICLE V. MOVING OF BUILDINGS*

Sec. 10-221. Mover's license.

(a) No person shall engage in the business of moving houses or other buildings within the city without first obtaining a license therefor.

(b) Any person desiring to engage in the business of moving houses or other buildings shall make application for a license to the city clerk. The applicant shall show that all equipment is in good repair and capable of handling all loading of moving equipment. The applicant shall show that he has recently engaged in the moving of buildings or has extensive experience working for a licensed building mover. The license shall show proof that a comprehensive general liability and vehicle liability insurance in the amount of $1,000,000.00 is in effect. Such policy shall insure the city as a named insured and shall not contain exclusions for liability arising out of explosions, excavation, collapse or other hazards.
(Code 1975, § 4-3; Code 2002, § 10-221)

Sec. 10-222. Moving permit; application; traffic escort; bond; etc.

(a) No person shall move any building within the city until a moving permit has been issued.

(b) An application for such permit shall be made to the department of inspections. The application shall designate the streets, alleys or other public places along which the building is to be moved.

(c) The applicant shall also make arrangements with the city police department's traffic division for any escort that may be necessary. Application for a moving permit shall be approved by the fire chief, and the director of inspections. Further, the application shall be accompanied by an application for building permit in connection with the relocation of the building which must be issued at the same time as the approval by the director of inspections.

(d) A cash bond, certified check or cashier's check or cash deposit payable to the order of the city in the sum of $10,000.00 shall accompany the application for moving permit, the funds to be applied in the sole judgment of the city toward all charges, expenses, administrative costs, services by the city or damage incurred by the city or by others whom the city reimburses in its sole discretion. The application of such funds to these costs, expenses or services shall not limit the city's right to charge the permittee for additional costs incurred.

*__State law reference—__Moving of buildings, MCL 247.188 et seq.

(e) Where buildings are to be moved or reset upon the same lot, applications shall be made to the director of inspections who shall determine the requirements to protect all utilities on or in the vicinity of the parcel. The permit fee for moving the building shall not be required in such cases.

(f) When the moving of any building has been commenced it shall be diligently continued without interruption, so as not to become a hazard or unnecessarily impede or interfere with traffic upon any street, alley or public way.
(Code 1975, § 4-4; Code 2002, § 10-222)

Sec. 10-223. Compliance with applicable regulations.

No building shall be moved from one parcel to another unless such building complies with all applicable ordinances and codes after installation at the new site.
(Code 1975, § 4-5; Code 2002, § 10-223)

Sec. 10-224. Penalty.

Any person violating any of the provisions of this article shall be responsible for a municipal civil infraction.
(Code 1975, § 4-7; Code 2002, § 10-225)

Secs. 10-225—10-280. Reserved.

ARTICLE VI. PROPERTY MAINTENANCE CODE

DIVISION 1. GENERALLY

Sec. 10-281. Definitions.

All words and phrases used in this article shall be given their common and normal meanings unless defined in this section. The words and phrases defined in this section shall be given the meaning indicated in the interpretation and enforcement of this chapter:

Abandoned dwelling means an unoccupied dwelling. Such dwelling is presumed to be abandoned if it is unoccupied for six months.

Accessory building or structure means a subordinate building or structure, the use of which is clearly incidental to that of the main building or to the use of the land.

Administrator means the person appointed by the city manager charged with the responsibility of administering the provisions of this article.

Animal means any living species other than a human, insect or plant.

Apartment means a dwelling unit located in a multifamily building.

Apartment house means a structure containing three or more dwelling units.

Basement means that portion of a building which is partially below and partially above grade and having at least one-half its height above grade.

Basic structural elements means the parts of a building or structure which provide the principal strength, stability, integrity, shape and safety, including, but not limited to, plates, studs, joists, rafters, stringers, stairs, subflooring, flooring, sheathing, lathing, roofing, siding, window frames, door frames, porches, railings, eaves, chimneys, flashing, foundation, masonry and all other essential components.

Building means any structure built for the support, shelter or enclosure of persons, chattels or property of any kind. The term "building" shall be construed as if followed by the words "or part thereof."

Building materials means, but shall not be limited to, lumber, bricks, concrete or cinder blocks, plumbing material, electrical wiring or equipment, heating equipment, including ducts, shingles, mortar, concrete or cement parts, screws, fence posts and fencing.

Cellar means that portion of a building which is partly or completely below grade, having at least one-half its height below grade.

Certificate of compliance means a certificate issued by the director of inspections stating that a structure or portion thereof complies with the requirements of the housing code and all other codes regulating the condition or use of property.

City means the municipal corporation that is the City of Muskegon, including all authorized agents when acting within the scope of their authority.

Deteriorate means to decay, decompose or degenerate.

Deterioration and *deteriorated* mean the fact or process of decay or degeneration which has progressed to the point where it has resulted in or will soon result in making an object or mechanism unsafe, unsanitary, inoperable, unusable or unsuitable for its intended use, including, but not limited to, the advanced state of rot, rust, mold, insect infestation or destruction.

Dwelling means any building or structure occupied or intended to be occupied, in whole or in part, as a dwelling, residing place, living or sleeping space for one or more humans, whether permanently or transiently.

Dwelling unit means a building or structure or portion thereof designed for occupancy by one family for residential purposes as a single housekeeping unit.

Emergency means a condition of imminent danger calling for immediate action in order to avoid death, injury or illness to a human or the destruction or severe damage of real or personal property.

Family means a person living alone or two or more persons living together as a single housekeeping unit in a dwelling unit.

Finish surfaces means materials used for the final covering of basic structural elements. The term "finish surfaces" shall include, but not be limited to, ceilings, walls, wainscotting, kick boards, moulding stops and floor coverings.

Garbage means all rejected food wastes, refuse and animal or vegetable matter from any kitchen, market or store.

Good repair means to be properly installed, safe, stable and maintained sufficiently free of defects or deterioration so as to be functional for its present use.

Good workmanship means completing a task of construction, repair or replacement to acceptable industry standards using like materials so that the result is free of defects, operates as intended and creates no unsafe condition.

Guardrail means a system of building components located near the open sides of elevated walking surfaces for the purpose of minimizing the possibility of an accidental fall from the walking surface to the lower level. Guardrails shall be constructed in such a manner that a sphere six inches in diameter cannot pass through.

Habitable room means a space in a structure for living, sleeping, eating or cooking. Bathrooms, toilet compartments, closets, halls, storage or utility rooms and similar areas are not considered habitable rooms.

Hardware means and includes, but is not limited to, door handles, hinges, locks, shelving, cabinets and mirrors.

Hazardous means a condition which the administrator has determined to be likely to result in the death, injury or illness of a human or in severe damage to real or personal property.

Health officer means the director of the county health department or any of his authorized representatives.

Hot water means water heated to 120 degrees Fahrenheit temperature at the outlet.

Hotel dwelling means a dwelling containing hotel units. The term "hotel dwelling" shall include "motel."

Hotel unit means a room or group of rooms located within a dwelling which provides sleeping and bathroom accommodations for the exclusive use of a transient person or a transient family.

Housekeeping unit means a dwelling unit with common living quarters, including cooking, eating and sanitation facilities, under the control of a head of household who shall not receive compensation from other residents.

Inspector means a housing inspector or any other employee of the city whose responsibilities include the enforcement of the provisions of this article.

Interior fixtures means those interior items and hardware which provide customary finished amenities and protection within a dwelling. Interior fixtures shall include, but not be limited to, doors, doorknobs, latches, locks, hinges, handles, hooks, light fixtures, electric outlets or switch cover plates, vents or opening grates, railings, shelving, cabinetry and mirrors.

Junk means, but shall not be limited to, parts of machinery or motor vehicles, unused stoves or other appliances stored in the open, remnants of wood, metal or any other material or other castoff materials of any kind whatsoever whether or not such materials could be put to any reasonable use.

Kitchenette means a room or portion of a room used for the preparation of food containing facilities and equipment provided for in this article and containing less than 70 square feet of floor area.

Nuisance means any public nuisance commonly known as law or equity.

Occupancy and *occupy* mean the fact or act of a human living or sleeping in a dwelling unit within a dwelling whether the human is physically present or temporarily absent.

Occupant means a human who occupies a dwelling or dwelling unit within a building or structure.

Open window area means the resulting square footage of open space to the outdoors when a window has been opened to its maximum distance as measured clear of the sash frame.

Owner and *ownership* mean any person whose name the property appears on the city's real property tax assessment records. The term "owner" shall also mean any person who, in fact, has been empowered to act on behalf of or as an agent of the owner.

Premises means any lot or parcel of land and the building located thereon.

Refuse means any waste product which is not water carried and which is composed wholly or partially of such material as garbage, rubbish, sweepings, industrial or domestic solid wastes, organic wastes or such other substances as may become a nuisance. The term "domestic refuse" means refuse resulting from the usual routine of housekeeping and yard maintenance.

Rental dwelling means any dwelling building containing a dwelling unit, rooming unit or hotel unit which is not occupied by the owner.

Rented and *leased* mean to be legally occupied by a family.

Reside means to be domiciled.

Roomer means a person who is provided with living and sleeping quarters in a rooming dwelling or by a family within a dwelling unit occupied by a family but who is not provided with cooking facilities for the exclusive use of that person.

Rooming dwelling means a dwelling building, dormitory or institutional group quarter containing rooming units.

Rooming unit means a room or group of rooms located within a dwelling structure intended to accommodate roomers.

Rubbish means nonputrescible solid waste, excluding ashes, consisting of both combustible and noncombustible waste, including paper, cardboard, metal containers, wood, glass, bedding, grocery, demolished building materials or litter of any kind that may be detrimental to public health or safety.

Secured building structure means any dwelling, building or structure with all of its exterior openings intact and locked and lockable (but not by temporarily securing), so as to prevent entrance thereto by vandals or unauthorized persons.

Structural alterations means any change in the supporting members of a building or structure, such as bearing walls, columns, beams or girders.

Structure means anything constructed or erected, the use of which requires location on the ground or attachment to something having location of the ground.

Temporarily secured building/structure means any dwelling, building or structure having its

openings covered by boards of the materials, strength and appearance allowed by this section for a period not exceeding 180 consecutive days.

Tenant means any person other than a legal or equitable titleholder, occupying or possessing a dwelling or part thereof.

Unit means a collective term for any dwelling unit.

Unsafe means a condition which is reasonably likely to cause injury to people or property.

Vermin means rodents, birds and insects which are destructive of real or personal property or injurious to health.

Window area means the area of glazing of a window, including the area taken up by window-pane dividers.

Yard means the open spaces on the same lot as a building, unoccupied and unobstructed from the ground upward.
(Code 1975, § 4-62; Code 2002, § 10-281)

Sec. 10-282. Violations and penalties.

Any person who violates any provision of this article shall be responsible for a municipal civil infraction. Each day that a violation continues to exist may be charged as a separate municipal civil infraction which shall subject the violator to a separate civil fine and other penalties.
(Code 1975, § 4-79; Code 2002, § 10-282)

Sec. 10-283. Civil remedies for violation.

(a) In case any dwelling is maintained in violation of any provision of this article or of any order or notice given under this article, or in case a nuisance exists in any dwelling or upon the lot on which it is situated or within an accessory structure, the city, by and through the administrator, may institute an action in circuit court to prevent such unlawful maintenance; to restrain, correct or abate such violation or nuisance; to prevent the occupation of such dwelling, building or structure or to prevent any illegal act or conduct in such dwelling or lot. The procedure for such action shall be the same as for an injunction or abatement of a nuisance.

(b) The judgment of the court in such cause may direct the correction, repair or rehabilitation of the dwelling or building or the abatement of the nuisance, may authorize a reasonable time within which the defendant may make such correction or abatement and may authorize the city to execute and carry out the provisions of the judgment in case of default of the defendant. The judgment of the court may order the vacation of the premises until the corrections, rehabilitations or abatements are completed. Whenever the city has incurred any expense in the enforcement of this article or in obtaining a judgment of the court or if inspection fees are due, such expenses and fees may be recovered.

(c) The city shall have a lien upon the premises for all fees due and amounts expended to correct, repair, rehabilitate or abate a condition or nuisance thereon and for expenses necessarily incurred in the obtaining and executing of a judgment, which lien shall have priority over all other liens or encumbrances except taxes, assessments or mortgages recorded previous to the existence of such lien. Such lien may be enforced by levy as in the case of real property taxes, by personal action or judicial foreclosure. The lien shall be effective on the date billed by the city.

(d) In any action instituted by the city under this section, the city attorney may file in the office of the register of deeds of the county a notice of the pendency of the actions or proceedings. A notice may be filed at the time of the commencement of the action or proceeding or at any time thereafter before final judgment or order or at any time after the service of any notice or order issued by the city. The notice shall have the same force and effect as a lis pendens. Such notice may be vacated upon the order of the judge of the court in which the action or proceeding was instituted or is pending or by consent in writing of the city or the city attorney.
(Code 1975, § 4-78(16); Code 2002, § 10-283)

Sec. 10-284. Prosecution not delayed.

Nothing in this article shall delay or be a cause of terminating the prosecution of a defendant for failure to correct violations of this article noted in a final notice to repair or an emergency.
(Code 1975, § 4-78(17); Code 2002, § 10-284)

Sec. 10-285. Purpose; application of article.

(a) The purpose of this article is to protect the public health, safety and welfare in buildings intended for human habitation and accessory structures as hereafter provided by:

(1) Establishing minimum standards for exterior property areas, exterior structures, interior structures, basic facilities, light and ventilation, occupancy requirements and fire safety. These standards are designed to be reasonably high but, at the same time, practical and attainable and should not be interpreted as a guarantee to the purchaser.

(2) Fixing the responsibilities of owners, operators and occupants of every building or structure used or intended for commercial or residential use or occupancy, in whole or in part.

(3) Providing for administration, enforcement and penalties.

(b) The provisions of this article shall apply to all existing structures. Any new building construction or additions to existing structures in the city must comply with the requirements of the state construction code, as amended. The minimum standards required under this article are designed to prevent fire hazard, structural deterioration, inadequate light, air and heat and unsanitary and overcrowded conditions which constitute a menace to the safety, health and welfare of the occupants or to the surrounding area.
(Code 1975, § 4-61(b); Code 2002, § 10-285)

Secs. 10-286—10-300. Reserved.

DIVISION 2. ADMINISTRATION AND ENFORCEMENT

Subdivision I. In General

Sec. 10-301. Fees.

Fees for inspections, certifications, appeals and any activity of the city in administering or enforcing this article shall be determined by resolution of the city commission. Any fee which is unpaid shall be a lien against the premises and collected as in the case of real property taxes or by foreclosure or by personal action.
(Code 1975, § 4-85; Code 2002, § 10-301)

Sec. 10-302. Enforcement; inspection.

(a) The standards of this article are to be enforced by the inspection of buildings, dwellings, the units within buildings, dwellings, accessory structures and yards.

(b) Inspections will be made to obtain and maintain compliance with the standards of this article based upon one or more of the following:

(1) A complaint received by the city indicating that there is a violation of the standards of this article.

(2) An observation by the city of a violation of the standards of this article.

(3) A report or observation of a dwelling that is unoccupied and unsecured or a dwelling that is fire-damaged.

(4) The registration and certification of a rental dwelling as required by section 10-351.

(5) The need to determine compliance with a notice or an order issued by the city.

(6) Designation by the city commission of an area where all buildings, dwellings, accessory buildings or yards are to be inspected uniformly or intensively or for specific violations.

(7) An emergency observed or reasonably believed to exist.

(8) A request for an inspection by an owner, occupant or responsible agent.

(9) Requirements of law where a dwelling is to be demolished by the city or where ownership is to be transferred to the city.

(10) Inspection prior to sales or transfers of dwelling units or residential properties having neighborhood enterprise zone certificates.

(c) When an emergency is reasonably believed to exist or is known to exist within a unit, dwelling or accessory structure, the city shall have the right to enter immediately and at any time without a warrant or without requesting permission. Entry must be for the sole purpose of determining that an emergency exists or to abate an emergency condition known to exist.
(Code 1975, § 4-78(1), (11); Code 2002, § 10-302)

Sec. 10-303. Inspection prior to sales and certificate of compliance for properties with neighborhood enterprise zone certificates issued.

(a) *Requirement for inspections.* Prior to the sale, assignment or transfer by the owner of his interest in any dwelling unit or residential property in the city which is a new or rehabilitated facility for which a neighborhood enterprise zone certificate is in effect pursuant to Public Act No. 147 of 1992 (MCL 207.771 et seq.), the owner shall have the residential property inspected by the city. The city, after making the inspection, shall prepare a written report thereof and furnish the owner two copies thereof within ten business days after receiving the request for inspection. The inspection report shall be valid for 90 days unless extended by the director of inspections.

(b) *Copy of the report given to buyer.* Prior to the closing of a sale, assignment or transfer of interest in a dwelling unit or residential property subject to a neighborhood enterprise zone certificate, the owner shall furnish a copy of the inspection report to the buyer, assignee or transferee.

(c) *Certificate of compliance required for sale.* No such dwelling unit or residential property subject to a neighborhood enterprise zone certificate shall be sold, including sales by land contract or the full purchase price, and further including leases with option, until the inspection has occurred and a certificate of compliance is issued showing compliance with all local construction and safety codes.

(d) *Fees.* No inspection shall be made without the payment of the fee established by the city.
(Code 1975, § 4-80; Code 2002, § 10-303)

Sec. 10-304. Service of notices or orders.

Except as otherwise provided for in this article, a person shall be deemed to be served with an official notice or order on the date of personal service thereof or on the date the notice or order is mailed to the last-known address or usual place of residence. All notices and orders of the city may be served on the responsible local agent, and any notice so served shall be deemed to have been served upon the owner of record.
(Code 1975, § 4-78(14); Code 2002, § 10-304)

Sec. 10-305. Removal of posted sign or notices.

It shall be a violation of this article to remove, damage, deface, interfere with, move or conceal any notice or sign posted in accordance with the provisions of this article without first obtaining the permission of the city. Any sign or notice posted pursuant to this article shall include a statement of this provision.
(Code 1975, § 4-78(14)(a); Code 2002, § 10-305)

Sec. 10-306. Failure to use procedures.

Failure of the city to notify the owner, occupant or responsible local agent through the utilization of any informal step of the enforcement process shall not invalidate a final notice to repair which has been properly issued.
(Code 1975, § 4-78(15); Code 2002, § 10-306)

Secs. 10-307—10-325. Reserved.

Subdivision II. Violations

Sec. 10-326. Enforcement process.

(a) Except for emergency or hazardous situations, the enforcement of the standards of this article will normally consist of the following four steps:

(1) An informal notice of complaint.

(2) An informal notice of repair.

(3) An official violation notice entitled as a final notice to repair.

(4) Prosecution or other appropriate legal action.

(b) Failure of the city to reach the owner, occupant or responsible local agent through the utilization of any informal step of the enforcement process shall not invalidate any required step of the process, nor shall such failure be used as a ground for appeal to the housing board of appeals or as a defense to any legal action brought for violation of this article.
(Code 1975, § 4-78(2); Code 2002, § 10-326)

Sec. 10-327. Notice of complaint.

(a) When an alleged violation of the standards of this article is reported, and the owner has a valid certificate of compliance, the city shall send a notice of complaint to the owner, occupant or responsible local agent. A copy of the notice of complaint may be mailed to the complainant when appropriate. The notice shall state:

(1) That a complaint has been made.

(2) The nature of the alleged violation.

(3) The provision of this article indicated as being violated.

(4) That the owner is to look into the matter and if the problems exists, correct them and give a time period of when they are to be corrected.

(b) When an alleged violation of the standards of this article is reported, and the owner does not have a valid certificate of compliance, the city shall send a notice of complaint to the owner, occupant or responsible local agent. A copy of the notice of complaint may be mailed to the complainant when appropriate. The notice shall state:

(1) That a complaint has been made.

(2) That an inspection will be made and will give a date and time of the inspection.
(Code 1975, § 4-78(3); Code 2002, § 10-327)

Sec. 10-328. Notice to repair.

Upon observing the existence of a violation of the standards of this article, the city shall send a notice to repair to the owner, occupant or responsible local agent. The notice to repair shall:

(1) Specify the date of inspection.

(2) Specify the address where the violation was found.

(3) Include the description and the location of each violation observed by the inspector.

(4) State that each violation is a separate punishable offense.

(5) Order the owner, occupant or responsible local agent to correct all listed violations by a specific date.

(6) State that a reinspection will be made to determine whether all violations have been corrected by the date specified, and to set a date and time for the next inspection.

(7) Notify the owner, occupant or responsible local agent of the right of appeal before the housing board of appeals.
(Code 1975, § 4-78(4); Code 2002, § 10-328)

Sec. 10-329. Time to correct violation.

All notices to repair or to correct violations of this article shall provide a specified time for achieving compliance in relation to the seriousness of the violation. In determining the compliance time, the following shall be taken into consideration:

(1) The complexity of the corrections required.

(2) Whether or not there is an immediate threat to life, health or safety.

(3) Repair of orders issued between October 31 and April 1 for exterior painting, or for any other exterior work adversely affected by cold or snow, shall provide additional time for the completion of such work, but in no case longer than June 30.

(4) The administrator may approve an increase of the time by a written notice when there are extenuating circumstances where the owner, occupant or responsible local agent has made a substantial documented and timely effort to correct violations.

(5) No other extensions or further extensions shall be permitted, except by orders of the housing board of appeals for good cause shown.

(Code 1975, § 4-78(5); Code 2002, § 10-329)

Sec. 10-330. Final notice to repair.

Upon observing the continued existence of a violation of the standards of this article as stated in a final notice to repair, the city shall send a final notice to repair to the owner, occupant or responsible local agent. The final notice to repair shall be sent by mail to the last-known address of the residence or business of the owner, occupant or to the responsible local agent. The notice shall:

(1) Specify the date of the inspection.

(2) Specify the address where the violation was found.

(3) Include the description and the location of each violation observed by the inspector.

(4) State that each violation is a separate punishable offense.

(5) Order the owner, occupant or responsible local agent to correct all listed violations by a specified date.

(6) State that a reinspection will be made to determine whether all violations have been corrected by the specified date.

(7) State that failure to comply with the notice will result in prosecution.

(8) Inform the owner, occupant or responsible local agent of the right of appeal before the housing board of appeals.

(Code 1975, § 4-78(6); Code 2002, § 10-330)

Sec. 10-331. Emergency orders.

If the city determines that a condition exists or is likely to exist which is an emergency, the city shall immediately attempt to verbally inform the owner, occupant or responsible local agent and all occupants of the dwelling of the nature of the condition. The city shall immediately attempt to verbally order the owner, occupant or responsible local agent to correct the condition. Any such verbal order shall be effective immediately. Written notice called for by this article shall be prepared and mailed to the owner, occupant or responsible local agent as soon as practicable after verbal notice herein referred to has been attempted. Failure to comply with an emergency order is a violation of this article.

(Code 1975, § 4-78(8); Code 2002, § 10-331)

Sec. 10-332. Abatement of emergency.

If the owner, occupant or responsible local agent cannot be contacted or fails to correct an emergency condition within the time ordered, the city manager or his authorized representative may authorize corrective actions to abate the emergency.

(Code 1975, § 4-78(9); Code 2002, § 10-332)

Sec. 10-333. Inspection entry authorized.

Authorized inspections inside a dwelling, dwelling unit or accessory structure shall be made during reasonable hours. Entry without the consent of an owner, an occupant or a responsible local agent shall require an order of the court as provided by state law.

(Code 1975, § 4-78(10); Code 2002, § 10-333)

Sec. 10-334. Change in ownership.

An owner or responsible person of a property cited as being in violation of a provision of this article shall notify the city in writing within ten days of transferring ownership of the cited property to another person. The notice to the city shall include the name, address and phone number of the new owner and the effective date of the transfer of ownership. The city shall immediately issue a new final notice to repair to any new person assuming the ownership or the status of responsible person for any dwelling which has been cited in a final notice to repair. An owner or responsible person who has failed to comply with a final notice to repair shall not be relieved of the responsibility of having violated any provision of this article by transferring ownership or responsible person status.

(Code 1975, § 4-78(12); Code 2002, § 10-334)

Sec. 10-335. Recurrent violation.

The occupant, owner or responsible local agent who violates a specific provision or standard of

this article in or about the same building three times in any 12-month period or who does not correct a cited violation after being notified with a notice to repair and a final notice to repair or after being convicted for the violation shall be considered to be willfully violating the provisions of this article and to be causing undue cost to the city in administering this article. In these cases, the city shall:

(1) Issue a final notice to repair after determining that a violation still or again exists.

(2) Use the shortest time period permitted for correction of the violation.

(Code 1975, § 4-78(13); Code 2002, § 10-335)

Sec. 10-336. Graffiti removal; nuisance abatement.

(a) As defined in this section, graffiti is hereby declared to be a public nuisance. The owner of record, or the person in charge, possession or control of any building or structure upon which graffiti is placed or affixed shall, upon the appearance of the graffiti:

(1) Cause such graffiti to be removed or concealed; or

(2) Place on file a written statement authorizing the presence of the graffiti at the department of leisure services.

(b) Whenever any nuisance in the form of graffiti shall be found on any building or other structure, the department of leisure services, or its agent or contractor, shall attempt to obtain consent from the owner for the city's graffiti removal services. If such attempt to contact the owner is not successful, the department shall post a notice in a prominent place upon the building or structure where the graffiti is found and such notice shall state that, if the graffiti is not removed or concealed or if a written statement authorizing the presence of the graffiti is not filed with the department within five days after the notice is posted, excluding Saturdays, Sundays and legal holidays, the department or its agent or contractor shall have authority to enter or access the property and abate the nuisance by removing or concealing the graffiti.

(c) Nothing in this section shall prevent the city from taking any other enforcement action authorized by law.

(d) The term "graffiti" means an inscription, drawing, mark or design that is painted, sprayed or drawn directly upon the exterior of any building or other structure and is visible from the public way; provided that, graffiti shall not include any sign permitted by the zoning code or any decoration that is part of the architectural design of the building or structure.

(Ord. No. 2131, § 1, 5-11-2004)

Secs. 10-337—10-350. Reserved.

Subdivision III. Rental Property

Sec. 10-351. Registration of rental dwellings.

(a) *Required.* All rental dwellings shall be registered with the city. If the owner does not reside within 30 miles of the city, he shall designate a responsible local agent who shall be responsible for operating such dwelling in compliance with the law, including this article. All official notices may be served on the responsible agent, and any notice so served shall be deemed to have been served upon the owner of record. Each owner or responsible local agent shall maintain a current list of the number of occupants of each rental dwelling for which he is responsible. A rental unit certificate of compliance shall not be issued if the registration provisions of this article are not complied with.

(b) *Deadline for registration; failure to comply.* All rental dwellings existing as of the effective date of the ordinance from which this article is derived shall be registered no later than six months after the effective date. The city shall order registration prior to that date for any dwelling cited in a notice required by this article. Failure to comply with such an order is a violation of this article.

(c) *Registry of new rental dwellings.* The owner of a new rental dwelling or of any dwelling newly converted to a rental dwelling shall register the rental dwelling prior to allowing occupancy of any new rental units.

(d) *Change in register information.* The owner of rental dwellings already registered with the city or his responsible local agent shall register within 60 days after any change occurs in register information. A new owner of a registered dwelling shall register the dwelling within 60 days of assuming ownership.

(e) *Application; contents.* Application for registration shall be made in such form and in accordance with such instructions as may be provided by the administrator and shall include:

(1) The address of the rental dwelling.

(2) The number of dwelling units, the number of rooming units and the number of hotel units in the dwelling.

(3) The name, residence address, business address, business phone number and personal phone number of the owner.

(4) The name, residence address, business address, business phone number and personal phone number of the manager and responsible local agent designated by the owner.

(5) The address where the owner or responsible local agent will accept notices or orders from the city.

(6) The driver's license or state identification number and state in which this was issued.

(f) *Inaccurate or incomplete register information.* It shall be a violation of this article for an owner or a responsible local agent to provide inaccurate information for the register of rental dwellings or to fail to provide information required by the city under subsection (e) of this section. In those cases in which the owner or responsible local agent is not a natural person, the information required for the register shall be provided for the organization owning the rental dwelling and for the president, general manager or other chief executive officer of the organization. Where more than one natural person has an ownership interest, the required information shall be provided for each owner.

(g) *Exemption from registration requirement.* Dwellings that are not owner-occupied, but are occupied by a grandparent, parent, child or current spouse of the owner are exempt from the rental registration requirements outlined in this section. This exemption is limited to single-family residential dwellings. It is the responsibility of the owner asking to be exempted from the rental dwelling registration requirement to provide satisfactory proof to the city of the existence of the familial relationship between owner and resident of the dwelling.

(Code 1975, § 4-82; Code 2002, § 10-351; Ord. No. 2304, 2-28-2012)

Sec. 10-352. Certificate of compliance for rental dwellings.

(a) *Required.* Rental dwellings shall not be occupied without a certificate of compliance or a temporary certificate of compliance.

(b) *Issuance.* The city shall issue a certificate of compliance for a rental dwelling when the city finds that the rental dwelling, its units and accessory structures and yards comply with the standards set forth in this article. However, no certificate of compliance shall be issued until all of the following fees and debts to the city have been paid in full:

(1) All previously billed property taxes;

(2) All current or past due special assessment installments;

(3) Water or sewer bills outstanding;

(4) All charges against the property for mowing, cleanup, weed or debris removal and similar charges by the city;

(5) Any fees, fines, penalties or debts of any sort arising from the provisions or enforcement of this article.

(c) *Temporary certificates.*

(1) Where a certificate of compliance is required, the city may issue a temporary certificate of compliance for the following reasons only:

a. For a newly registered rental dwelling until such time as the city is able to make a compliance inspection;

b. To enable the city to balance compliance inspection work loads;

c. To coincide with compliance time periods set forth in a notice citing violations of this article if such periods extend beyond the expiration date of a certificate;

d. A temporary certificate of compliance may be issued if an appeal contesting the obligation to pay the charges set forth in subsections (b)(2) through (b)(5) of this section is pending, and the appeal is bona fide and pursued to a timely conclusion. Thereafter, the property must qualify for a permanent certificate of occupancy, and the temporary certificate shall be revoked. No temporary certificate may be issued if amounts due under subsection (b)(1) of this section are unpaid.

(2) No temporary certificate of compliance shall be issued if any of the amounts set forth in subsections (b)(2) through (b)(5) of this section are unpaid and are not the subject of a bona fide timely appeal, or if there are significant health and safety defects present on the premises constituting an imminent danger to life, health or property.

(d) *Validity.* A certificate of compliance shall be valid for four years for all rental units, unless suspended as set forth in subsection (g) of this section. The administrator may authorize up to eight additional months on the certificate of a dwelling for the sole purpose of balancing inspection workloads for the city.

(e) *Expiration.* Certificates of compliance and temporary certificates of compliance may not be extended beyond their expiration dates except as may be permitted in subsections (c) or (d) of this section to enable the department of inspections to balance inspection workloads.

(f) *Length of time certificate of compliance is valid.* Any new certificate of compliance issued to an owner for a dwelling shall have an expiration date four years from the date of issuance, except that if a temporary certificate has been previously issued, the certificate shall expire four years from the date the temporary certificate was issued.

(g) *Suspension.*

(1) The director of inspections shall suspend a certificate of compliance if the owner or responsible local agent has not complied with a complaint notice. The administrator shall issue a notice of suspended certification to the owner or responsible local agent. The notice of suspended certification will inform the owner or responsible local agent:

a. That the certificate of compliance has been suspended as of the date of the notice.

b. Of the reason for the suspension.

c. That it is unlawful for any rental unit to continue to be occupied for more than 60 days after the date of suspension of the certificate of compliance, or, if substantial and immediate danger to life, health or safety exists, that no occupancy may occur after the suspension and the property shall be immediately vacated.

d. That any rental unit which is vacant at the time of suspension or which becomes vacant during the period of suspension shall not be rented or reoccupied until the certificate of compliance is reinstated or a new certificate of compliance is issued.

(2) Failure to comply with the terms of suspension as set out in this subsection shall be a violation of this article.

(h) *Reinstatement of suspended certificate of compliance.* A suspended certificate of compliance shall be reinstated if the city determines that a rental dwelling has been brought into compliance with the standards of this article and that the charges made under subsection (b) of this section have been paid. The city shall notify the owner or responsible agent by regular mail, noting the reinstatement of the certificate of compliance of the rental dwelling. Reinstatement of the certificate shall not extend or change the expiration

date of the certificate. A reinstatement fee and all inspection fees and amounts to be determined by the city commission shall be paid by the owner prior to reinstatement of the certificate.

(i) *Appeal.* Suspension of a certificate of compliance may be appealed to the housing board of appeals as provided for in this article.

(j) *Notifying tenants of suspended certificate.* The city shall send a copy of a notice of suspended certificate to each dwelling unit within a certified rental dwelling. The copy shall be addressed to "occupant" and shall be sent by regular mail. Failure of an occupant to receive a copy shall not invalidate any other proceedings authorized by this article.

(k) *Certification fees.* The director of inspections, subject to approval by the city commission, shall establish and charge a uniform and reasonable fee for certification from time to time.
(Code 1975, § 4-83; Code 2002, § 10-352; Ord. No. 2052, 8-28-2001)

Secs. 10-353—10-370. Reserved.

Subdivision IV. Appeals

Sec. 10-371. Housing board of appeals.

(a) *Creation and purpose.* A housing board of appeals is created for the purpose of hearing and deciding appeals concerning the application or interpretation of the provisions of the standards of this article as provided in this subdivision.

(b) *Membership, appointments and terms of members.* The housing board of appeals for the city shall have the general duties and powers conferred upon it by law and this article. The housing board of appeals shall consist of seven members appointed by the mayor and confirmed by the city commission. The director of inspections shall act as secretary to the housing board of appeals. Each member of the housing board of appeals shall be a resident of the city during his entire terms. Terms of members shall be for three years, which terms have been staggered from the time of the original creation of the board by law.

(c) *Board officers.* Housing board of appeals members will annually elect a president, vice-president and such other officers as are deemed desirable by the housing board of appeals.

(d) *Meetings.* Meetings of the housing board of appeals shall be scheduled at least once a month. All meetings and notices of meetings of the housing board of appeals and its committee shall comply with the open meetings act (MCL 15.261 et seq.).

(e) *Interest conflicts.* No member of the housing board of appeals shall speak or vote on any appeal in which the member has any direct personal or financial interest, nor shall any member participate in any matter where participation is prohibited by the city Charter or state law.

(f) *Board rules of procedure.* The housing board of appeals may adopt rules of procedure as required to carry out the responsibilities and the provisions of this article.

(g) *Summary of rulings.* The housing board of appeals shall report a summary of its findings and rulings to the city commission annually. The report shall include a summary of recurrent appeals or recurrent problems along with resultant recommendations for modifications of this article.
(Code 1975, § 4-84(a), (g), (l)—(p); Code 2002, § 10-371)

Sec. 10-372. Appeal authorized.

Except as otherwise provided in this article, any person issued an order by the city in the course of enforcement of the provisions of this article or any other person affected by a city order or ruling issued pursuant to authority granted by this article, has the right to appear before the housing board of appeals to appeal the decision or interpretation made by the city. All appeals shall be filed, heard and decided in accordance with the provisions of this article.
(Code 1975, § 4-84(b); Code 2002, § 10-372)

Sec. 10-373. Time period for filing an appeal.

An appeal must be filed within 20 days of the date of any order or ruling being appealed. However, if an order required the correction of a cited

violation within a shorter period of time, the appeal must be made within such shorter period. The housing board of appeals shall not have the power to extend the time limits provided for in this section.
(Code 1975, § 4-84(c); Code 2002, § 10-373)

Sec. 10-374. Effect of appeal on correction time limits.

An owner, occupant or responsible local agent who has been ordered to correct a violation within a specified period of time shall not be held accountable for any time which elapses between the time of filing an appeal and the time a decision is made by the housing board of appeals.
(Code 1975, § 4-84(d); Code 2002, § 10-374)

Sec. 10-375. Procedure for filing an appeal.

Any person wishing to make an appeal must fill out a claim of appeal form setting forth the order or ruling being appealed. The appellant must file the form with the city at a place to be designated by the housing board of appeals and which shall be noted on the claim of appeals form. The city will send a notice to the appellant regarding the date the appeal will be heard by the housing board of appeals. Notices of the hearing date will be by regular mail sent to the address stated on the claim of appeal. Failure of any owner, occupant or responsible local agent to receive notice will not cause the hearing or the decision of the housing board of appeals to be defective. The city shall notify the occupants of the affected premises of the hearing by regular mail or by placing a notice in the entryway of the dwelling unit. Any person requesting a claim of appeal form shall be notified of the standards for housing board of appeals decisions set out in section 10-377.
(Code 1975, § 4-84(e); Code 2002, § 10-375)

Sec. 10-376. Appeal fee.

An appeal fee established by resolution of the city commission shall be submitted with any claim of appeal. The appeal fee shall be waived for an applicant whose annual income is below the poverty level as established and modified from time to time in the annual poverty income level established by the Department of Housing and Urban Development of the United States. The housing appeal board may also authorize the return of a fee to an appellant if the board determines that an error by the city caused an unnecessary appeal to be submitted.
(Code 1975, § 4-84(f); Code 2002, § 10-376)

Sec. 10-377. Hearing procedures.

At any hearing of the housing board of appeals, the following procedures shall be followed:

(1) Testimony of the appellant, the city and any witnesses shall be recorded.

(2) The appellant or authorized agent of the appellant and the city employee who issued the order, notices or ruling shall be present.

(3) A quorum of the housing board of appeals shall be present.

(4) Minutes shall be prepared which identify all parties present, accurately summarize all pertinent statements made, include all evidence and records submitted and show all motions and actions and records of the vote of each member of the housing board of appeals.

(Code 1975, § 4-84(h); Code 2002, § 10-377)

Sec. 10-378. Decision by the appeals board.

After all evidence and testimony has been presented, the housing board of appeals shall affirm, modify or reverse the order or ruling being appealed. Any decision of the housing board of appeals modifying or reversing an order or ruling by the city shall require the concurring vote of a quorum.
(Code 1975, § 4-84(i); Code 2002, § 10-378)

Sec. 10-379. Standard for appeals board decisions.

A decision by the housing board of appeals shall include the reasons for the decision in the language of the decision. Any decision of the

housing board of appeals not complying with this section shall be void. Any decision to reverse or modify any order or ruling to the city shall:

(1) Include any necessary special conditions to carry out the intent of the provisions being appealed.

(2) Determine that the decision is necessary to avoid causing undue hardship to the appellant which is not applicable to others to whom the same provision is applied.

(3) Determine that the order or ruling was an incorrect interpretation of a standard of this article.

(4) Determine that an alternative proposed by an appellant meets the minimum standards for housing as expressed in this article.

(Code 1975, § 4-84(j); Code 2002, § 10-379)

Sec. 10-380. Abatement.

An appeal shall not stay any enforcement action necessary to abate a condition posing a threat of imminent danger to the life, safety or health of any person or of the public.

(Code 1975, § 4-84(k); Code 2002, § 10-380)

Sec. 10-381. Compliance with decisions.

It shall be a violation of this article for an owner, occupant or responsible local agent to fail to comply with special conditions which are a part of a housing board of appeals decision modifying or reversing an order or ruling of the city.

(Code 1975, § 4-84(q); Code 2002, § 10-381)

Sec. 10-382. Permanent waiver.

The housing board of appeals may grant a structure a permanent waiver from a specified provision of this article provided the housing board of appeals:

(1) Has determined there is undue hardship as set forth in section 10-379;

(2) Finds there is an original structural arrangement which cannot be brought to compliance without unreasonable reconstruction; and

(3) Determines that the continuation of the existing condition will not constitute a threat to the health of the occupants.

(Code 1975, § 4-84(r); Code 2002, § 10-382)

Secs. 10-383—10-400. Reserved.

DIVISION 3. STANDARDS AND REQUIREMENTS

Sec. 10-401. Structural maintenance standards.

Buildings and structures shall be maintained in good repair and shall be free of safety and health hazards. All buildings and accessory structures, whether occupied or unoccupied, shall meet or exceed the standards of this section:

(1) *Exterior standards.* Maintenance of the exterior of a structure shall be as follows:

a. *Foundations.* A foundation shall be maintained in good repair and shall have proper mortar joints. It shall be reasonably weathertight, watertight and rodentproof and shall be capable of withstanding applied loads.

b. *Walls.* Walls shall be capable of supporting normal applied loads and shall be maintained in good repair. They shall be kept free of rot. All surfaces which deteriorate from exposure to weather shall be protected by paint or other weatherizing material. Siding on any one wall shall be complete. Repairs to the exterior portions of walls shall be made with materials that blend with the balance of the structure.

c. *Exterior attachments.* Exterior attachments to structures, including, but not limited to, gutters, downspouts, chimneys, vents, antennas, awnings and utility connections, shall be maintained in good repair.

d. *Exterior openings.* Windows, storm doors, exterior doors, including basement hatchways, shall be reasonably weathertight and rodentproof.

They shall be maintained in good repair and sound working condition. Visquene or other temporary window covering may be used on the exterior of windows during the winter months; provided, however, that it shall be free of tears and shall be removed by April 30 and not applied before September 15, the exception being that visquene of over ten-mil thick may be applied to windows less than 100 square inches.

e. *House numbers.* All houses shall have legible house numbers with a minimum size of two inches in height.

f. *Exterior stairways and porches.* Exterior porches and stairways shall be constructed so as to be safe and capable of supporting normal loads and shall be maintained in good repair.

1. *Residential.* All steps except bottom and top steps shall be consistent in height.

(i) Stairways having more than four risers shall be equipped with handrails which shall be 30 to 38 inches above the nose of the tread and installed on the open side of the steps. Handrails projected from walls shall have a space of not less than 1½ inches between the wall and the handrail. An intermediate member shall be required if the stairway is open for more than eight risers.

(ii) Guardrails shall be installed on all porches, stoops, landings, and elevated patios more than 30 inches above average grade and shall be maintained in good repair. The top of any guardrail shall be at least 30 inches in height above the floor except that as of November 1, 1995, existing guardrails on such structures where the floor is less than six feet above grade may be 24 inches high.

2. *Commercial.* All required stairs shall have a minimum run of nine inches and a maximum rise of eight inches and shall have a minimum width of 30 inches exclusive of handrails. Every stairway shall have at least one handrail. A landing having a minimum 30-inch run in the direction of travel shall be provided at each point of access to the stairway. Exceptions to this requirement shall be as provided for in the current state construction code in effect in the city.

(i) Exterior stairs shall be of noncombustible construction except that, for Types III, IV and V buildings, as determined by the current state construction code in effect in the city, wood not less than two inches in nominal thickness may be used.

(ii) Guardrails, minimum 36 inches in height, shall be installed on all porches, stoops, landings, and elevated patios having floors more than 30 inches above the average grade.

g. *Roof.* Roof structure must be capable of supporting all loading. The roof deck must be free of rot and shall be covered with material in good condition. There shall not be more than one reroof, if loading causes bowing or structural deterioration. Where repairs to an existing roof are made, the material and color shall blend with the balance of the roof.

h. *Grounds.* All driveways, steps, service walks, parking spaces and similar paved areas for public use shall be kept in a proper state of repair and free from debris.

(2) *Interior structural standards.* No person shall use or occupy as owner-occupant, or shall let to another for use or occupancy, any dwelling unit or rooming unit which does not comply with the following requirements:

a. *Walls and ceilings.* All interior walls and ceilings shall have a finished surface. They shall be maintained in good repair and shall be reasonably clean. Plaster shall not be loose or missing. Walls finished of other than plaster shall be properly secured. All walls in a shower or shower alcove shall be constructed of waterproof material or shall be covered by a waterproof covering maintained in good condition. Walls on which a water faucet is located shall be covered with waterproof covering or paint and be maintained in good condition.

b. *Interior doors.* All doors and hardware shall be maintained in good condition. All bedrooms and bathrooms shall have privacy doors. Double-keyed deadbolts are prohibited from interior doors.

c. *Floors.* Floors shall be capable of supporting normal loads and shall be maintained in good condition. Floors in rooms where a water supply is present shall be protected by a waterproof barrier, such as tile, carpet, paint or linoleum, unless the floor is of concrete. All flooring shall be complete and easily cleanable. The covering may be of paint, tile, linoleum or carpet.

d. *Structure security.* All exterior doors shall be equipped with a properly installed locking device. Such locking device shall require a key from the outside. Hasp and padlock are prohibited. An exterior key operated deadbolt lock shall be installed on any door not so equipped whenever the door or lock is replaced. The owner of a dwelling unit shall, upon the request of a legal occupant of the unit, equip the main entry door with a peephole door view provided no other visual opportunity to identify visitors is readily available. All basement and first floor windows shall have window locks.

e. *Trim.* Window and door trim and basement board shall be complete and in good repair.

f. *Handrails and stairways.* Stairways shall be constructed and maintained so as to be safe and capable of supporting normal loads.

1. All steps except bottom and top steps shall be consistent in height.

2. Stairways having more than four risers shall be equipped with handrails which shall be 30 to 38 inches above the nose of the tread and installed on the open side of the steps.

3. Steps leading to a Michigan cellar or attic are exempt from the height and the rise and run requirements.

4. An intermediate member shall be required if the stairway is open for more than eight risers. Handrails projected from walls shall have a space of not less than 1½ inches between the wall and the handrail.

5. Guardrails shall be installed and maintained in good repair on all porches, stoops, landings and elevated patios, having floors more than 30 inches above grade. The top of any guardrail installed before January 1, 1990, shall be at least 30 inches in height above the floor except

that such previously installed guardrails on such structures where the floor is less than six feet above grade may be 24 inches high. Any guardrail installed on or after January 1, 1990, shall meet current state construction codes.

6. Steps leading to a basement that do not meet the rise and run requirements may remain provided there is a handrail installed on both sides of the steps and there are no rooms in the basement used for living space.

(3) *Accessory structures.* Garages, storage buildings, fences and other accessory structures shall be maintained in good repair and sound structural condition and shall not be allowed to deteriorate to an unsound or unsightly appearance. Fence repairs shall be made with materials that match the balance of the fence.

(Code 1975, § 4-63; Code 2002, § 10-401)

Sec. 10-402. Plumbing standards.

All dwelling units shall be served by water and sewer facilities adequate to provide sanitary facilities. Any system previously installed, even though not in conformance with current standards, shall be deemed to meet the requirements of this article if the conditions do not create a health and safety hazard. Modification of the plumbing waste and supply systems shall not be required if the systems are in good condition and do not endanger health and safety. All new repair work shall conform to the state construction code:

(1) *Water system required.* All dwelling structures and each dwelling unit shall be connected to the public water supply system if available or to a private water system approved by the city and county health department.

(2) *Hot and cold water.* All plumbing fixtures shall be connected to hot and cold water except that water closets shall be provided with cold water. Hot water shall be at least 120 degrees Fahrenheit.

(3) *Backflow prevention.* Water service and distribution piping shall be protected from backflow contamination from heating boilers, water closets, underground sprinkler systems or other equipment. Backflow devices are not required for existing sinks, lavatories and hose bibbs if overflow drains are located below the water inlet.

(4) *Fixtures required.* All plumbing fixtures shall be properly supported and installed, be in good condition and reasonably easy to clean, and be maintained in a state of good working order.

a. At least one complete bath facility shall be located in each dwelling unit. It shall be equipped with a flush water closet, a lavatory and bathtub or shower.

b. Every dwelling unit shall contain a kitchen sink. Such sink does not have to be compartmentalized.

(5) *Stop value.* A stop valve shall be installed on the service side of the water meter.

(6) *Leaks prohibited.* All pipes and fixtures shall be free of leaks. Leaky faucets or hose bibbs shall not be considered as leaking unless the faucets leak through the stem.

(7) *Water supply.* Water shall be supplied to all fixtures at a rate of at least one gallon per minute when all facilities are being used at the same time.

(8) *Waste line leaks.* Waste lines shall be free of leaks, obstructions, secondary traps and sagging lines. On existing systems, revents shall not be required for multifixtured branch lines or extension of trap arms in excess of that allowed by the state construction code unless it is shown to be an immediate health hazard.

(9) *Connection to drain system.* All fixtures shall be properly connected to the building drain system.

(10) *Laundry facilities.* Laundry facilities shall be arranged so that clothes washers shall dispose of wastewater into a properly installed and trapped waste line or into a stationary tub which may drain into a trapped fixture as an indirect waste. Floor drains may be used to drain existing stationary tubs if the floor drain capacity is sufficient to prevent flooding.

(11) *Hose bibb or sprinkler system.* Each dwelling structure shall have a hose bibb or working underground sprinkler system on the front or capable of service to the front yard of the dwelling.

(12) *Hot water heaters.* Hot water heaters shall be installed in accordance with the state construction code.

(13) *Capping of unused pipes.* All unused pipes shall be capped.

(Code 1975, § 4-64; Code 2002, § 10-402)

Sec. 10-403. Electrical standards.

All dwelling structures shall be supplied with electrical power. All supplied electrical equipment, including wiring and applications, shall be installed in a safe condition. All existing wiring systems, though not complying totally with current standards, shall be deemed to meet the requirements of this article if the conditions do not create a safety or fire hazard and otherwise meet the requirements of this section. All permanent equipment shall be properly installed and operative:

(1) *Electrical service required.* All residential buildings shall have a minimum 60-amp service.

a. Multifamily dwellings shall be provided with additional service so as to provide adequate power to all dwellings.

b. All electrical service systems shall be properly grounded.

c. Circuits are not to be doubled up except when a breaker is used.

(2) *Overcurrent protection devices required.*

a. All circuits shall be protected by overcurrent protection devices rated for the ampacity of the branch circuit conductors. All overloaded circuits, including overfused circuits, shall be deemed to be safety hazards.

b. Occupants of each dwelling unit in a dwelling structure shall have access to the overprotection devices for his dwelling unit.

(3) *Fuses.* All fuses shall be of the S-type.

(4) *Lighting and power requirements.*

a. Every habitable room shall contain at least two supplied electrical convenience outlets or one such outlet and one electrical light fixture. Such outlet and fixture shall be adequate to serve appliances without the use of unsafe wiring methods. Whenever the distance traveled within the room is such that a physical hazard is created, the light shall be controlled by a switch located at the entrance to the room.

b. Bathrooms shall be provided with a light fixture controlled by a wall switch when the supplied switch has a direct contact with the body of the fixture; except when the fixture is protected by a ground-fault interrupter, such switch shall not be required. A duplex receptacle shall be provided for each bathroom except that a receptacle which is part of a light fixture shall be acceptable if the circuit is protected by a ground fault interrupter.

c. Kitchens shall have at least one 20-amp circuit available for major appliances. At least one such circuit shall be separate from the remainder of the dwelling unit.

d. A separate 20-amp electrical circuit shall be provided to all laundry areas. This circuit may be used for

lighting the laundry area. Existing 15-amp laundry circuits shall be deemed to meet the requirements.

e. A separate electrical circuit shall be provided for each furnace. A switch shall be located in close proximity to the furnace. The switch shall be identified.

f. All nonhabitable rooms and basements shall be provided with light sufficient to illuminate the room so as not to create a hazard. This requirement shall apply to laundry rooms, basements, cellars, attached garages and attics accessible by stairways.

g. Each entrance shall be provided with a suitable lighting fixture on the outside and shall be operable by a switch conveniently located. When an automatic yard light illuminates, an additional light is not required.

h. Each stairway shall be provided with a switched light. Stairways to the second or higher floors shall be illuminated by a light controlled by a three-way switch at the top and bottom of the stairways.

i. All receptacles within six feet of the kitchen sink need to be GFI protected.

j. If the bathroom does not have a receptacle, then it must have a dedicated 20-amp circuit GFI protected.

k. All receptacles in the bathroom are to be GFI protected.

(5) *Unsafe electrical systems.*

a. Defective fixtures shall be considered unsafe. Defective fixtures shall include, but not be limited to, loose, missing, broken or rusty parts, but shall not include fixtures with missing globes except those which must be protected from dampness or mechanical damage.

b. Wiring not protected from weather or mechanical damage.

c. Open splices and wiring which has rotted or damaged insulation.

d. Overfused circuits, including those not protected by S-type fuses.

(6) *Extension cords.*

a. The electrical wiring shall be wired so as to minimize the use of extension cords.

b. No electric extension cords shall be fastened or run through any doorway, partitions, walls, floors, baseboards or casing, run across any doorway or walking area; and no extension cord shall be placed under any rug or be coiled so as to cross over itself. Extension cords are not acceptable on major kitchen appliances and heating equipment.

(Code 1975, § 4-65; Code 2002, § 10-403)

Sec. 10-404. Mechanical, heating and ventilation.

All residential heating equipment, hot and cold duct, fan motor, electric components and gas piping to all appliances shall be maintained in good condition. All residential heating equipment, hot and cold duct, fan motor, electric components and gas piping to all appliances shall be installed so as not to create a fire, explosion or safety hazard. It shall be free of gas leaks. Proper clearances of heating equipment and vents shall be maintained. Sufficient venting capacity and combustion air shall be provided, and all heating devices shall be properly vented with proper material and be properly sealed at the chimney. When the inspector has reasonable grounds to suspect that deficiencies in any of the conditions cited above exist, the inspector may require that the unit be inspected by a licensed heating contractor.

(1) *Heating*. Every dwelling unit and guestroom shall be provided with heating facilities capable of maintaining a room temperature of 70 degrees Fahrenheit at a point three feet above the floor in all habitable rooms and in bathrooms. All heating devices where heat-regulating devices are not in the control of the occupant

of a dwelling unit shall be locked, or setback controls shall be set so as to provide required heat in all dwelling units.

a. Unused holes in any chimney will be sealed.

b. All wood-burning equipment shall be approved and installed per manufacturer specifications.

c. Gas and oil space heaters will not be installed on carpet unless allowed by the manufacturer. If specs are not available, a stove board will be required.

d. Gas piping shall be installed in accordance with the mechanical code.

(2) *Ventilation.* All guestrooms, dormitories and habitable rooms, bathrooms and water closet compartments and laundry rooms shall be provided with natural ventilation by means of openable exterior windows with an area not less than one-twentieth of the floor area of such rooms and a minimum opening of 1½ square feet. Such required opening shall open onto a street, alley or yard located on the same lot. In lieu of required openings, a mechanical ventilation system supplying two air changes per hour shall be installed in all rooms except bathrooms. Bathrooms shall be provided with five air changes per hour.

(Code 1975, § 4-66; Code 2002, § 10-404)

Sec. 10-405. Health and sanitation.

All dwelling units, buildings and yards shall be maintained in a clean manner. All waste, trash, rubbish and garbage shall be placed and disposed of as provided for in chapter 70. Keeping of animals shall be limited as provided in this section.

(1) *Sanitation.* All rooms, surfaces, systems, fixtures, facilities equipment, appliances and furnishings shall be kept in a sanitary condition. Refuse storage, removal and disposal shall be in accordance with all other ordinances.

(2) *Infestation.* Every dwelling shall be kept free of uncaged rodents, uncaged birds, cockroaches, fleas, lice, bedbugs or vermin.

(3) *Insect screens.*

a. *Windows.* During the months of May through October, insect screens maintained in good condition shall be provided by the owner for each openable window in a habitable room as provided as follows:

1. Openable windows will include the windows that are needed to meet the ventilation requirements of section 10-404.

2. Habitable rooms that do not meet the ventilation requirements may use exterior door openings to meet the requirements, provided the room has a self-closing screen door and has at least one openable window.

3. Provided screens shall fit the full opening or must be sealed half-screen or self-storing storm and screen. Portable expanding screens shall not be deemed to comply.

b. *Doors.*

1. Exterior entry doors accessing common halls or stairways to individual living units shall be equipped with self-closing devices unless the entrance has a self-closing screen door.

2. Exterior doors shall be closed except when entry is gained. If the entrance door is required to be open for ventilation, a self-closing screen door will be required.

(4) *Animals.* Animals kept or allowed within a dwelling shall not be permitted by the occupant to create any unsafe, odorous or unsanitary condition or to cause any damage. Animals kept or allowed in a yard or in an accessory structure shall not be

permitted to create any unsafe, odorous or unsanitary condition. Dog pens and dog runs shall not be placed in front yards and shall be located not less than eight feet from adjacent properties, unless an obscuring fence is constructed to separate the pen or run from the adjacent property. All offal shall be removed so as not to create the conditions described in this subsection. Keeping of animals shall be limited and restricted as provided for in this Code.

(Code 1975, § 4-67; Code 2002, § 10-405)

Sec. 10-406. Kitchen facilities.

Every dwelling unit shall have a kitchen or a kitchenette. Such kitchen or kitchenette shall have a sink, cabinet or storage shelves and a counter which shall be impervious to water and free of defects which could trap liquid or food.

(1) *Kitchen appliances required.* Every occupied dwelling unit shall contain a stove, oven and refrigerator maintained in good condition by the owner of the appliance.

(2) *Cooking.* Food prepared or cooked indoors shall be in a kitchen so provided; no food cooking or preparation shall be done in a room designed for sleeping.

(Code 1975, § 4-68; Code 2002, § 10-406)

Sec. 10-407. Utility services and equipment to be maintained.

(a) No person, except as provided in this section, shall cause any of the following utilities, services or equipment to be shut off, disconnected, removed or otherwise terminated or interrupted when the utility, service or equipment is being furnished to or used by another person:

(1) Water service.

(2) Sewage service.

(3) Fuel supply.

(4) Heating equipment.

(5) Ventilation equipment.

(6) Hot water equipment.

(7) Electrical equipment.

(b) This section shall not apply to a necessary temporary interruption of service required for maintenance, repair or replacement, nor to any such interruption needed to act upon an emergency or hazardous condition. Any termination or interruption of water, sewer, gas or electric utility service by the utility providing the service for nonpayment of bills shall be deemed to be caused by the person who contracted with the utility for the service.

(Code 1975, § 4-69; Code 2002, § 10-407)

Sec. 10-408. Exits.

(a) Every dwelling unit or guestroom shall have access directly to the outside or to a public corridor. All buildings or portions thereof shall be provided with exits, exitways and appurtenances as required by the state construction code currently in effect.

(b) Every sleeping room below the third story shall have at least one operable window or exterior door approved for emergency egress or rescue. The windows shall be operable from the inside to provide a full, clear opening without the use of separate tools.

(c) All egress or rescue windows from sleeping rooms shall have a minimum net clear opening of 18 inches by 18 inches. Where windows are provided as a means of egress or rescue, they shall have a finished sill height not more than 44 inches above the floor. Sleeping rooms without a complying window in all respects may remain, provided either:

(1) Hard wired smoke detectors with battery-powered backup power are installed and maintained in the area of such sleeping room, and connected with detectors on each floor of the dwelling unit, including the basement, so that if one alarm is activated, all alarms will sound; or

(2) Battery-powered smoke detectors are installed and maintained in the hallway or other entry to each sleeping room and inside each sleeping room.

(d) All egress or rescue windows from sleeping rooms in the basement shall have a minimum net clear opening of 5.7 square feet. The minimum

net clear opening height dimension shall be 24 inches and 20 inches in width. Where windows are provided as a means of egress or rescue, they shall have a finished sill height of not more than 44 inches above the floor in the basement.

(e) Dwelling units on the third floor or higher shall have at least two means of egress.
(Code 1975, § 4-70; Code 2002, § 10-408)

Sec. 10-409. Exits unblocked.

(a) No exit or other required means of egress shall be totally or partially blocked nor require a key to be opened from the inside. All exits shall comply with the state construction codes.

(b) All exterior doors shall be provided with a properly installed locking device in good repair. All doors which provide entry to dwelling units from a common hall shall be provided with a properly installed locking device in good repair without an interior keyed lock.
(Code 1975, § 4-71; Code 2002, § 10-409)

Sec. 10-410. Space and area occupancy requirements.

(a) *Floor area.* Every dwelling unit shall have at least one room which shall have not less than 144 square feet of floor area. Other habitable rooms, except kitchens, shall have an area of not less than 70 square feet. When more than two persons occupy a room used for sleeping purposes, the required floor area shall be increased at the rate of 50 square feet for each occupant in excess of two.

(b) *Exception.* Nothing in this section shall prohibit the use of an efficiency living unit within an apartment house meeting the following requirements:

(1) The unit shall have a living room of not less than 220 square feet of superficial floor area. An additional 100 square feet of superficial floor area shall be provided for each occupant of such unit in excess of two.

(2) The unit shall be provided with a separate closet.

(3) The unit shall be provided with a kitchen sink, cooking appliance and refrigeration facilities, each having a clear working space of not less than 30 inches in front. Light and ventilation conforming to this article shall be provided.

(4) The unit shall be provided with a separate bathroom containing a water closet, lavatory and bathtub or shower.

(c) *Width.* No habitable room other than a kitchen shall be less than seven feet in any dimension.

(d) *Ceiling heights.* A dwelling or addition to a dwelling erected after January 1, 1990, shall have ceiling heights in all rooms as required by the appropriate state construction code. In dwellings or portions thereof existing before January 1, 1990, habitable rooms shall have a ceiling height of not less than seven feet except as otherwise permitted in this section.

(1) Bedrooms may have a ceiling height of six feet or more in dwellings where at least one bedroom has a ceiling height of seven feet or more.

(2) Other rooms or areas may have ceiling height of not less than seven feet measured to the lowest projection from the ceiling.

(3) If any room in a dwelling has a sloping ceiling, the prescribed ceiling height for the room is required in only one-half the floor area thereof. No portion of the room measuring less than five feet from the finished floor to the finished ceiling shall be included in any computation of the minimum floor area referred to.

(4) If any room has a furred ceiling, the prescribed ceiling height is required in two-thirds of the floor area thereof, but in no case shall the height of the furred ceiling be less than seven feet.
(Code 1975, § 4-72; Code 2002, § 10-410)

Sec. 10-411. Use of basement or cellar as habitable room.

(a) No basement or cellar shall be used as a habitable room unless:

(1) The floors and walls are impervious to the leakage of underground and surface runoff water and are insulated against dampness.

(2) The total window area in each room is equal to at least the minimum window area size as required elsewhere in this article.

(3) Such required minimum window area is located entirely above the grade of the ground adjoining such window area.

(4) The total operable window area in each room is equal to 45 percent of the minimum required window area except where there is supplied an approved mechanical ventilation system capable of providing one air change every 30 minutes.

(b) No habitable room located in the basement shall be used as a sleeping or bedroom if it does not meet emergency escape requirements as required in section 10-408.
(Code 1975, § 4-73; Code 2002, § 10-411)

Sec. 10-412. Fire protection.

(a) All buildings used as dwellings or portions thereof shall be provided with the degree of fire resistant construction for the appropriate occupancy and type of construction. All buildings used as dwellings or portions thereof shall be provided with fire-extinguishing systems and/or equipment required by the state construction code.

(b) All equipment, devices or apparatus required shall be maintained in good condition.

(c) All buildings shall be kept clean of equipment, combustible waste or vegetation which is, in the opinion of the fire chief, in a condition so as to cause a fire or explosion or ready fuel for an existing fire.

(d) Smoke detectors shall be maintained near all entrances to bedrooms so that the alarm may be heard by those occupying the sleeping room. All basements shall have a smoke detector installed within the basement.

(e) A separation wall of normal construction and having a one-half-inch drywall covering the entire wall surface inside the garage shall be installed on any wall separating the garage from any dwelling area where the garage is attached to the dwelling, or unattached but closer than six feet to the dwelling area at any point. No opening in the wall shall be permitted except one door.

(f) Abandoned fuel tanks located in the basement shall be capped.

(g) All walls and ceilings that separate units shall have completed plaster or drywall. If a drop ceiling is installed, holes in plaster ceiling may be patched by applying five-eighths-inch fire code drywall over the hole without a finish.

(h) All buildings that are balloon construction shall be sealed at the bottom of the wall cavity.
(Code 1975, § 4-74; Code 2002, § 10-412)

Sec. 10-413. Security.

Windows and exterior doors shall have locks. Locks on doors shall comply with section 10-409.
(Code 1975, § 4-75; Code 2002, § 10-413)

Sec. 10-414. Prohibited uses.

(a) *Uninhabitable or useless structures.* No person shall maintain or permit to be maintained any structure or part of a structure which, because of fire, flooding, wind damage, natural disaster, or physical deterioration, is no longer habitable as a dwelling nor useful for any other purpose for which it may have been intended.

(b) *Securing buildings.* No person shall maintain or permit to be maintained any vacant, unsecured or, subject to the time limits herein, temporarily secured, dwelling, building or structure. A dwelling, building or structure will be deemed secured only when all its exterior openings, including windows, doors and any other openings are intact and locked (not by temporarily securing), so as to prevent entrance thereto by

vandals or unauthorized persons. A dwelling, building or structure will be considered temporarily secured when boards are used to cover the open windows, doors or any other openings. Temporary securing shall be accomplished using a minimum of one-half-inch exterior plywood, suitably coated with an appropriate neutral color blending with or harmonizing with the exterior colors of the building so as to be as inconspicuous as possible. No dwelling building or structure shall remain temporarily secured for a period exceeding 180 consecutive days. Upon receipt of a notice to repair pursuant to this article, the owner of a vacant, unsecured or temporarily secured dwelling, building or structure has the following time limits to cure the violation:

(1) Seven days to temporarily secure a dwelling, building or structure. Temporarily securing a building will not constitute compliance with this section;

(2) Ten days to secure a building permit through the city pursuant to the state construction code;

(3) 30 days to begin repairs on the dwelling, building or structure; and

(4) 180 days to complete repairs, and secure the dwelling, building or structure in compliance with this article.

Any person failing to repair or otherwise secure a vacant, unsecured or temporarily unsecured dwelling, building or structure within the time limits described in this subsection will be found in violation of this article and subject to the penalties described in this Code. Nothing in this section shall prevent the city from enforcing or electing to enforce the state construction code.

(c) *Partially completed structures.* No person shall maintain or allow to be maintained any partially completed structure unless such structure is in the course of construction in accordance with an existing building permit issued by the city.

(d) *Dangerous building.* No person shall maintain a dangerous building.
(Code 1975, § 4-76; Code 2002, § 10-414)

Sec. 10-415. Maintenance requirements.

(a) *Generally.* Every building and every part thereof shall be kept clean and shall also be kept free of any accumulation of filth, rubbish, garbage or other matter in or on the building or every part thereof or in the yards, courts, passages, areas or alleys connected therewith or belonging to such building, including the lot upon which the building is located and adjacent lots owned by the owner of the building.

(b) *Recreation equipment and furniture.* Recreation equipment, including furniture and toys, shall not be placed or located in any front yard for a period longer than 24 consecutive hours. Household furniture that has been designed for interior use shall not be placed in front yards for a period exceeding 12 consecutive hours.

(c) *Storage of rubbish, garbage, and other materials.* Storage of rubbish, garbage, waste materials, household furniture that has been designed for interior use and appliances shall be prohibited on open porches.

(d) *Responsibilities of owners of dwellings as to maintenance.* The responsibilities of owners of dwellings as to maintenance shall be as follows:

(1) It shall be the responsibility of the owner to keep and maintain each dwelling unit so as to meet the minimum basic requirements of this article and all other provisions of this housing maintenance code.

(2) Every owner of a two-family or multiple-dwelling or residential collective shall be responsible for maintaining in a clean and sanitary condition the shared or public areas of the dwelling and premises thereof.

(3) Whenever infestation of insects, rodents or other pests exists in two or more of the dwelling units in any building or in the shared or public parts of any dwelling containing two or more dwelling units or is caused by the failure of the owner to maintain the dwelling in a reasonable rodentproof and insectproof condition, extermination thereof shall be the responsibility of the owner.

(e) *Responsibilities of occupants of dwellings as to maintenance.* The responsibilities of occupants of dwellings as to maintenance shall be as follows:

(1) Every occupant shall operate with and assist the owner to keep and maintain the dwelling in a safe and sanitary condition and shall notify the owner of any damages that occur to the premises.

(2) Every occupant of a single-unit private dwelling shall exterminate any insects, rodents or other pests infesting that portion of the premises which they occupy and control. Every occupant of every dwelling unit shall immediately report to the owner of such dwelling the occurrence of infestation of the dwelling or premises by insects, rodents or other pests. Every occupant shall aid the owner in preventing the occurrence of infestation of the dwelling or the premises.

(3) No occupant of any dwelling unit shall allow any filth, rubbish, garbage or other debris to accumulate in his dwelling unit or any other area over which it can be shown that such occupant had exclusive use and possession. Occupants shall make proper use of receptacles as required in chapter 70.

(Code 1975, § 4-77; Code 2002, § 10-415)

Chapters 11—13

RESERVED

Chapter 14

CEMETERIES*

Article I. In General

Secs. 14-1—14-30. Reserved.

Article II. City Cemeteries

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Sec. 14-31. Definitions.
Sec. 14-32. Penalty for violation.
Sec. 14-33. Interments outside cemeteries prohibited; interment of other than humans prohibited.
Sec. 14-34. Purchase of lots generally.
Sec. 14-35. Drawing and execution of deeds to lots.
Sec. 14-36. Restrictions on rights of lot owners.
Sec. 14-37. Prerequisites to interment.
Sec. 14-38. Perpetual care fund.
Sec. 14-39. Trusts for care of specific lots.
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Division 2. Department of Cemeteries

Sec. 14-61. Establishment and functions; supervision by city manager.
Sec. 14-62. Departmental records and accounts.
Sec. 14-63. Appointment of superintendent as department head.
Sec. 14-64. Duties of superintendent.

*__State law references—__Cemetery regulations act, MCL 456.521 et seq.; permit for disposition of body, MCL 333.2848.

ARTICLE I. IN GENERAL

Secs. 14-1—14-30. Reserved.

ARTICLE II. CITY CEMETERIES*

DIVISION 1. GENERALLY

Sec. 14-31. 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:

Cemeteries mean any cemetery owned or maintained by the city for the purpose of receiving the remains of deceased humans.

Superintendent means the person responsible for management of the municipal cemeteries.
(Code 1975, § 7-1; Code 2002, § 14-31)

Sec. 14-32. Penalty for violation.

Any person who violates any provision of this article shall be responsible for a municipal civil infraction.
(Code 1975, § 7-19; Code 2002, § 14-32)

Sec. 14-33. Interments outside cemeteries prohibited; interment of other than humans prohibited.

No interment of any deceased person shall be made in any place in the city other than within cemeteries devoted to that purpose; nor shall the interment of anything other than human bodies be permitted therein.
(Code 1975, § 7-9; Code 2002, § 14-33)

Sec. 14-34. Purchase of lots generally.

Persons purchasing lots or fractions of lots after May 15, 1973, shall be entitled, upon payment of the entire price charged as determined from time to time by the city commission, to a deed conveying burial rights in the lot or fraction, together with perpetual care. Fractions of lots shall not be available for burial purposes except for infants or the deposit of the ashes of decreased persons authorized by the owner of a lot or his assignee. Lots shall be purchased under the following terms:

(1) The purchase of lots or fractions and perpetual care shall be for prices determined from time to time by the city commission by resolution or regulation.

(2) No burial of any kind shall be made in any lot or fraction thereof until the entire purchase price has been paid in full.

(3) Installment payments for lots and perpetual care shall be for such periods, amounts and rates of interest as the city commission may from time to time establish.

(4) The cemetery deed for the lot or fraction thereof shall be issued upon the payment of the full amount charged and all accrued interest.

(5) No lots shall be considered sold or reserved until a receipt for the entire purchase price therefor has been obtained from the city.

(6) In case a lot has been purchased before May 15, 1973 (at which time perpetual care was not included in the original purchase price), and the purchase price was paid in full and the payments for annual care were current as of May 15, 1973, such lot or fraction thereof shall be considered fully paid and entitled to perpetual care.

(7) In the event a lot was purchase before May 15, 1973, and either the purchase price or annual care payments were not current by such date, the owner of such lot shall be entitled to burial privileges and the lot and perpetual care shall be paid in full upon receipt from the owner or his assignee of an amount equal to 50 percent of the current authorized price for a lot or fraction thereof.

(Code 1975, § 7-10; Code 2002, § 14-34)

*__State law reference__—Authority of city to acquire and maintain cemeteries, MCL 125.1.

Sec. 14-35. Drawing and execution of deeds to lots.

Deeds to cemetery lots shall be drawn in the name of the city as grantor and shall be executed, for and on behalf of the city, by the mayor and city clerk.
(Code 1975, § 7-11; Code 2002, § 14-35)

Sec. 14-36. Restrictions on rights of lot owners.

Purchasers of any lot in any cemetery shall acquire only the privilege or license to make interments in the lot so purchased. The owner of any lot shall not allow any interment to be made therein for remuneration, nor shall a lot be used for any other purpose than a place for burial of the dead. All interments in lots shall be restricted to members of the family and relatives of the owner thereof, except an owner may give written consent for the burial of the remains of any person, and if consent is made in good faith and not for remuneration, the city shall honor the consent.
(Code 1975, § 7-12; Code 2002, § 14-36)

Sec. 14-37. Prerequisites to interment.

No deceased person shall be interred in any cemetery until the superintendent has found that:

(1) A burial transmit permit has been obtained from the health officer as required by law;

(2) The lot in which the burial is to be made has been fully paid for;

(3) The person arranging for such burial has the right to the use of such lot;

(4) Such lot is not used beyond its capacity;

(5) The proper record is made of the name and age of the deceased person and of the exact location of the grave;

(6) Full payment for all city services, including, but not limited to, opening, closing and storage, has been received.

(Code 1975, § 7-13; Code 2002, § 14-37)

State law reference—Permit for disposition of body, MCL 333.2848.

Sec. 14-38. Perpetual care fund.

A perpetual care fund shall be established from the sale of grave spaces for the purpose of providing continued maintenance for the city cemeteries and no part thereof shall be used except for cemetery purposes.
(Code 1975, § 7-14; Code 2002, § 14-38)

Sec. 14-39. Trusts for care of specific lots.

(a) The department shall have power to take, receive and hold any property, real or personal, by devise or otherwise, which may be granted, transferred or devised to such department in trust for the purpose of caring for and keeping in good order and repair any given lots, or portions thereof, specified in any trust. Any such property received by way of gift, grant, devise or bequest for the care of certain lots shall be under the control of the superintendent and shall be held in trust subject to the terms and conditions under which it was granted.

(b) Such trust fund may be invested in income producing securities and the income therefrom, after the fulfillment of the conditions expressed, may be used in improving the cemeteries. No portion of the principal of the trust fund shall be temporarily or permanently transferred to the perpetual care fund or used for general cemetery purposes, contrary to the provisions of the trust under which the funds were originally given.
(Code 1975, § 7-15; Code 2002, § 14-39)

Sec. 14-40. Reversion of lots to city for delinquency in payment of charges.

(a) Wherever a lot and perpetual care has been purchased upon the installment basis after May 15, 1973, and any installment shall not have been paid within three months from the date the installment is due and payable, the city shall cause notice of such default and demand for payment thereof to be given to such owner or purchaser, as the case may be, by registered mail or by publication of a 30-day notice in the Muskegon Chronicle or a newspaper fully circulating in the city, and if such default shall continue after such period, the lot, all burial rights, and all previous payments shall be forfeited to the city. The city

shall have the right to resell such lot or portion thereof, free of any interest of the owner or purchaser or any persons claiming thereunder.

(b) All lots or parts of lots that have reverted to the city in which bodies have been interred shall thereafter be held in trust by the city and no marker or monument shall be removed therefrom so long as such marker or monument is legible and capable of serving the purpose for which it was intended. Such grave sites shall be given routine maintenance care by the city.

(c) The owner or his assignee of any lots or relatives interested in any lots which have reverted or which may revert to the city may be redeemed by such persons by paying 50 percent of the current price of the lot, or the entire unpaid balance in cash, whichever is the higher amount, provided such lot or fraction thereof has not been contracted for in any way by another person.
(Code 1975, § 7-16; Code 2002, § 14-40)

Sec. 14-41. Damage or removal of property.

No person shall cut, remove, injure or carry away any flowers, trees, shrubs, plants or vines being or growing in and upon any cemetery lot or ground used for cemetery purposes owned by the city; nor shall any person deface, injure or write upon any markers, monuments, headstones, fences or structures within any of the cemeteries of the city; nor shall any person injure or destroy, take or carry away any vases, flower pots or other ornaments that may have been placed upon the graves or grounds platted and used for cemetery purposes, unless by permission of the city.
(Code 1975, § 7-17; Code 2002, § 14-41)

State law references—Malicious mischief, MCL 750.377a et seq.; destruction of trees and shrubs, MCL 750.382.

Sec. 14-42. Maintenance of trees or shrubbery.

If any trees or shrubbery situated in any lot, by means of their roots, branches or otherwise, become detrimental to the adjacent lots or avenues, or unsightly or inconvenient to passersby, the city may enter such lot and remove such trees and shrubbery or any part thereof; provided, however, that the owner of such lot shall first have been notified to remove such trees or shrubbery within one week after receiving such notice, and shall have refused or neglected so to do.
(Code 1975, § 7-18; Code 2002, § 14-42)

Secs. 14-43—14-60. Reserved.

DIVISION 2. DEPARTMENT OF CEMETERIES

Sec. 14-61. Establishment and functions; supervision by city manager.

The department of cemeteries is hereby created and such department shall manage, operate and maintain the municipal cemeteries subject to any limitations and restrictions set forth in this division or contained in any applicable law. The care, maintenance and operation of municipal cemeteries shall be under the supervision and control of the city manager.
(Code 1975, § 7-2; Code 2002, § 14-61)

Sec. 14-62. Departmental records and accounts.

(a) The department of cemeteries shall keep full and complete records of the ownership of all lots in the cemeteries, of the burial capacity of each lot, sold and unsold, of the location of each grave, of the name of each person buried in each grave that has been or shall hereafter be used and of the date of the burial of each.

(b) The department of cemeteries shall keep full and detailed accounts of the receipts of expenditures on account of the cemeteries and at least once a month or more often shall turn over to the city treasurer all monies collected on such accounts.
(Code 1975, § 7-3; Code 2002, § 14-62)

Sec. 14-63. Appointment of superintendent as department head.

The city manager shall appoint a superintendent of the municipal cemeteries who shall be the head of the department of cemeteries. The superintendent shall be subject to all management policies of the city.
(Code 1975, § 7-4; Code 2002, § 14-63)

Sec. 14-64. Duties of superintendent.

(a) The superintendent shall look after and take proper care of the cemeteries and see that no lot therein is used or occupied in violation of this article or of any rule or regulation promulgated hereunder. The superintendent shall collect all fees and charges for duties and services performed in connection with the cemeteries. Such fees shall be remitted to the city treasurer.

(b) The superintendent shall maintain order in the cemeteries and make complaints for every violation of this article, and for violation in the cemeteries of any other ordinance of the city. The superintendent shall supervise all workmen, visitors and drivers, and shall qualify and act as police officer in the cemeteries.
(Code 1975, § 7-5; Code 2002, § 14-64)

Chapters 15—17

RESERVED

Chapter 18

COMMUNITY DEVELOPMENT*

Article I. In General

Secs. 18-1—18-30. Reserved.

Article II. Downtown Development Authority

Sec. 18-31. Definitions.
Sec. 18-32. Creation.
Sec. 18-33. Determination of necessity.
Sec. 18-34. Description of downtown district.
Sec. 18-35. Governing board.
Sec. 18-36. Powers.
Sec. 18-37. Fiscal year; adoption of budget.
Secs. 18-38—18-60. Reserved.

Article III. Enterprise Zone

Sec. 18-61. Establishment.
Sec. 18-62. Determination that zone meets state requirements.
Sec. 18-63. Citizens' council.
Secs. 18-64—18-78. Reserved.

Article IV. Housing Commission

Sec. 18-79. Created.
Sec. 18-80. Appointment of members.
Sec. 18-81. Authority to act as borrower.
Sec. 18-82. Ownership of property.
Sec. 18-83. Payment of annual service fee in lieu of taxes.

***State law references—**Housing and slums clearance projects, MCL 125.651 et seq.; housing corporation law, MCL 125.601 et seq.; urban redevelopment corporations, MCL 125.901 et seq.; rehabilitation of blighted areas, MCL 125.71 et seq.; principal shopping districts and business improvement districts, MCL 125.981 et seq.; economic expansion, MCL 125.1201 et seq.; regional economic development commission, MCL 125.1231 et seq.; state housing development authority act of 1966, MCL 125.1401 et seq.; downtown development authority, MCL 125.1651 et seq.; economic development corporations, MCL 125.1601 et seq.; tax increment finance authority act, MCL 125.1801 et seq.; Michigan economic and social opportunity act of 1981, MCL 400.1101 et seq.

ARTICLE I. IN GENERAL

Secs. 18-1—18-30. Reserved.

ARTICLE II. DOWNTOWN DEVELOPMENT AUTHORITY

Sec. 18-31. Definitions.

The terms used in this article shall have the same meaning as given to them in Public Act No. 197 of 1975 (MCL 125.1651 et seq.), or unless the context herein clearly indicates to the contrary.
(Code 1975, § 2-122; Code 2002, § 18-31)

Sec. 18-32. Creation.

There is hereby established, pursuant to Public Act No. 197 of 1975 (MCL 125.1651 et seq.), a downtown development authority for the city. The downtown development authority shall be a public body corporate and shall be known and exercise its powers under the title of "Downtown Development Authority of the City of Muskegon."
(Code 1975, § 2-124; Code 2002, § 18-32)

State law reference—Authority to create downtown development authority, MCL 125.1652.

Sec. 18-33. Determination of necessity.

The city commission hereby determines that it is necessary to halt property value deterioration and increase property tax valuation wherever possible in the business district of the city, to eliminate the causes of that deterioration and to promote economic growth by establishing a downtown development authority pursuant to Public Act No. 197 of 1975 (MCL 125.1651 et seq.).
(Code 1975, § 2-123; Code 2002, § 18-33)

Sec. 18-34. Description of downtown district.

The downtown district in which the downtown development authority shall exercise its powers, as provided by Public Act No. 197 of 1975 (MCL 125.1651 et seq.), shall consist of the described territory in the city, subject to such changes as may hereinafter be made pursuant to this article and Public Act No. 197 of 1975 (MCL 125.1651 et seq.), as set forth in exhibit Aon file in the office of the city clerk, which is made a part of this article.
(Code 1975, § 2-125; Code 2002, § 18-34)

Sec. 18-35. Governing board.

The downtown development authority shall be under the supervision and control of a governing board which shall be appointed and which shall function in the manner provided by Public Act No. 197 of 1975 (MCL 125.1651 et seq.).
(Code 1975, § 2-126; Code 2002, § 18-35)

State law reference—Governing board, MCL 125.1651.

Sec. 18-36. Powers.

Except as specifically otherwise provided in this article, the downtown development authority shall have all the powers provided by Public Act No. 197 of 1975 (MCL 125.1651 et seq.).
(Code 1975, § 2-127; Code 2002, § 18-36)

State law reference—General powers of governing body, MCL 125.1657.

Sec. 18-37. Fiscal year; adoption of budget.

(a) The fiscal year of the downtown development authority shall begin on July 1 of each year and end on June 30 of the same year, or such other fiscal year as may hereafter be adopted by the city.

(b) The downtown development authority shall annually prepare a budget and shall submit such budget to the commission on the same date that the proposed budget for the city is required by the city Charter to be submitted to the city commission. The downtown development authority shall not finally adopt a budget for any fiscal year until the budget has been approved by the commission. The downtown development authority may, however, temporarily adopt a budget in connection with the operation of any improvements which have been financed by revenue bonds where required to do so by the ordinance authorizing the revenue bonds.

(c) The downtown development authority shall submit financial reports to the commission at the same time and on the same basis as departments of the city are required to submit reports. The downtown development authority shall be au-

dited annually by the same independent auditors auditing the city, and copies of the audit reports shall be filed with the commission.
(Code 1975, § 2-128; Code 2002, § 18-37)

Secs. 18-38—18-60. Reserved.

ARTICLE III. ENTERPRISE ZONE*

Sec. 18-61. Establishment.

There is hereby established in the city a state enterprise zone, pursuant to Public Act No. 224 of 1985 (MCL 125.2101 et seq.). The following description of the enterprise zone, which falls in both the city and the City of Muskegon Heights, is hereby adopted as the enterprise zone. The city hereby designates that portion of the following area found within the city as a state enterprise zone:

(1) Begin with the most northeast municipal boundary of the city north of Marquette Avenue in the vicinity of Quarterline Road and Stebbins Road and proceed south along the municipal boundary until Oak Street. Follow Oak Street west to Harvey Street and proceed south along the city municipal boundary to Ryerson Creek. Follow Ryerson Creek until Getty Street.

(2) Proceed south on Getty Street until Norton and follow Norton west until Green Street. Proceed south on Green Street until Seaway Drive. Then follow the municipal boundary of the City of Muskegon Heights in the area north of the northern shoreline of Mona Lake and south of Seaway Drive.

(3) Proceed north on Peck Street between Seaway Drive and Norton. Follow Norton west until Temple Street, turning south to Seaway Drive. Proceed north on Seaway Drive until Hackley Avenue, following Hackley Avenue between Seaway Drive and Park Street.

(4) Follow Park Street north to Laketon Avenue. Proceed west on Laketon Avenue to Seaway Drive, turning north on Seaway Drive to Ninth Street. Follow Ninth Street to Western Avenue. Follow Western Avenue to Sixth Street, and then proceed to the southern Muskegon Lake shoreline. Proceed northeast along Muskegon Lake shoreline to the south branch of the Muskegon River.

(5) Follow the southern shoreline of the south branch of the Muskegon River between the Muskegon Lake shoreline and the Getty Street/US31-BR intersection. Proceed south on Getty Street to the northernmost city municipal boundary east of Getty Street. Proceed east along the northernmost city municipal boundary between Getty Street and Harvey Street. Proceed north along Harvey Street until Stebbins Road, turning east and following the city municipal boundary eastward to the starting point (the most northeast city municipal boundary point north of Marquette Avenue in the vicinity of the Quarterline and Stebbins Roads intersection).

(Code 1975, § 2-240; Code 2002, § 18-61)

State law reference—Establishment of enterprise zone, MCL 125.2111.

Sec. 18-62. Determination that zone meets state requirements.

The city commission determines, after public hearing and examination of the proposed enterprise zone, that the portion of the zone described in section 18-61 found in the city meets the requirements of Public Act No. 224 of 1985 (MCL 125.2101 et seq.).
(Code 1975, § 2-241; Code 2002, § 18-62)

Sec. 18-63. Citizens' council.

(a) *Established; number; qualifications.* A citizens' council for the enterprise zone is hereby established pursuant to Public Act No. 224 of 1985 (MCL 125.2101 et seq.).

(b) *Duties.* The citizens' council shall perform all of the following duties:

(1) Advise the city on all matters relating to enterprise zone activities.

*__State law reference—__Enterprise zone act, MCL 125.2101 et seq.

(2) Advocate the promotion and development of business in the enterprise zone.

(3) Coordinate employer needs with available training programs and other services.

(4) Upon the request of a qualified business, assist in recruitment of employees for existing or future jobs.

(5) Review each employer annually to ensure the employer's continuing status as a qualified business.

(6) Provide information, as requested, to the state enterprise zone authority.

(Code 1975, §§ 2-242(a), 2-243; Code 2002, § 18-63)

State law reference—Citizens' council, MCL 125.2109, 125.2110.

Secs. 18-64—18-78. Reserved.

ARTICLE IV. HOUSING COMMISSION*

Sec. 18-79. Created.

A commission is hereby created in and for the city, to be known as the "Muskegon Housing Commission."

(Code 1975, § 2-157; Code 2002, § 2-321)

State law reference—Authority to create housing commission, MCL 165.653(a).

Sec. 18-80. Appointment of members.

The city manager, with the consent and approval of the city commission, is hereby directed to appoint the members of the housing commission. Members of the housing commission shall be appointed as provided by law.

(Code 1975, § 2-158; Code 2002, § 2-322)

State law reference—Composition of housing commission and appointment of members, MCL 125.654.

Sec. 18-81. Authority to act as borrower.

The housing commission is hereby granted authority pursuant to Section 1(a)(ii) of Public Act No. 18 of 1933 (Ex. Sess.) (MCL 125.651(a)(ii)), to act as a borrower for purposes of issuing bonds or notes pursuant to Public Act No. 18 of 1933 (Ex. Sess.) (MCL 125.651 et seq.). To the extent of any such borrowing, the housing commission shall indemnify and hold harmless the city from any claims or expenses incurred in association with such borrowing.

(Code 2002, § 2-323; Ord. No. 2027, § 2-159, 8-1-2000)

Sec. 18-82. Ownership of property.

The housing commission is hereby granted authority to acquire and dispose of real property, pursuant to Section 11(1) of Public Act No. 18 of 1933 (Ex. Sess.) (MCL 125.661(1)).

(Code 2002, § 2-324; Ord. No. 2027, § 2-160, 8-1-2000)

Sec. 18-83. Payment of annual service fee in lieu of taxes.

(a) Pursuant to Section 11a(1) of Public Act No. 18 of 1933 (Ex. Sess.) (MCL 125.661a(1)), the housing commission shall, beginning in 2000, being the 1999 tax year, pay on or before March 31 of that year, and on or before the same date annually, a service fee in lieu of taxes equal to ten percent of the annual shelter rents obtained from the projects and facilities owned and operated by it or owned and operated by qualified entities. The term "qualified entities" includes any person or entity owning or operating a facility or property on behalf of or in concert with the housing commission. The term "qualified entities" includes, without limitation, the entity known as the Family Investment Center Limited Dividend Housing Association Limited Partnership.

(b) In accordance with the statute, the housing commission is responsible for paying the service charge in lieu of taxes for all facilities whether owned or operated by a qualified entity or owned or operated by the housing commission itself.

(c) No later than 30 days after the close of each calendar year, the housing commission shall provide to the city an accounting showing the gross annual shelter rents received during the previous year from its projects or facilities. The housing commission shall provide all information in connection with such accounting as may reasonably be requested by the city for the purpose of verify-

*__State law reference—__Housing commission, MCL 125.653 et seq.

ing the amount of annual shelter rents and the resulting payment of the service fee in lieu of taxes to be paid.
(Code 2002, § 2-325; Ord. No. 2028, §§ 1—3, 8-1-2000)

Chapters 19—21

RESERVED

Chapter 22

EMERGENCY SERVICES

Article I. In General

Secs. 22-1—22-30. Reserved.

Article II. Burglar Alarm Systems

Sec. 22-31. Definitions.
Sec. 22-32. Statement of purpose.
Sec. 22-33. Design of systems; dial alarms.
Sec. 22-34. False alarms.
Sec. 22-35. Defective alarm systems; unlawful use of alarm systems; penalty.

ARTICLE I. IN GENERAL

Secs. 22-1—22-30. Reserved.

ARTICLE II. BURGLAR ALARM SYSTEMS*

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:

Alarm system means an intrusion or holdup device designed or arranged to signal, audibly, visibly, electronically or mechanically or by any combination of these methods the presence of an intrusion or holdup of residential, business or commercial property to which the police department is expected to respond. The term "alarm system" includes hostage alarms but excludes fire alarm signals.

Alarm user means any person or business on whose premises an alarm system is maintained within the city except for alarm systems on motor vehicles. However, if an alarm system on a motor vehicle is connected with an alarm system at a premises, the person using such system is an alarm user.

Dial alarm means an alarm system which automatically sends over regular telephone lines a prerecorded message or coded signal indicating the existence of an emergency situation that the alarm system was designed to detect and which is connected to and received by an agency maintained by the local government.

Dispatch center means the county central operations for police services communication center.

False alarm means the activation of an alarm system not resulting from criminal activity for which the alarm was intended.
(Code 1975, § 12-122; Code 2002, § 22-31)

*State law reference—Private security business and security alarm act, MCL 338.1051 et seq.

Sec. 22-32. Statement of purpose.

The police department experiences an inordinate number of false alarms from alarm systems installed in businesses and residences within the city. These false alarms require the time and attention of dispatchers and police officers who could otherwise perform duties beneficial to the resident of the city. In addition, the inordinate number of false alarms induces a lack of attention and awareness thus endangering the safety of the officers responding thereto. The cost of responding to false alarms is unfairly absorbed by all the residents of the city rather than by the alarm user whose alarm system is causing the false alarm. It is the purpose of this article to impose upon the alarm user a charge to cover the city's cost in responding to such false alarms and to encourage the installation, maintenance and operation of alarm systems which do not cause false alarms.
(Code 1975, § 12-121; Code 2002, § 22-32)

Sec. 22-33. Design of systems; dial alarms.

(a) Any alarm system designed to emit an audible siren, noise, flashing light, beacon or other sound or light annunciation so as to signal persons outside the premises shall be equipped to automatically terminate the location annunciation of the alarm system within five minutes from the initial light or sound emission.

(b) Dial alarms designed to terminate at the dispatch center are prohibited unless written permission is received from the chief of police.
(Code 1975, § 12-123; Code 2002, § 22-33)

Sec. 22-34. False alarms.

(a) For each false alarm, the alarm user shall receive a false alarm notice from the police department. The alarm user shall return the false alarm notice to the police department within 14 days of the date of the false alarm and shall state on the false alarm notice the cause of the alarm and corrective measures taken.

(b) An alarm user shall be required to pay the city a service fee for having four or more false alarms within a calendar year. The amount of such fee shall be established by resolution of the city commission and shall cover the cost of re-

sponding to such false alarms and the cost of inspection, investigation and supervision resulting from the enforcement of this article. If the alarm user fails to pay the service fee within 60 days after billing by the city, such service fee shall be added to and made a part of the next city tax bill against the subject premises and collected in the same manner as provided by law for the collection by the city of taxes on real estate.

(c) Alarm conditions caused by the following extenuating circumstances shall not constitute a false alarm, and the alarm shall not be counted, nor shall a fee be assessed by the city:

(1) Alarm system malfunctions on new installations if occurring within a 30-day period after the alarm system is installed, provided that corrective measures have been instituted as attested to by the alarm user on the false alarm notice.

(2) Alarms activated by a major disruption of telephone or other communication systems or by motor vehicle-utility pole accidents at the discretion of the chief of police or his designee.

(3) Meteorological or geological conditions when a large number of alarms or a particular area of the city is affected at the discretion of the chief of police or his designee.

(4) Alarm conditions activated by persons working on an alarm system with prior notification to the police department and the dispatch center.

(5) Any alarm cancelled by the alarm user or designated alarm company prior to the dispatch of any police officer to the scene.

(d) The chief of police or his designee shall determine the existence of conditions specified in subsections (c)(1) through (4) of this section utilizing the official police report generated by the alarm activation and utilizing any other information deemed necessary to make a decision.
(Code 1975, § 12-124; Code 2002, § 22-34)

Sec. 22-35. Defective alarm systems; unlawful use of alarm systems; penalty.

The following acts or omissions constitute a municipal civil infraction:

(1) Possession by an alarm user of a defective alarm system, defined as a system which reports eight false alarms within a calendar year, for whatever cause;

(2) The activation of an alarm system by any person for a purpose other than police department response to a holdup, including an armed or unarmed robbery, larceny, or attempt to commit an armed or unarmed robbery or larceny, at a business or commercial property;

(3) The activation of an alarm system for police department response to circumstances which do not involve an intrusion, including a breaking or entering or forcible trespass by persons unknown to the occupants, at a residential location.

(Code 1975, § 12-125; Code 2002, § 22-35)

Chapters 23—25

RESERVED

Chapter 26

ENVIRONMENT*

Article I. In General

Secs. 26-1—26-30. Reserved.

Article II. Noise

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Sec. 26-32. Penalty for violation of article.
Sec. 26-33. Loud, disturbing, etc., noise generally.
Sec. 26-34. Playing of radios, musical instruments, etc.—Generally.
Sec. 26-35. Same—Where sound cast outside building for advertising purposes.
Sec. 26-36. Yelling, shouting, etc., generally.
Sec. 26-37. Shouting by peddlers and hawkers.
Sec. 26-38. Playing of radios, musical instruments and other sound-producing or amplifying devices in city parks; presumption established; vehicles providing power to or containing sound devices; public nuisances and abatement by impoundment.
Sec. 26-39. Zone of quiet.
Sec. 26-40. Transportation of rails, pillars or columns.
Sec. 26-41. Noise from loading or unloading vehicles or opening or destroying bales, boxes, etc.
Sec. 26-42. Discharge of engine or motor exhaust.
Sec. 26-43. Blowing of steam whistles.
Sec. 26-44. Operation of blowers or power fans.
Sec. 26-45. Sound amplification from aircraft.
Sec. 26-46. Limitation on hours for construction or demolition work.
Sec. 26-47. Operation of pile drivers, steam shovels, etc.
Sec. 26-48. Noise near schools, courts, churches, hospitals.
Sec. 26-49. Noise to attract attention to performance, show or sale.
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Division 2. Sound Trucks

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***State law reference—**Natural resources and environmental protection act, MCL 324.101 et seq.

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Sec. 26-184. Filing fee.
Sec. 26-185. Applicant's bond and insurance.
Sec. 26-186. Investigation of application.
Sec. 26-187. Hearing on application.
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Article IV. Point-Source Groundwater Discharges

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ARTICLE I. IN GENERAL

Secs. 26-1—26-30. Reserved.

ARTICLE II. NOISE*

DIVISION 1. GENERALLY

Sec. 26-31. Finding and declaration of fact; purpose of article.

It is hereby found and declared that:

(1) The making and creation of loud, unnecessary or unusual noises within the city is a condition which has existed for some time and the extent and the volume of such noises are increasing;

(2) Loud, unnecessary, unnatural or unusual noises, which are prolonged, affect and are a detriment to the public health, comfort, convenience, safety, welfare and prosperity of the residents of the city;

(3) The necessity, in the public interest, for the provisions and prohibitions contained in this article is declared a matter of legislative determination and public policy, and it is further declared that the provisions and prohibitions contained and enacted in this article are in pursuance of, and for the purpose of, securing and promoting the public health, comfort, convenience, safety, welfare, prosperity, peace and quiet of the city and its inhabitants.

(Code 1975, § 14-1; Code 2002, § 26-31)

Sec. 26-32. Penalty for violation of article.

Any person who violates any provision of this article shall be responsible for a municipal civil infraction.

(Code 1975, § 14-20; Code 2002, § 26-32)

*__State law reference—__Motor vehicle mufflers, MCL 257.707 et seq.

Sec. 26-33. Loud, disturbing, etc., noise generally.

(a) It shall be unlawful for any person to make, continue, or cause to be made or continued any loud or unusual noise, or any noise which either disturbs, injures or endangers the comfort, repose, health, peace or safety of others, within the limits of the city.

(b) The acts enumerated in the following sections of this article are hereby declared to be loud and disturbing noises, but such enumeration shall not be deemed to be exclusive.

(Code 1975, § 14-2; Code 2002, § 26-33)

Sec. 26-34. Playing of radios, musical instruments, etc.—Generally.

(a) Playing, using, operating or permitting to be played, used or operated, any radio receiving set, musical instrument, phonograph or other machine or device for producing or reproducing sound in such manner as to disturb the peace, quiet and comfort of the neighboring inhabitants, or at any time with louder volume than is necessary for convenient hearing for the person who is in the room, vehicle or chamber in which such machine or device is operated and those who are voluntary listeners thereto, is prohibited.

(b) The operation of any such set, instrument, phonograph, machine or device between the hours of 11:00 p.m. and 7:00 a.m. in such a manner as to be plainly audible at a distance of 50 feet from the building, structure or vehicle in which it is located shall be prima facie evidence of a violation of this section.

(Code 1975, § 14-3; Code 2002, § 26-34)

Sec. 26-35. Same—Where sound cast outside building for advertising purposes.

Playing, using, operating or permitting to be played, used or operated, any radio receiving set, musical instrument, phonograph, loudspeaker, sound amplifier or other machine or device for producing or reproducing sound which is cast upon the public streets or any unenclosed area open to the public where persons are permitted to congregate, for the purpose of commercial adver-

tising or attracting the attention of the public to any building or structure for commercial purposes, is prohibited.
(Code 1975, § 14-4; Code 2002, § 26-35)

Sec. 26-36. Yelling, shouting, etc., generally.

Yelling, shouting, hooting, whistling or singing on the public streets, particularly between the hours of 11:00 p.m. and 7:00 a.m., or at any time or place so as to annoy or disturb the quiet, comfort or repose of persons in any office, dwelling, hotel or other type of residence, or of any person in the vicinity, is prohibited.
(Code 1975, § 14-5; Code 2002, § 26-36)

Sec. 26-37. Shouting by peddlers and hawkers.

The shouting and crying of peddlers, hawkers and vendors, which disturbs the peace and quiet of the neighborhood, is prohibited.
(Code 1975, § 14-6; Code 2002, § 26-37)

Sec. 26-38. Playing of radios, musical instruments and other sound-producing or amplifying devices in city parks; presumption established; vehicles providing power to or containing sound devices; public nuisances and abatement by impoundment.

(a) Playing, using, operating or permitting to be played, used or operated, any radio receiving set, musical instrument, phonograph, tape recording device or other machine or sound-amplifying device for producing, reproducing or amplifying sound in any city park in such a manner that the sound emanating from any such device is plainly audible at a distance of 50 feet from the physical location of any such device without a permit is prohibited and a person, upon conviction thereof, shall be deemed responsible for a municipal civil infraction.

(b) If the source of power for any device or the sound from any device operated in violation of subsection (a) of this section emanates from a motor vehicle, the registered owner of the vehicle at the time of such violation shall be presumed to have committed the violation.

(c) Any device operated in violation of subsection (a) of this section is declared to be a public nuisance which any police officer by hearing such device or upon information and belief may abate by impounding such device and removing it from the park to the police station. The owner of such device may have it removed from impoundment at any time thereafter by paying to the police department an impoundment fee in the amount established by resolution to cover the cost of removal and storage.

(d) Any motor vehicle which furnishes the source of power for any such offending device or contains such offending device is hereby declared to be illegally parked and a public nuisance. Any police officer may abate such nuisance by impounding the vehicle in the manner provided in Section 2.5(d) of the Uniform Traffic Code as adopted by the city.

(e) Nothing contained in this section shall be construed to limit the rights of citizens to obtain a permit to use a sound-amplifying device as authorized pursuant to division 2 of this article.
(Code 1975, § 14-7; Code 2002, § 26-38)

Sec. 26-39. Zone of quiet.

Whenever authorized signs are erected indicating a zone of quiet, no person operating a motor vehicle within any such zone shall sound the horn or other warning device of such vehicle, except in an emergency.
(Code 1975, § 14-9(b); Code 2002, § 26-39)

Sec. 26-40. Transportation of rails, pillars or columns.

The transportation of rails, pillars or columns of iron, steel or other material over and along streets and other public places upon carts, drays, cars or trucks, in any manner as to cause loud noises or which disturbs the peace and quiet of such streets or other public places, is prohibited.
(Code 1975, § 14-10; Code 2002, § 26-40)

Sec. 26-41. Noise from loading or unloading vehicles or opening or destroying bales, boxes, etc.

The creation of a loud and excessive noise in connection with loading or unloading any vehicle or the opening and destruction of bales, boxes, crates and containers is prohibited.
(Code 1975, § 14-11; Code 2002, § 26-41)

Sec. 26-42. Discharge of engine or motor exhaust.

The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, motor boat or motor vehicle, except through a muffler or other device which will effectively prevent loud or explosive noises therefrom, is prohibited.
(Code 1975, § 14-12; Code 2002, § 26-42)

Sec. 26-43. Blowing of steam whistles.

The blowing of any steam whistle attached to any stationary boiler, except to give notice of the time to begin or stop work or as a warning of fire or danger, or upon request of proper city authorities, is prohibited.
(Code 1975, § 14-13; Code 2002, § 26-43)

Sec. 26-44. Operation of blowers or power fans.

The operation of any noise-creating blower or power fan is prohibited, unless the noise from such blower or fan is muffled.
(Code 1975, § 14-14; Code 2002, § 26-44)

Sec. 26-45. Sound amplification from aircraft.

(a) No person shall operate, or cause to be operated, any aircraft for any purpose in or over the city with sound amplifying equipment in operation.

(b) For the purpose of this section, the term "aircraft," shall mean any contrivance now known or hereafter invented, used or designed for navigation or for flight in the air, including helicopters and lighter-than-air dirigibles and balloons.
(Code 1975, § 14-15; Code 2002, § 26-45)

Sec. 26-46. Limitation on hours for construction or demolition work.

(a) The erection (including excavating), demolition, alteration or repair of any building, other than between the hours of 7:00 a.m. and 6:00 p.m. is prohibited, except in case of urgent necessity in the interest of public health and safety, and then only with a permit from the building inspector, which permit may be granted for a period not to exceed three days or less while the emergency continues and which permit may be renewed for periods of three days or less while the emergency continues.

(b) If the building inspector shall determine that the public health and safety will not be impaired by the erection, demolition, alteration or repair of any building or the excavation of streets and highways within the hours of 6:00 p.m. and 7:00 a.m., and if he shall further determine that loss or inconvenience would result to any party in interest, he may grant permission for such work to be done between the hours of 6:00 p.m. and 7:00 a.m., upon application for a permit requesting performance of such work during the hours aforementioned.
(Code 1975, § 14-16; Code 2002, § 26-46)

Sec. 26-47. Operation of pile drivers, steam shovels, etc.

The operation, between the hours of 10:00 p.m. and 7:00 a.m., of any pile driver, steam shovel, pneumatic hammer, derrick, steam or electric hoist or other appliance, the use of which is attended by loud or unusual noise, is prohibited, except in the case of an emergency.
(Code 1975, § 14-17; Code 2002, § 26-47)

Sec. 26-48. Noise near schools, courts, churches, hospitals.

The creation of any excessive noise on any street adjacent to any school, institution of learning, church, court or hospital, which unreasonably interferes with the business of any such institution, or which disturbs or unduly annoys patients in a hospital, shall be unlawful, provided conspicuous signs are displayed in such streets

indicating the type of institution situated thereon and that noise is prohibited or that quiet is required in such area.
(Code 1975, § 14-18; Code 2002, § 26-48)

Sec. 26-49. Noise to attract attention to performance, show or sale.

The use of any drum or other instrument or device for the purpose of attracting attention, by the creation of noise, to any performance, show or sale is prohibited.
(Code 1975, § 14-19; Code 2002, § 26-49)

Secs. 26-50—26-65. Reserved.

DIVISION 2. SOUND TRUCKS

Sec. 26-66. 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:

Sound amplifying equipment means any machine or device for the amplification of the human voice, music or any other sound, but shall not be construed as including standard automobile radios, when used and heard only by occupants of the vehicle in which installed, or warning devices on authorized emergency vehicles or horns or other warning devices on other vehicles used only for traffic safety purposes.

Sound truck means any motor vehicle or animal-drawn vehicle having mounted thereon, or attached thereto, any sound amplifying equipment.
(Code 1975, § 14-32; Code 2002, § 26-66)

Sec. 26-67. Registration.

(a) No person shall use, or cause to be used, a sound truck, with sound amplifying equipment in operation in the city, before filing a registration statement with the city clerk. This registration statement shall be filed in duplicate and shall state the following:

(1) Name and home address of the applicant;

(2) Address of place of business of the applicant;

(3) License number and motor number of the sound truck to be used by the applicant;

(4) Name and address of the person who owns the sound truck;

(5) Name and address of the person having direct charge of the sound truck;

(6) Names and addresses of all persons who will use or operate the sound truck;

(7) The purpose for which the sound truck will be used;

(8) A general statement as to the section of the city in which the sound truck will be used;

(9) The proposed hours of operation of the sound truck;

(10) The number of days of proposed operation of the sound truck;

(11) A general description of the sound amplifying equipment which is to be used; and

(12) The maximum sound producing power of the equipment to be used in or on the sound truck, including:

a. The wattage to be used;

b. The volume in decibels of the sound which will be produced; and

c. The approximate maximum distance for which sound will be thrown from the sound truck.

(b) All persons using or causing to be used sound trucks for noncommercial purposes shall amend any registration statement filed pursuant to this section within 48 hours after any change in the information therein furnished.

(c) The city clerk shall return to each registrant under this section, one copy of the registration statement, duly certified by the city clerk as a correct copy. Such certified copy shall be in the possession of any person operating the sound truck at all times while the sound amplifying equipment is in operation, and shall be promptly displayed and shown to any police officer of the city upon request.
(Code 1975, § 14-34; Code 2002, § 26-67)

Sec. 26-68. Permitted sounds.

The only sounds permitted from sound trucks are music and human speech.
(Code 1975, § 14-42; Code 2002, § 26-68)

Sec. 26-69. Hours or operation; operation on Sundays and holidays prohibited.

The operation of the sound amplifying equipment on sound trucks is permitted for four hours each day, except on Sundays and legal holidays, when such operation is prohibited. The permitted four hours of operation shall be between the hours of 11:30 a.m. and 1:30 p.m. and 4:30 p.m. and 6:30 p.m.
(Code 1975, § 14-43; Code 2002, § 26-69)

Sec. 26-70. Operation on certain streets prohibited.

No sound truck, with amplifying equipment in operation, shall be operated on the following streets: Western Avenue, between Spring Street and Fifth Street and Clay Avenue, from Spring Street to Fifth Street.
(Code 1975, § 14-44; Code 2002, § 26-70)

Sec. 26-71. Operation near hospital, school, church, court or voting place.

Sound shall not be emitted from a sound truck within 100 yards of any hospital, school, church or courthouse, or within 100 yards of any voting polling place on any primary or election day.
(Code 1975, § 14-45; Code 2002, § 26-71)

Sec. 26-72. Minimum speed; operation of sound equipment when truck stopped.

Sound amplifying equipment shall not be operated unless the sound truck upon which such equipment is mounted is operated at a speed of at least ten miles per hour, except when the truck is stopped or impeded by traffic. Whenever stopped by traffic, the sound amplifying equipment shall not be operated for longer than one minute at each stop.
(Code 1975, § 14-46; Code 2002, § 26-72)

Sec. 26-73. Control of sound volume generally.

The volume of sound from a sound truck shall be so controlled that it will not be audible for a distance in excess of 100 feet from the sound truck, nor in volume unreasonably loud, raucous, jarring, disturbing or a nuisance to persons within the area of audibility.
(Code 1975, § 14-47; Code 2002, § 26-73)

Sec. 26-74. Maximum amplification power.

No sound amplifying equipment on a sound truck shall be operated in excess of 15 watts of power in the last stage of amplification.
(Code 1975, § 14-48; Code 2002, § 26-74)

Secs. 26-75—26-155. Reserved.

ARTICLE III. SOIL STRIPPING AND DUMPING*

DIVISION 1. GENERALLY

Sec. 26-156. Soil defined.

The term "soil," as used in this article, shall mean topsoil, subsoil, sand, gravel, rock, stone and heavy aggregate, earth and any other material proposed to be removed from or dumped on land.
(Code 1975, § 17-2; Code 2002, § 26-156)

Sec. 26-157. Purpose.

The purpose of this article is to promote the public health, safety and general welfare of the residents of the city and preserve the natural resources and to prevent the creation of nuisances and hazards to the public welfare, health, safety, morals, well-being and general welfare.
(Code 1975, § 17-1; Code 2002, § 26-157)

Sec. 26-158. Waiver of article provisions.

In areas where, in the judgment of the city commission or administrative staff, adequate pro-

*__State law references—__Soil and sedimentation control, MCL 324.9101 et seq.; local soil erosion and sedimentation control ordinances, MCL 324.9105 et seq.

visions are made to safeguard adjacent properties, or in the case of fills and excavations of minor importance situated in isolated areas, the city commission may waive any or all of the requirements of sections 26-159, 26-160 and 26-161.
(Code 1975, § 17-6; Code 2002, § 26-158)

Sec. 26-159. Requirements for stripping operations.

(a) Every person to whom a permit authorizing stripping operations is issued under this article shall comply with the following:

(1) No soil or other material shall be removed below a point six inches above the mean elevation of the centerline of the nearest existing or proposed street or road established or approved by the city, except as required for the installation of utilities and pavements.

(2) No soil or other materials shall be removed in such manner as to cause water to collect or to result in a place of danger or a menace to the public health. The premises shall at all times be graded so that surface water drainage is not interfered with.

(3) Sufficient topsoil shall be stockpiled on the site so that the entire site, when stripping operations are completed, may be recovered with a minimum of four inches of topsoil and the replacement of such topsoil shall be made immediately following the termination of the stripping operations. In the event, however, that such stripping operations continue over a period of time greater than 30 days, the operator shall replace the stored topsoil over the stripped areas as he progresses.

(b) The city commission may impose such other and further requirements on stripping operations as it deems necessary in the interest of the public health, safety, morals, preservation of natural resources and general welfare of the citizens of the city.
(Code 1975, § 17-3; Code 2002, § 26-159)

Sec. 26-160. Grading required after dumping.

Within six months following any dumping authorized by a permit issued under this article, the parcel of land must be graded in such manner as to prevent the collection of water, to provide proper drainage and to leave the ground surface reasonably level or smooth, free of all rock, stone, cement, heavy aggregate or rubbish, and fit for the growth of turf and other land uses permitted in the district.
(Code 1975, § 17-4; Code 2002, § 26-160)

Sec. 26-161. Dumping on spillways or floodplains or between upper and lower banks of streams or watercourses.

No soil shall be dumped on the spillways or floodplains of any natural or artificial streams or watercourses, or in any area between the upper and lower banks of such streams or watercourses, except with the approval of the city commission, after public hearing and on a satisfactory showing that such dumping will not result in damage to other property within the limits of the city, and will not be detrimental to the public health, safety, welfare or preservation of natural resources. For the purposes of this section, the term "floodplain" is defined as the land abutting a watercourse which has stored the overflow of stormwater during periods of heavy storm.
(Code 1975, § 17-5; Code 2002, § 26-161)

Secs. 26-162—26-180. Reserved.

DIVISION 2. PERMIT

Sec. 26-181. Required; exceptions.

(a) It shall be unlawful for any person to dump, remove or strip any soil without a permit from the city commission.

(b) No permit will be required under this article where the moving, grading or leveling of soil is carried on for the immediate use or development of land upon which the soil is found or where the removal or dumping is incidental to the construction or alteration of a building or the premises,

pursuant to a building permit issued by the department of building inspection. However, where major reshaping of the land is contemplated, either by removal or dumping, such permit shall be required.
(Code 1975, § 17-18; Code 2002, § 26-181)

Sec. 26-182. Application; filing; contents.

The application for a permit required by this article shall be filed with the city clerk in quadruplicate, the original of which shall be sworn to before some person lawfully authorized to administer oaths, and shall set forth the following information and shall be accompanied by the following data:

(1) A full identification of the applicant and all persons to be directly or indirectly interested in the permit, if granted.

(2) The residence and business address of the applicant.

(3) A complete description and location of the property on which the work is proposed to be done, prepared by a registered civil engineer or land surveyor.

(4) The exact nature of the proposed excavation and soil to be removed or dumped and an estimate of the approximate number of cubic yards to be removed or dumped. This computation shall be made by a registered civil engineer or land surveyor, if deemed necessary.

(5) A statement of the manner in which it is proposed to dump or excavate and remove the soil, including the slope of the sides and the level of the floor, and the finished grade and condition of the property following the completion of the project, and the kind of equipment proposed to be employed in making such excavation and removing the soil.

(6) The proposed route which the applicant proposes to use over the public streets and over private property in transporting the soil.

(7) The past experience of the applicant in the matter to which the permit appertains and the name, address and past experience in such matter of the person to be in charge of the proposed operations.

(8) Whether or not any permit of the applicant has been revoked, and, if so, the circumstances of such revocation.

(9) The time within which such excavation or dumping is to be commenced after the granting of the permit and the time when it is to be completed.

(10) Such further information as the city manager, city engineer or city commission may require.

(Code 1975, § 17-19; Code 2002, § 26-182)

Sec. 26-183. Map to be filed by applicant.

At the time of the filing of the application provided for in section 26-182, the applicant shall file with the city clerk a topographic map of the property on which the proposed work is to be done covering an area having a radius of 300 feet, so far as may be possible, from the exterior boundary of the proposed site.
(Code 1975, § 17-20; Code 2002, § 26-183)

Sec. 26-184. Filing fee.

At the time of filing the application and map pursuant to sections 26-182 and 26-183, the applicant shall pay a filing fee as set forth by resolution of the city commission. Such fee shall be used to defray costs of engineering services, investigation, publication charges and other miscellaneous administrative expenses occasioned by processing such application.
(Code 1975, § 17-21; Code 2002, § 26-184)

Sec. 26-185. Applicant's bond and insurance.

The city commission shall require, as a condition to the granting of any permit under this article, that the applicant deposit a surety bond, in an amount to be fixed by the city commission, insuring to the benefit of the city and the general public, guaranteeing that the applicant will faithfully perform all of the conditions and requirements under which the permit is issued. The city commission shall also require, as a condition to the granting of any such permit, that the appli-

cant deposit a certificate of a responsible indemnity company, in an amount reasonably relevant to the proposed work to be done, insuring the city and the public against any loss or damage to persons or property arising, directly or indirectly, from the operations of the applicant, or any person acting on his behalf, in carrying on any work connected, directly or indirectly, with the issuance of the permit.
(Code 1975, § 17-22; Code 2002, § 26-185)

Sec. 26-186. Investigation of application.

Immediately upon the filing of an application for a permit under this article, one copy of such application shall be delivered to the city manager and one copy to the city engineer. The city engineer shall make an investigation of the facts set forth in the application and shall make a written report of his investigation, together with his recommendations, to the city manager.
(Code 1975, § 17-23; Code 2002, § 26-186)

Sec. 26-187. Hearing on application.

Within 30 days after the city engineer makes his report and recommendations to the city manager pursuant to section 26-186, the city commission shall hold a public hearing on the application for a permit under this article. Notice of such hearing shall be given by the city clerk, by mailing a copy thereof addressed to the applicant and to the owners of the property, as appears on the last assessment rolls of the city, within a 300-foot radius of the exterior boundaries of the proposed site. Such notice shall be mailed at least five days prior to the date set for the hearing. Such notice shall contain a statement of the time and place of the hearing, the name of the applicant, a general description of the premises where the applicant proposes to do the work, and a general statement of the size and nature of the proposed excavation or dumping area.
(Code 1975, § 17-24; Code 2002, § 26-187)

Sec. 26-188. Grant or denial.

The city commission, in granting or denying any application for a permit under this article, shall take into consideration the zoning of the proposed site, the character of the applicant as respects morality, honesty and integrity, his financial responsibility and all pertinent things concerning the health, safety, preservation of natural resources and the preventing of nuisances and hazards, and shall exercise a reasonable and sound discretion in the premises. No permit shall be granted if it appears from the investigation thereof that the project would remove the lateral and subjacent support of the adjacent land and result in a dangerous topographic condition, or result in seepage or slides or create an attractive nuisance dangerous to public safety, or that it otherwise would in any manner endanger the public health or morals and prevent the preservation of natural resources, or be detrimental to the general public welfare.
(Code 1975, § 17-25; Code 2002, § 26-188)

Sec. 26-189. Fee; inspection of work under permit.

At the time of issuance of a permit under this article the applicant shall pay a permit fee as set by resolution of the city commission to cover the expense of inspection and examination of the combined operation of the site. The site shall be inspected as often as deemed necessary by the city but at least every six months. A fee as set by resolution of the commission shall be paid for each subsequent inspection. The fees required by this section shall be in addition to any fees or deposits required by other provisions of this article.
(Code 1975, § 17-26; Code 2002, § 26-189)

Sec. 26-190. Expiration.

In the event that any work for which a permit has been granted under this article is not commenced within six months from the date hereof, or in the event work is started on excavations pursuant thereto and such work is abandoned for a period of six months, the permit shall automatically expire by limitation and cease to be valid for any purpose. Such expired permit may be reviewed by the city commission for continuance, without payment of a filing fee, provided that the commencement date change or abandonment is caused by access problems or weather conditions.
(Code 1975, § 17-27; Code 2002, § 26-190)

Sec. 26-191. Revocation or suspension.

Any permit granted pursuant to this article may be revoked or suspended for failure to comply with any of the provisions of this article. Revocation of such permit shall be accomplished only pursuant to a public hearing held before the city commission, after five days notice to such permit holder stating the grounds of complaint against him and the time and place where the hearing will be held. If, in the opinion of the city manager, the public health, safety or welfare requires it, the city manager may suspend any permit granted under this article pending the hearing for the revocation of such permit by the city commission.
(Code 1975, § 17-28; Code 2002, § 26-191)

Secs. 26-192—26-195. Reserved.

DIVISION 3. EXCAVATIONS

Sec. 26-196. Application of division; compliance.

The provisions of this division shall apply to excavations and excavating operations authorized by a permit issued under this article and every person to whom such a permit is issued shall comply with this division.
(Code 1975, § 17-40; Code 2002, § 26-196)

Sec. 26-197. Location with respect to streets and property lines.

No cut or excavation shall be made closer than 50 feet from the nearest street or highway right-of-way nor nearer than 40 feet to the nearest property line; provided, however, that the city commission may prescribe more strict requirements in order to give sublateral support to surrounding property where soil or geographic conditions warrant it.
(Code 1975, § 17-41; Code 2002, § 26-197)

Sec. 26-198. Standards.

(a) *Maximum size and period of operation of gravel or sand pit.* No person shall open more than 15 acres of land for purposes of excavation for, or operation of, a gravel or sand mining pit at one time, and such excavation shall not be allowed to remain open for any period in excess of one year except by special permission of the commission.

(b) *Floor level.* The floor of any excavation shall not be made lower than the level thereof as set forth in the permit application filed under division 2 of this article.

(c) *Bank slope.* The slopes of the banks of an excavation shall in no event exceed a minimum of five feet horizontal to one foot vertical. Where ponded water results from the operation, such slope must be maintained and extended into the water to a depth of three feet.

(d) *Fencing.*

(1) If, in the opinion of the city engineer, any excavation will present a dangerous condition if left open, such excavation shall be enclosed by a chainlink or wire mesh fence completely surrounding the portion of the site where the excavation extends. Such fence shall be not less than five feet in height and shall be complete with gates, which gates shall be kept locked when operations are not being carried on. Barbed wire shall not be used.

(2) In all cases where a lake, pool or pond is construed in connection with the operation of a pit, and the same is within 1,000 feet of any residence, chainlink fences shall be placed around such body of water adequate to prevent children from entering.

(e) *Warning signs.* Where excavation operations result in a body of water, the owner or operator shall place appropriate "Keep Out—Danger" signs around the premises, not more than 100 feet apart.

(f) *Stagnant water; spraying of pools or ponds.* During the period in which excavation is being made or a pit is being operated, no person shall allow pools or puddles of water to form and become stagnant, and any person operating a pit shall, at least once each month, spray any pools or ponds which may exist in conjunction with such operations to keep them from becoming breeding places for mosquitoes or otherwise creating an unhealthy condition.

(g) *Certain access roads to be dustfree.* Any roads used for the purpose of ingress and egress to an excavation site, and which are located within 300 feet of an occupied residence, shall be kept dustfree by hard topping with concrete, bituminous substance, chemical treatment or other approval means.

(h) *Landscaping of site.* The site shall be so landscaped upon completion of each excavated or filled part of the site that all soil erosion by wind and water will be eliminated.

(i) *Use of prescribed route to move soil from site.* Vehicles transporting soil from an excavation over the public streets of the city shall be driven directly over such route as may be prescribed by the city engineer to be least dangerous to public safety, cause the least interference with general traffic and cause the least damage to the public streets.

(j) *Removal of spillage from streets.* Any soil that may be deposited on any public street or place from any vehicle transporting the same from an excavation shall be immediately removed, in a manner satisfactory to the city engineer, at the expense of the person to whom the permit to excavate was issued.

(k) *Additional standards.* The city commission may require performance standards with regard to excavations, in addition to those prescribed in this division, where, because of peculiar conditions, they are deemed necessary for the protection of health, safety, morals, preservation of natural resources and well-being of the citizens of the city.
(Code 1975, §§ 17-42—17-52; Code 2002, § 26-198)

Secs. 26-199—26-210. Reserved.

ARTICLE IV. POINT-SOURCE GROUNDWATER DISCHARGES*

DIVISION 1. GENERALLY

Sec. 26-211. 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:

Acceptable water quality means chemical or biological content and the resulting quality of water and effluent which meets or exceeds the final effluent limitations for the discharge of treated groundwater and surface water discharge as allowed by the state department of natural resources, the United States Environmental Protection Agency, and other governmental agencies with authority. The city may enact by amendment to this article additional and more stringent standards whenever the need reasonably arises.

Purge well means a well used to pump or otherwise remove groundwater from below the land surface in an effort to control the movement of, or to clean, contaminated or polluted groundwater.

Responsible person means a person who owns, controls, occupies or regulates the premises, wherever located (including whether or not located within the city limits of the city), upon which or from which a discharge regulated by this article originates.

Storm drainage system means all pipes, conduits, culverts, chambers or channels within the city used or installed for the purpose of controlling surface stormwater runoff in the city from and including the city's rights-of-way, easements or public lands, or from other sources, whether or not within the city's boundaries.

Stormwater or surface water runoff means water discharged to the storm drainage system as a result of rain, snow, or other precipitation.
(Code 1975, § 24-202; Code 2002, § 26-211)

***State law reference—**Groundwater and freshwater protection, MCL 324.8701 et seq.

Sec. 26-212. Policy and purposes.

The purpose of this article is to control and regulate access to and use of the city stormwater and surface water management system where it is sought to be used for discharges from groundwater purges and similar point-source discharges to the system. The city commission intends to establish with this article a uniform city policy addressing groundwater discharges which use the system and ensure that the quality of water being discharged into the system and the waterways contiguous to the city is maintained at acceptable levels; protect the stormwater and surface water drainage system; provide for adequate drainage of the streets, rights-of-way and public areas of the city as a result of stormwater and surface water runoff; and to provide a source of revenue to meet the costs of maintenance and upgrading of the stormwater and surface water drainage of the system as it is affected by point-source discharges covered by this article. The city commission intends that the city's first duty is to protect the existing stormwater and surface water drainage system from being inundated by flows not directly caused by stormwater runoff as defined in this article. The system must be reasonably able to accommodate the normal runoffs as well as excessive runoff caused by unusual conditions of weather and natural accumulations of surface water and stormwater runoff.
(Code 1975, § 24-201; Code 2002, § 26-212)

Sec. 26-213. Municipal civil infraction.

A person who violates any provisions of this article or who violates any permit issued pursuant to this article is responsible for a municipal civil infraction.
(Code 1975, § 24-211; Code 2002, § 26-213)

Secs. 26-214—26-230. Reserved.

DIVISION 2. PERMIT FOR DISCHARGE FROM PURGE WELL

Sec. 26-231. Prohibition.

No person shall cause or permit a discharge of groundwater from a purge well to enter the city's storm drainage system unless the person has been issued a current permit which continues in force as required by this article and pays all fees determined by resolution of the city commission and incurred by the person. This prohibition shall further extend to discharges from other sources identified by the city and added to this article and defined by amendment.
(Code 1975, § 24-203; Code 2002, § 26-231)

Sec. 26-232. Application for permit.

A responsible person shall apply for a permit under this article. Such application shall be filed with the city clerk and directed to the city's engineering department. The application shall include at least the following:

(1) A capacity analysis of the portion of the city's storm drainage system which will be used, over its entire length, including a statement of the available capacity for all purposes of the portion of the system to be affected by the proposed discharge. The analysis must be completed and certified by a registered professional engineer.

(2) A narrative description of the following:

a. The reasons for and the operation of the proposed groundwater purge.

b. The types and levels of pollutants which are and will be included in the groundwater to be extracted.

c. The method of treatment of the groundwater extracted, including a description of the entire treatment system.

d. The proposed acceptable water quality of the water to be discharged into the city's storm drainage system after treatment, including the proposed maximum chemical and biological content of the effluent.

e. The proposed maximum flow rate of the treated groundwater to be discharged to the city's system.

f. The commitment that the flow and maximum content of pollutants identified will not be exceeded at any time.

g. A copy of all data and studies used or referred to by the applicant and the professional engineer, if requested by the city.

(3) The method, including the facilities to be used and constructed by the applicant, and the location of the proposed discharge into the city's storm drainage system; a description of and commitment to the establishment of a sampling point to test water quality prior to entering the city's storm drainage system, a description of all facilities and devices to be installed for sampling.

(4) A plan and commitment to terminate the discharge when surface water or stormwater runoff is too high, in the sole judgment of the city, to accommodate the applicant's discharge, or at such times as the city determines that maintenance activities at any place which require shutdown of the applicable portion of the storm drainage system is required. Further, the applicant shall state procedures and provisions for routine testing of the shutdown system for terminating the discharge. Plans for such discharge termination and for testing thereof shall include a commitment and covenant by the applicant that city personnel may enter for the purpose of shutting down as well as inspecting the system at reasonable times determined by the city.

(5) A provision for and commitment to supplying to the city all reports for monitoring of the discharged water, together with all other reports submitted to the state department of natural resources, the United States Environmental Protection Agency or any other governmental entity with authority.

(6) A copy of the applicant's NPDES permit applicable to the discharge and any other permits required from any governmental agency.

(7) Certificates of insurance evidencing policies issued by insurers acceptable to the city and licensed to write policies in the state for comprehensive public liability coverage in connection with the discharge, naming the city as additional insured, with a 30-day cancellation notification requirement to the city. The minimum coverages for such insurance shall be determined by the city. Pollution coverage naming the city as an additional insured may be required at the city's discretion.

(8) A performance bond adequate to cover city costs for shutdown or repairs to city facilities caused by violation of this article or a permit, naming the city as the obligee of the bonds.

(Code 1975, § 24-204; Code 2002, § 26-232)

Sec. 26-233. Review.

The city shall review the permit application, determine whether or not the application is complete, and once complete shall review such permit application for the purpose of determining whether a permit shall be issued.

(Code 1975, § 24-205; Code 2002, § 26-233)

Sec. 26-234. Permits.

In the event the city determines that the application meets the standards and requirements of this article, the city may issue a permit to the applicant. The permit shall include all provisions of the application which are deemed acceptable by the city and shall, in addition, provide at least the following:

(1) A detailed plan of the facilities to be located at the discharge point, the route of the proposed discharge in the city storm drainage system, the facilities and the location at the designated monitoring location, together with any and all equipment specifications required by the city. This plan shall be submitted with, or as part of, the application, and must be approved by the city.

(2) A provision for discharge system shutdown and termination which shall allow the city to modify settings on any automatic shutoff devices, enter the premises for inspections and shutoff, and for the provision of modifications to the equip-

ment and facilities as conditions warrant from time to time in the judgment of the city.

(3) Requirements for periodic submission of monitoring reports, not less than quarterly.

(4) Determination of the allowable discharge flows as to quantity and the acceptable water quality to be maintained. A provision allowing the city to install a meter or equipment to monitor discharge at any time. If evidence or circumstances reasonably indicate that past discharges have been in excess of reported flows, the applicable fees may be charged.

(5) The name and address of the contact person of the permit applicant, which person shall have all authority necessary to deal with the city under the permit. In the event the representative is found not to have such authority, the city may immediately revoke the permit and terminate the discharge.

(6) Statement of the fees in itemized form as determined by the city, applying the most recent city commission resolution regarding fees. The statement shall provide that fees for discharge shall be based on the maximum allowable discharge set forth in the permit.

(7) The permit shall provide that the permittee shall indemnify and hold the city harmless for any and all claims or demands resulting from permittee's activities in constructing its facilities, monitoring the flow and acceptable water quality, the use of and discharge to the city's storm drainage system and the discharge of the permittee's flow to any surface water or groundwater. The obligations shall include reimbursement to or payment of all claims, expenses, attorney fees, laboratory and consultant fees, and any other costs in connection with any such claim or demand.

(8) The permit shall contain provisions for cancellation in the event of the violation of any of its provisions or any provisions of this article, or any other relevant law, ordinance, rule or regulation applicable to permittee's activities.

(9) The permit shall contain an expiration date reflecting the terms of permits set forth in this article.

(10) The permit shall include statements of the penalties set forth in this article for noncompliance and shall consent to any and all injunctive relief by the city, necessary in the sole discretion of the city, to enforce this article.

(11) The certificates of insurance and bonds shall be attached and kept in force. Cancellation or failure of the insurance coverage or a bond shall result in immediate cancellation of the permit and termination of the discharge.

(Code 1975, § 24-206; Code 2002, § 26-234)

Sec. 26-235. Term of permit.

No permit shall be issued under this article for a period longer than five years. A shorter permit period may be determined by the city, and, in such event, written reasons for the shorter term shall be set forth in the permit or attached thereto.
(Code 1975, § 24-207; Code 2002, § 26-235)

Sec. 26-236. Existing purge wells.

Existing purge wells discharging into the city's storm drainage system as of December 31, 1992, may continue to so discharge without a permit until December 31, 1995; provided that the responsible persons apply for a permit no later than January 1, 1995. In the event the discharge rate of the existing discharge is increased, the point of discharge is altered, or a complete application is not timely received, then the right to continue discharging into the city's storm drainage system shall immediately cease and no further discharge shall occur until a permit is issued under this article.
(Code 1975, § 24-208; Code 2002, § 26-236)

Sec. 26-237. Capacity of system; proposed changes.

If capacity for applicant's proposed discharge is unavailable, the applicant may propose to increase the capacity of the city's storm drainage system facilities needed to accommodate the proposed discharge. Such proposal shall seek an agreement with the city to be approved and executed by the mayor and clerk after city commission approval and shall further provide that the installations and facilities shall be constructed at the sole expense of the applicant. The planning and construction of the modifications shall be approved before commencing and completed to the city's satisfaction before any permit may be issued, and any improvements or altered facilities constructed or installed by the applicant shall immediately be the property of the city. The applicant shall fully protect and indemnify the city against any claims or demands resulting from the construction or installation of such facilities and shall protect the city against any liens which may be sought to attach to the facilities. The city may require that the improvement or repair be designed, contracted, bid and constructed by it at applicant's cost. In any event, all contracts for construction shall include a one-year warranty and shall include insurance bonds and nondiscrimination commitments by the contractor complying with city standards.
(Code 1975, § 24-209; Code 2002, § 26-237)

Sec. 26-238. Other laws.

The applicant shall, in addition to complying with this article, comply with and fully obey all other laws, statutes, ordinances, rules and regulations of any governmental entity with authority.
(Code 1975, § 24-210; Code 2002, § 26-238)

Secs. 26-239—26-299. Reserved.

ARTICLE V. STORMWATER MANAGEMENT*

Sec. 26-300. Statutory authority and title.

The city shall administer, implement, and enforce the provisions of this article. Any powers granted, or duties imposed, upon the city may be delegated in writing by the city manager to persons or entities acting in the beneficial interest of, or in the employ of the city.
(Ord. No. 2135, § 26-300, 6-8-2004)

Sec. 26-301. Findings.

The city finds that:

(1) Illicit discharges contain pollutants that will significantly degrade the waterbodies and water resources of the city, thus threatening the health, safety, and welfare of the citizenry.

(2) Illicit discharges enter the stormwater drainage system through either direct connections (e.g., wastewater piping either mistakenly or deliberately connected to the storm drains) or indirect connections (e.g., infiltration into the storm drain system or spills connected by drain inlets).

(3) Establishing the measures for controlling illicit discharges and connections contained in this article and implementing the same will address many of the deleterious effects of illicit discharges.

(4) Any condition caused or permitted to exist in violation of any of the provisions of this article is a threat to public health, safety, and welfare, and is declared and deemed a nuisance.

(Ord. No. 2135, § 26-301, 6-8-2004)

Sec. 26-302. Purpose.

It is the purpose of this article to establish minimum stormwater management requirements and controls to accomplish, among others, the following objectives:

(1) To regulate the contribution of pollutants to the stormwater drainage system and waterbodies by stormwater discharges by any user.

(2) To prohibit illicit discharges and connections to the stormwater drainage system and waterbodies.

*__State law references__—Soil conservation districts law, MCL 324.9301 et seq.; building and construction in floodplain, MCL 324.3108; subdivision within or abutting floodplain, plat requirements, MCL 560.138; subdivision within floodplain, conditions for approval, MCL 560.194.

(3) To establish legal authority to carry out all inspection, surveillance, and monitoring procedures necessary to ensure compliance with this article.

(4) To provide appropriate remedies for failure to comply with this article.

(Ord. No. 2135, § 26-302, 6-8-2004)

Sec. 26-303. Applicability and general provisions.

This article shall apply to all discharges entering the stormwater drainage system and waterbodies generated on any developed and undeveloped lands.

(Ord. No. 2135, § 26-303, 6-8-2004)

Sec. 26-304. Definitions.

For the purpose of this article, the following words and phrases shall have the meanings respectively ascribed to them by this section, unless the context in which they are used specifically indicates otherwise:

Authorized enforcement agency means the city and/or any persons or agencies designated to act as the authorized enforcement agency by the city.

Best management practices (BMPs) mean structural devices or nonstructural practices that are designed to prevent pollutants from entering stormwater flows, to direct the flow of stormwater, or to treat polluted stormwater flows. BMPs may include, but shall not be limited to, those described in the Michigan Department of Environmental Quality Guidebook of BMPs for Michigan Watersheds. Equivalent practices and design criteria that accomplish the purposes of this article (including, but not limited to, minimizing stormwater runoff and preventing the discharge of pollutants into stormwater) shall be as determined by the city engineer.

Clean water act means the federal water pollution control act, 33 USC 1251 et seq., as amended, and the applicable regulations promulgated thereunder.

Discharge means the introduction (intentionally or unintentionally, and directly or indirectly) of any liquid, substance, pollutant, or other material into a stormwater drainage system or water body.

Discharger means any person who directly or indirectly discharges stormwater from any premises. The term "discharger" also includes any employee, officer, director, partner, contractor, or other person who participates in, or is legally or factually responsible for, any act or omission that is, or results in, a violation of this article.

Drain means any and all conduits, facilities, measures, areas, and structures that serve to convey, catch, hold, filter, store, and/or receive stormwater or groundwater, either on a temporary or permanent basis.

Drainage means the collection, conveyance, or discharge of groundwater and/or surface water.

Drainageway means a drain, water body, or floodplain.

EPA means the U.S. Environmental Protection Agency.

Floodplain means the area, usually low lands, adjoining the channel of a river, stream, or watercourse or lake, or other body of standing water, that has been or may be covered by floodwater.

Hazardous materials mean any solid, liquid, semisolid, or gaseous substance or material that because of its quantity, quality, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, an increase in mortality or an increase in serious irreversible illness or serious incapacitating but reversible illness, or may pose a substantial present or potential hazard to human health or the environment if improperly treated, stored, transported, disposed of, or otherwise managed.

Illicit connection means any method, means, or conduit for conveying an illicit discharge into a water body or a stormwater drainage system.

Illicit discharge means any discharge to a water body or a stormwater drainage system that does not consist entirely of stormwater, that is not authorized by the terms of an NPDES permit, or that is not an authorized discharge as defined by this article.

MDE means the Michigan Department of Environmental Quality.

National Pollutant Discharge Elimination System (NPDES) permit means a permit issued by the EPA or a state under authority delegated pursuant to the clean water act that authorized the discharge of pollutants to waters of the United States.

Non-stormwater discharge means any discharge to the stormwater drainage system or a water body that is not composed entirely of stormwater.

Pollutant includes, but is not limited to, the following: any dredged spoil, solid waste, vehicle fluids, yard wastes, animal wastes, agricultural waste products, sediment, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological wastes, radioactive materials, hazardous materials, wrecked or discharged equipment, rock, sand, cellar dirt, and industrial, municipal, commercial, and agricultural waste, or any other contaminant or other substance defined as a pollutant under the clean water act. The term "pollutant" also includes properties or characteristics of water, including, but not limited to, pH, heat, TSS, turbidity, color, BOD, COD, toxicity, and odor.

Premises means any building, structure, lot, parcel of land, or portion of land, or property, whether improved or unimproved, including adjacent sidewalks and parking strips.

Property owner means any person having legal or equitable title to premises or any person having or exercising care, custody, or control over any premises.

State water quality standards mean all applicable state rules, regulations, and laws pertaining to water quality, including the provisions of Section 3106 of Public Act No. 451 of 1994 (MCL 324.3106), as amended.

Stormwater drainage system means storm sewers, conduits, curbs, gutters, catchbasins, drains, ditches, pumping devices, parking lots, roads, or other manmade channels that are designed or used, singly or together in combination with one another, for collecting or conveying stormwater.

Stormwater pollution prevention plan means a document that describes the BMPs and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to stormwater, a stormwater drainage system, and/or a water body to the maximum extent practicable.

Stormwater runoff (or stormwater) means the runoff and drainage of precipitation resulting from rainfall, snowmelt, or other natural event or process.

Toxic material means any pollutant or combination of pollutants that is or can potentially be harmful to the public health or the environment, including, without limitation, those listed in 40 CFR 401.15 as toxic under the provisions of the clean water act, or listed in the Critical Materials Register promulgated by the Michigan Department of Environmental Quality, or as otherwise provided by local, state, or federal laws, rules, or regulations.

Wastewater means any water or other liquid, other than uncontaminated stormwater, discharged from a premises. The term "wastewater" includes any water that has in any way been used and degraded or physically or chemically altered.

Water body means a river, lake, stream, creek, or other watercourse or wetlands.
(Ord. No. 2135, § 26-304, 6-8-2004)

Sec. 26-305. Prohibited discharges.

(a) It is unlawful for any person to discharge, or cause to be discharged, to a stormwater drainage system or water body any substance or material, including, but not limited to, pollutants or waters containing any pollutants that cause or contribute to a violation of applicable water quality standards, other than stormwater or an authorized discharge. This prohibition includes the commencement, conducting, or continuance of any illicit discharge by any person to a stormwater drainage system or water body.

(b) Any person discharging stormwater shall effectively prevent pollutants from being discharged with the stormwater, except in accordance with BMPs.

(c) The authorized enforcement agency is authorized to require dischargers to implement pollution prevention measures, using stormwater pollution prevention plans and BMPs, as determined necessary by the authorized enforcement agency to prevent or reduce the discharge of pollutants to a stormwater drainage system or water body.

(d) The discharge prohibitions of this section shall not apply to any non-stormwater discharge authorized under a NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the EPA, provided the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the stormwater drainage system.
(Ord. No. 2135, § 26-305, 6-8-2004)

Sec. 26-306. Prohibited illicit connections.

(a) It is unlawful for any person to construct, use, maintain (or to allow the construction, use, maintenance or continued existence of) an illicit connection.

(b) This prohibition expressly includes, without limitation, illicit connections made prior to the effective date of the ordinance from which this article is derived, and regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.
(Ord. No. 2135, § 26-306, 6-8-2004)

Sec. 26-307. Authorized discharges.

The following non-stormwater discharges are permissible, but only if they do not result in a violation of state water quality standards and provided that they are undertaken in compliance with any applicable or required BMPs:

(1) Water supply line flushing.

(2) Landscape irrigation runoff.

(3) Diverted stream flows.

(4) Rising groundwater.

(5) Uncontaminated groundwater infiltration to storm drains.

(6) Uncontaminated pumped groundwater.

(7) Discharges from portable water sources.

(8) Foundation drains.

(9) Air conditioning condensate.

(10) Irrigation water.

(11) Springs.

(12) Water from crawl space pumps.

(13) Footing drains and basement sump pumps.

(14) Lawn watering runoff.

(15) Waters from noncommercial car washing.

(16) Flows from riparian habitats and wetlands.

(17) Residential swimming pool water and other dechlorinated swimming pool water, provided that any filter backwash water that is present is treated.

(18) Residual street wash water.

(19) Discharges or flows from emergency firefighting activities.

(20) Discharges specifically authorized in writing by the authorized enforcement agency as being necessary to protect public health, welfare, and safety or the environment.

(Ord. No. 2135, § 26-307, 6-8-2004)

Sec. 26-308. Storage of hazardous or toxic materials in drainageway.

Except as permitted by law, it shall be unlawful for any person to store or stockpile, within a drainageway, any hazardous or toxic materials, unless adequate protection and/or containment has been provided so as to prevent any such materials from entering a stormwater drainage system or water body.
(Ord. No. 2135, § 26-308, 6-8-2004)

Sec. 26-309. Inspection and sampling.

The authorized enforcement agency may inspect and/or obtain samples from any discharger's premises as necessary to determine compliance with the requirements of this article. Upon re-

quest, the discharger shall allow properly identified representatives of the authorized enforcement agency to enter the premises of the discharger at all hours necessary for the purposes of such inspection or investigation, including, but not limited to, smoke/dye testing, televising pipes, sampling, and excavation. The authorized enforcement agency shall provide the discharger reasonable advance notice of the need for such access, if possible and consistent with protection of public health and safety and the environment. The properly identified representatives may place on the discharger's premises the equipment or devices used for such sampling or inspection.
(Ord. No. 2135, § 26-309, 6-8-2004)

Sec. 26-310. Stormwater monitoring facilities.

If directed in writing to do so by the authorized enforcement agency, a discharger of stormwater runoff from any premises used for commercial or industrial purposes shall provide and operate equipment or devices for the monitoring of stormwater runoff to provide for inspection, sampling, and flow measurement of each discharge to a water body or a stormwater drainage system, as specified by the authorized enforcement agency. The authorized enforcement agency may require a discharger to provide and operate such equipment and devices if it is necessary or appropriate for the inspection, sampling, and flow measurement of discharges in order to determine whether adverse effects from, or as a result of, such discharges may occur. All such equipment and devices for the inspection, sampling, and flow measurement of discharges shall be installed and maintained at the discharger's expense in accordance with applicable laws, ordinances, and regulations.
(Ord. No. 2135, § 26-310, 6-8-2004)

Sec. 26-311. Accidental discharges.

Any discharger who accidentally discharges into a stormwater drainage system or a water body any substance other than stormwater or an authorized discharge shall immediately notify the authorized enforcement agency of the discharge. If the notification is given orally, a written report concerning the discharge shall be filed with the authorized enforcement agency within five days. The written report shall specify all of the following:

(1) The composition of the discharge and the cause thereof.

(2) The exact date, time, and estimated volume of the discharge.

(3) All measures taken to clean up the discharge, all measures taken or proposed to be taken to mitigate any known or potential adverse impacts of the discharge, and all measures proposed to be taken to reduce and prevent any recurrences.

(4) The name and telephone number of the individual making the report, and (if different) the individual who may be contacted for additional information regarding the discharge.

(Ord. No. 2135, § 26-311, 6-8-2004)

Sec. 26-312. Recordkeeping requirement.

(a) Any person that violates any requirement of this article or that is subject to monitoring under this article shall retain and preserve for no less than three years any and all books, drawings, plans, prints, documents, memoranda, reports, correspondence, and records, including records on magnetic or electronic media, and any and all summaries of such records relating to monitoring, sampling, and chemical analysis of any discharge or stormwater runoff from any premises connected with the violation or subject to monitoring.

(b) Any person who:

(1) At the time of a violation knew or should have known that a pollutant or substance was discharged contrary to any provision of this article, or contrary to any notice, order, permit, decision or determination promulgated, issued or made by the authorized enforcement agency under this article;

(2) Intentionally makes a false statement, representation, or certification in an application for, or form pertaining to a permit, or in a notice, report, or record required by this article, or in any other

correspondence or communication, written or oral, with the authorized enforcement agency regarding matters regulated by this article;

(3) Intentionally falsifies, tampers with, or renders inaccurate any sampling or monitoring device or record required to be maintained by this article; or

(4) Commits any other act that is punishable under state law by imprisonment for more than 90 days;

shall, upon conviction, be guilty of a misdemeanor punishable by a fine of $500.00 per violation, per day, or imprisonment for up to 90 days, or both, in the discretion of the court.
(Ord. No. 2135, § 26-312, 6-8-2004)

Sec. 26-313. Sanctions for violation.

(a) Authorized local official. Notwithstanding any other provision of the city's laws, ordinances, and regulations to the contrary, the director of the department of public works is designated as the authorized local official to issue citations for violations of this article.

(b) Any person who aids or abets another person in a violation of this article shall be subject to the sanctions provided in this section.
(Ord. No. 2135, § 26-313, 6-8-2004)

Sec. 26-314. Failure to comply; completion.

The authorized enforcement agency is authorized, after giving reasonable notice and opportunity for compliance, to correct any violation of this article or damage or impairment to the stormwater drainage system caused by a discharge and to bill the person causing the violation or discharge for the costs of the work to be reimbursed. The costs reimbursable under this section shall be in addition to fees, amounts or other costs and expenses required to be paid to the authorized enforcement agency under other sections of this article.
(Ord. No. 2135, § 26-314, 6-8-2004)

Sec. 26-315. Emergency measures.

If emergency measures are necessary to respond to a nuisance; to protect public safety, health, and welfare; and/or to prevent loss of life, injury, or damage to property, the authorized enforcement agency is authorized to carry out or arrange for all such emergency measures. Property owners shall be responsible for the cost of such measures made necessary as a result of a violation of this article, and shall promptly reimburse the city for all of such costs.
(Ord. No. 2135, § 26-315, 6-8-2004)

Sec. 26-316. Cost recovery for damage to stormwater drainage system.

Any person who discharges to a stormwater drainage system or a water body, including, but not limited to, any person who causes or creates a discharge that violates any provision of this article, produces a deposit or obstruction or otherwise damages or impairs a stormwater drainage system, or causes or contributes to a violation of any federal, state, or local law governing the city, shall be liable to and shall fully reimburse the city for all expenses, costs, losses or damages (direct or indirect) payable or incurred by the city as a result of any such discharge, deposit, obstruction, damage, impairment, violation, exceedence or noncompliance. The costs that must be reimbursed to the city shall include, but shall not be limited to, all of the following:

(1) All costs incurred by the city in responding to the violation or discharge, including, expenses for any cleaning, repair or replacement work, and the costs of sampling, monitoring, and treatment, as a result of the discharge, violation, exceedence or noncompliance.

(2) All costs to the city of monitoring, surveillance, and enforcement in connection with investigating, verifying, and prosecuting any discharge, violation, exceedence, or noncompliance.

(3) The full amount of any fines, assessments, penalties, and claims, including natural resource damages, levied against the city, or any city representative, by any governmental agency or third party as a result of a violation of applicable laws or regulations that is caused by or contributed to by any discharge, violation, exceedence, or noncompliance.

(4) The full value of any city staff time (including any required overtime), consultant and engineering fees, and actual attorney fees and defense costs (including the city legal counsel and any special legal counsel) associated with responding to, investigating, verifying, and prosecuting any discharge, violation, exceedence or noncompliance, or otherwise enforcing the requirements of this article.

(Ord. No. 2135, § 26-316, 6-8-2004)

Sec. 26-317. Collection of costs; lien.

Costs incurred by the city pursuant to this article shall constitute a lien on the premises. Any such charges that are delinquent for six months or more may be certified annually to the city treasurer, who shall enter the lien on the next tax roll against the premises, the costs shall be collected, and the lien shall be enforced in the same manner as provided for in the collection of taxes assessed upon the roll and the enforcement of a lien for taxes.

(Ord. No. 2135, § 26-317, 6-8-2004)

Sec. 26-318. Suspension of access to the stormwater drainage system.

(a) The authorized enforcement agency may, without prior notice, suspend access to the stormwater drainage system to any person or premises when such suspension is necessary to stop an actual or threatened discharge that presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the stormwater drainage system or a water body. If the person fails to comply with a suspension order issued in an emergency, the authorized enforcement agency may take such steps as deemed necessary to prevent or minimize damage to the stormwater drainage system or the environment, or to minimize danger to persons, and bill the person for the costs to the city in taking such steps.

(b) Suspension due to the detection of illicit discharge. Any person discharging to the stormwater drainage system in violation of this article may have their access to the system terminated, if the authorized enforcement agency determines that such termination would abate or reduce an illicit discharge. The authorized enforcement agency will notify a violator of the proposed termination of its access. It shall be unlawful for any person to reinstate access of the stormwater drainage system to a premises terminated pursuant to this section without the prior written approval of the authorized enforcement agency.

(Ord. No. 2135, § 26-318, 6-8-2004)

Sec. 26-319. Judicial relief.

The authorized enforcement agency may institute legal proceedings in a court of competent jurisdiction to seek all appropriate relief for violations of this article or of any permit, order, notice or agreement issued or entered into under this article. The action may seek temporary or permanent injunctive relief, damages, penalties, costs, and any other relief, at law or equity, that a court may order. The authorized enforcement agency may also seek collection of fines, penalties and any other amounts due to the city that a person has not paid.

(Ord. No. 2135, § 26-319, 6-8-2004)

Sec. 26-320. Cumulative remedies.

The imposition of a single penalty, fine, order, damage, or surcharge upon any person for a violation of this article, or of any permit, order, notice or agreement issued, or entered into under this article, shall not preclude the imposition by the city, the authorized enforcement agency, or a court of competent jurisdiction of a combination of any or all of those sanctions and remedies or additional sanctions and remedies with respect to the same violation, consistent with applicable limitations on penalty amounts under sate or federal laws or regulations. A criminal citation and prosecution of a criminal action against a person shall not be dependent upon and need not be held in abeyance during any civil, judicial, or administrative proceeding, conference, or hearing regarding the person.

(Ord. No. 2135, § 26-320, 6-8-2004)

Sec. 26-321. Responsibility to implement BMPs.

The owner or operator of a premises used for commercial or industrial purposes shall provide,

at the owner or operator's own expense, reasonable protection from an accidental discharge of prohibited materials or other wastes into the stormwater drainage system or water body through the use of structural and nonstructural BMPs. Further, any person responsible for a premises that is, or may be, the source of an illicit discharge may be required to implement, at the person's expense, additional structural and nonstructural BMPs to prevent the further discharge of pollutants to the stormwater drainage system or water body. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of stormwater associated with industrial activity, to the extent practicable, shall be deemed compliance with the provisions of this section.
(Ord. No. 2135, § 26-321, 6-8-2004)

Chapters 27—29

RESERVED

Chapter 30

FIRE PREVENTION AND PROTECTION*

Article I. In General

Sec. 30-1. Storage and disposition of waste oil, flammable liquids and grease.
Sec. 30-2. Inspections for the abatement or removal of fire hazards at public or private docks and marinas.
Secs. 30-3—30-130. Reserved.

Article II. Fire Department

Division 1. Generally

Sec. 30-131. Composition; filling of vacancies.
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Division 2. Deputy Director of Public Safety for Fire Services

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Sec. 30-192. Rules for flammable and combustible liquids and underground storage tanks.
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Sec. 30-220. Guidelines.
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Article V. Fireworks

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Sec. 30-302. Definitions.
Sec. 30-303. Use of consumer fireworks prohibited.
Sec. 30-304. Safety.
Sec. 30-305. Use of alcohol or controlled substances and fireworks prohibited.
Sec. 30-306. Penalty.

***State law references—**State fire prevention code, MCL 29.1 et seq.; explosives act of 1970, MCL 29.41 et seq.; crimes related to fires, MCL 750.240 et seq.; crimes related to explosives and bombs, MCL 750.200 et seq.

ARTICLE I. IN GENERAL

Sec. 30-1. Storage and disposition of waste oil, flammable liquids and grease.

(a) It shall be the duty of every person having any waste oil, flammable liquid or grease, other than domestic grease, to provide one or more approved, covered metal containers, of not less than ten gallons capacity each, and in no case shall the combined capacity of such containers exceed 100 gallons, for the disposition of such substances. Such containers shall be kept in a safe and convenient location on the premises and all waste oil, flammable liquid and grease shall be placed therein and securely covered.

(b) All wastes described in subsection (a) of this section shall be removed from the premises upon which such wastes are accumulated by the owner or occupant thereof and disposed of by burning the waste in an incinerator or furnace suitable for such purpose, by delivery to a refinery or removal beyond the city limits. It shall be unlawful to burn such wastes in any public street or alley.
(Ord. No. 2255, § 30-101, 12-9-2008)

Sec. 30-2. Inspections for the abatement or removal of fire hazards at public or private docks and marinas.

(a) The deputy director of public safety for fire services (the deputy director) may examine, or cause to be examined, at any time during the year, any ship, yacht, vessel, boat or other floating vehicle containing inboard or outboard internal combustion engines, stored or situated at any public or private dock or marina. Whenever the deputy director or his duly authorized representative shall deem any such ship, yacht, vessel, boat or other floating vehicle unsafe, by reason of the presence of flammable materials in or about such ship, yacht, vessel, boat or other floating vehicle and not properly stored in suitable containers, or shall discover any other cause or condition from which immediate danger of fire or explosion may be likely to such property or other property in the vicinity thereof, he may, by written or oral notice, order the owner, agent, occupant, lessee or person in charge thereof to either remove or abate such condition. The owner, agent, occupant, lessee or person in charge of such ship, yacht, vessel, boat or other floating vehicle shall comply with such order within the time prescribed. Upon the neglect or refusal of such owner, agent, occupant, lessee, or person in charge to take such measures as will render such ship, yacht, vessel, boat or other floating vehicle safe against fire, the deputy director may either remove or abate such condition.

(b) If the deputy director or his duly authorized representative shall find that an emergency exists or shall discover any cause or condition from which immediate danger of fire may be likely to such property or other property in the vicinity thereof, before such notice could be given to the owner, agent, occupant, lessee, or person in charge thereof, the deputy director or his duly authorized representative shall have the right to take such steps as he may deem necessary to abate such condition without prior notice, but shall, in such event, give notice as soon as possible to the owner, agent, occupant, lessees or person in charge thereof as to the conditions found and the measures taken to abate the condition.
(Ord. No. 2255, § 30-102, 12-9-2008)

Secs. 30-3—30-130. Reserved.

ARTICLE II. FIRE DEPARTMENT

DIVISION 1. GENERALLY

Sec. 30-131. Composition; filling of vacancies.

(a) The fire department of the city shall consist of one deputy director of public safety for fire services, to be appointed by the city manager, one or more assistant chiefs, battalion chiefs, captains, lieutenants, mechanics and firefighters, as shall be deemed necessary by the director of public safety, to be appointed by him with the approval of the city manager.

(b) The director of public safety, with the approval of the city manager, shall fix and determine the number of regular members of the

department and when a vacancy occurs in the department, shall file a written notification with the civil service commission. The director of public safety shall, from the list of three names submitted by the civil service commission, select a probationary member for such vacancy.
(Ord. No. 2255, § 30-131, 12-9-2008)

Sec. 30-132. Bureau of fire prevention.

(a) The bureau of fire prevention in the fire department of the city is hereby established to be operated under the supervision of the deputy director.

(b) The deputy director shall designate a member of the fire department who shall be director of the bureau of fire prevention. To aid the director of the bureau, the deputy director shall assign such assistants as he considers necessary to carry on the fire prevention work effectively. Such assistants shall work within the framework of the bureau and shall be directly responsible to the director of the bureau.
(Ord. No. 2255, § 30-135, 12-9-2008)

Secs. 30-133—30-155. Reserved.

DIVISION 2. DEPUTY DIRECTOR OF PUBLIC SAFETY FOR FIRE SERVICES

Sec. 30-156. General powers and duties.

(a) The director of public safety ("director"), assisted by the deputy director of public safety for fire services ("the deputy director"), shall oversee the operations of the fire department. It shall be the responsibility of the director and the deputy director to provide fire, medical and emergency services to the city.

(b) The director and the deputy director shall enforce all rules, regulations and discipline among members of the department.

(c) The director and the deputy director shall enforce the laws of the state and ordinances of the city that are applicable to the fire department and shall cooperate with state agencies, local municipal agencies and other city departments.
(Ord. No. 2255, § 30-156, 12-9-2008)

Sec. 30-157. Duties with respect to fires outside city.

The deputy director or designee shall give orders when, in his judgment, it seems necessary for any apparatus of the department to be used on any fire beyond the city limits which is not covered by a written contract. The deputy director shall render all possible aid to neighboring cities when called on, but shall not jeopardize the safety of the city by doing so.
(Ord. No. 2255, § 30-157, 12-9-2008)

Sec. 30-158. Records; generally.

The deputy director shall keep on file adequate records of the operation of the department, including a record of fires and alarms, showing the date of the fire, the location and a description of the building and its owner and occupant, the cause of the fire and accidents, loss on buildings, goods and fixtures, insurance on the property and the insurance paid.
(Ord. No. 2255, § 30-160, 12-9-2008)

Secs. 30-159—30-190. Reserved.

ARTICLE III. FIRE PREVENTION CODE

Sec. 30-191. Adoption.

(a) The city hereby adopts the International Fire Code, 2009 edition, including all appendices thereto, except for appendix A which is not adopted, as published by the International Code Council, as the fire code of the city. The International Fire Code regulates and governs the safeguarding of life and property from fire and explosion hazards arising from the occupancy of buildings and premises; provides for the issuance of permits and collection of fees therefore; and each and all of the regulations, provisions, penalties, conditions, and terms of the International Fire Code on file in the office of the city clerk are hereby referred to, adopted, and made a part hereof, as if fully set out in this article, with the additions, insertions, deletions and changes, if any, prescribed in this article.

(b) If any conflict exists between any provision in the International Fire Code and a provision in the state construction code, the state construction code shall prevail.
(Ord. No. 2255, § 30-191, 12-9-2008; Ord. No. 2293, § 1, 3-22-2011)

Sec. 30-192. Rules for flammable and combustible liquids and underground storage tanks.

The city hereby adopts the state rules for the storage and handling of flammable and combustible liquids as promulgated by the state fire safety board, and the state underground storage tank rules, as adopted by the state.
(Ord. No. 2255, § 30-192, 12-9-2008)

State law reference—Underground storage tank regulations, MCL 324.21101 et seq.

Sec. 30-193. Definitions.

In addition to the definitions set forth in the International Fire Code, the following definitions apply:

Code official when used in the International Fire Code, it shall be held to mean the position of city fire marshal or, if that position is vacant, the position of city fire inspector.

Jurisdiction or *name of jurisdiction* when used in the International Fire Code, it shall be held to mean the City of Muskegon.
(Ord. No. 2255, § 30-193, 12-9-2008)

Sec. 30-194. Amendments and exclusions.

(a) Section 103 of the International Fire Code is excluded in its entirety.

(b) Section 108 of the International Fire Code is amended to read in its entirety as follows:

Whenever an application is disapproved or issuance of a permit under the International Fire Code is refused, or when it is claimed that the provisions of such code do not apply or that the true intent and meaning of the code have been misconstrued or wrongly interpreted, the applicant may appeal to the construction board of appeals of the city in accordance with their authority as set forth in section 10-32 of the city Code of Ordinances.

(c) Section 109.3 of the International Fire Code is amended to read in its entirety as follows:

Violations and penalties.

Persons who shall violate a provision of this code or fail to comply with any of the requirements thereof or who shall erect, install, alter, repair or do work in violation of the approved construction documents or directive of the code official, or of a permit or certificate issued under the provisions of this code, shall be responsible for a municipal civil infraction.

In addition to the imposition of penalties and responsibility for municipal civil infractions, the city is authorized to institute appropriate actions to prevent unlawful construction or to restrain, correct, or abate a violation, to prevent illegal occupancy of the structure or premises or to stop an illegal act, illegal operation of a business or illegal occupancy of a structure on or about any premises.

(d) Section 110 of the International Fire Code concerning unsafe buildings is amended to read in its entirety as follows:

Unsafe buildings. Buildings or structures which are structurally unsafe or not provided with adequate egress, or constitute a fire hazard or are otherwise dangerous to human life, or which in relation to existing use constitute a hazard to safety or health or public welfare, by reason of inadequate maintenance, dilapidation, obsolescence, fire hazard, disaster damage or abandonment as specified in this code or another ordinance, are, for the purpose of section 110, unsafe buildings. Such unsafe buildings are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition or removal. The procedures and standards specified in section 10-61 et seq., of the Code of Ordinances concerning dangerous buildings shall apply.

(e) Section 111.4 of the International Fire Code is amended to read in its entirety as follows:

Failure to comply. Any person who shall continue to work after having been served with a stop work order, except such work as that person is directed by the code official to perform to remove a violation or unsafe condition, shall

be responsible for a municipal civil infraction carrying the same penalties as set forth in subsection (c) above.

(f) Appendix A, concerning a board of appeals, set forth in the International Fire Code, is not adopted and is hereby deleted.

(g) The geographic limits referred to in section 3204.3.1.1, section 3404.2.9.5.1, section 3406.2.4.4, and section 3804.2 of the 2009 International Fire Code are hereby established as the city limits.
(Ord. No. 2255, § 30-194, 12-9-2008)

Sec. 30-195. Modifications.

The deputy director shall have power to modify any of the provisions of the International Fire Code, upon application in writing by the owner or lessee, or his duly authorized agent, when there are practical difficulties in the way of carrying out the strict letter of the code, provided that the spirit of the code shall be observed, public safety secured and substantial justice done. The particulars of such modifications, when granted or allowed, and the decision of the deputy director shall be entered upon the records of the fire department and a signed copy shall be furnished to the applicant.
(Ord. No. 2255, § 30-198, 12-9-2008)

Secs. 30-196—30-219. Reserved.

ARTICLE IV. RECREATIONAL FIRES

Sec. 30-220. Guidelines.

All persons making recreational fires or engaged in open burning within the city limits shall abide by the following:

(1) Only natural cut wood no longer than 24 inches in length may be burned.

(2) The following shall not be burned: leaves, brush, pine needles, processed lumber, varnished or painted materials, pallets, sawdust, wiring, furniture, carpeting, or grass.

(3) No burning of materials in a barrel (also known as "barrel burning") is allowed.

(4) Fires must be in a pit no wider than 36 inches in diameter and it is recommended that it have brick or concrete block on the outside or the ring. A specially made above ground stand, also known as portable outdoor fireplace, may be used.

(5) The fire shall be attended to at all times and extinguished completely when left unattended.

(6) Maintain a minimum of 25 feet between the fire and any combustible surface or material, including but not limited to houses, fencing, trailers, and vehicles.

(7) A compatibly-sized means of extinguishment must be available at all times, e.g., a garden hose connected to the house that reaches the edge of the fire.

(8) Use extreme caution when weather conditions result in lack of rain for more than a week and/or high temperatures result in dry conditions.

(9) Be observant to wind direction and smoke travel into neighboring homes. Extinguish fire if smoke is traveling into a neighboring home.

(Ord. No. 2255, § 30-220, 12-9-2008; Ord. No. 2320, § 30-220, 4-22-2014)

Sec. 30-221. Extinguishment order.

The city fire department or police department may order the extinguishment of a recreational fire or open burning for the following reasons:

(1) High winds.

(2) Burning prohibited materials.

(3) Citizen complaint (including health concerns from smoke).

(4) Unattended fire.

(5) Potential safety concerns as determined by the city fire or police department.

(Ord. No. 2255, § 30-221, 12-9-2008; Ord. No. 2320, § 30-221, 4-22-2014)

Sec. 30-222. Refusal to comply with extinguishment order.

If a person refuses to comply with an order issued by the fire and/or police department to extinguish a fire, the fire will be extinguished by the fire department and issue a citation for a municipal civil infraction to the person refusing to comply with the order.
(Ord. No. 2255, § 30-222, 12-9-2008; Ord. No. 2320, §§ 30-222, 30-223, 4-22-2014)

Secs. 30-223—30-300. Reserved.

ARTICLE V. FIREWORKS

Sec. 30-301. Purpose of article.

The purpose of this article is to provide for the regulation of the ignition, discharge and use of consumer fireworks, as allowed under the Michigan fireworks safety act, Public Act No. 256 of 2011 (MCL 28.451 et seq.).
(Ord. No. 2314, § 54-301, 8-13-2013)

Sec. 30-302. 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 256 means the Michigan fireworks safety act, Public Act No. 256 of 2011 (MCL 28.451 et seq.).

Consumer fireworks means that term as defined in Act 256.

Firework or *fireworks* means that term as defined in Act 256.
(Ord. No. 2314, § 54-302, 8-13-2013)

Sec. 30-303. Use of consumer fireworks prohibited.

Consumer fireworks may be ignited, discharged or used in the city only on the day proceeding, the day of, or the day after a national holiday, except for between the hours of 1:00 a.m. and 8:00 a.m. when prohibited, as provided for in Act 256. No person shall ignite, discharge or use consumer fireworks in the city on any other day of the year at any time.
(Ord. No. 2314, § 54-303, 8-13-2013)

Sec. 30-304. Safety.

No person shall recklessly endanger the life, health, safety, or well-being of any person by the ignition, discharge, or use of consumer fireworks.
(Ord. No. 2314, § 54-304, 8-13-2013)

Sec. 30-305. Use of alcohol or controlled substances and fireworks prohibited.

No person shall discharge, ignite or use fireworks while under the influence of alcoholic liquor, a controlled substance, or a combination of alcoholic liquor and a controlled substance, consistent with Act 256.
(Ord. No. 2314, § 54-305, 8-13-2013)

Sec. 30-306. Penalty.

Any person violating the provisions of this article shall be responsible for a municipal civil infraction.
(Ord. No. 2314, § 54-306, 8-13-2013)

Chapters 31—33

RESERVED

Chapter 34

HEALTH AND SANITATION*

Article I. In General

Secs. 34-1—34-30. Reserved.

Article II. Smoking

Sec. 34-31. Definitions.
Sec. 34-32. Findings and purpose.
Sec. 34-33. Application of article to city facilities or vehicles.
Sec. 34-34. Prohibition of smoking; exceptions and limitations.
Sec. 34-35. Violations and penalties.
Sec. 34-36. Other applicable laws.
Secs. 34-37—34-60. Reserved.

Article III. Water Supplies

Sec. 34-61. Definitions.
Sec. 34-62. Findings.
Sec. 34-63. Modification or repeal of article; notice to the state.
Sec. 34-64. Penalty; permit denial; remedies.
Sec. 34-65. Prohibition of use of secondary water supplies for human consumption or irrigation; exceptions.
Sec. 34-66. Sources of water supplied for human consumption.
Sec. 34-67. Irrigation.
Sec. 34-68. Notification to county.
Sec. 34-69. Wells or secondary water supply affecting contaminated groundwater.
Sec. 34-70. City inspections; enforcement.
Sec. 34-71. Affected premises.
Sec. 34-72. Notification to register of deeds.
Secs. 34-73—34-100. Reserved.

Article IV. Medical Marihuana

Sec. 34-101. Intent.
Sec. 34-102. Definitions.
Sec. 34-103. Findings and declaration of facts.
Sec. 34-104. Distribution centers; prohibition.
Sec. 34-105. Qualifying patient.
Sec. 34-106. Caregiver; requirement for license.
Sec. 34-107. Caregiver; application for license.
Sec. 34-108. Caregiver; requirements and standards for approval of licensure and activity permitted.
Sec. 34-109. Caregivers; other conditions.
Sec. 34-110. Land use restriction.
Sec. 34-111. Existing medical marihuana facilities.
Sec. 34-112. Restriction on distribution.
Sec. 34-113. Penalty for violation.
Sec. 34-114. No vested rights.

*__State law references—__Public health code, MCL 333.1101 et seq.; food law, MCL 289.1101 et seq.

ARTICLE I. IN GENERAL

Secs. 34-1—34-30. Reserved.

ARTICLE II. SMOKING*

Sec. 34-31. 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:

Employee means any person who is employed by the city in consideration for direct or indirect monetary wages or profit, and any person who volunteers his services for nonprofit.

Employer means the City of Muskegon.

Enclosed area means all space between a floor and ceiling which is enclosed on all sides by solid walls or windows which extend from the floor to the ceiling, including all space therein screened by partitions which do not extend to the ceiling or are not solid.

Place of employment means any enclosed area under the control of the city which employees normally frequent during the course of employment, including work areas, employee lounges, restrooms, conference rooms and classrooms, hallways and corridors, entryways and lobbies, stairs and stairwells, and closets and storerooms, and including all city vehicles.

Smoking means inhaling, exhaling, burning or carrying any lighted cigar, cigarette, weed, plant or other combustible substance in any manner or in any form.
(Code 1975, § 12-162; Code 2002, § 34-31)

Sec. 34-32. Findings and purpose.

(a) The city commission does hereby find that:

(1) Numerous studies have found that tobacco smoke is a major contributor to indoor air pollution;

(2) Reliable studies have shown that breathing secondhand smoke is a significant health hazard for several population groups, including elderly people, individuals with cardiovascular disease, and individuals with impaired respiratory function, including asthmatics and those with obstructive airway disease;

(3) Health hazards induced by breathing secondhand smoke include lung cancer, respiratory infection, decreased exercise tolerance, decreased respiratory function, broncho-constriction and broncho-spasm;

(4) Nonsmokers who suffer allergies, respiratory diseases and other ill effects of breathing secondhand smoke may experience a loss of job productivity or may be forced to take periodic sick leave because of such adverse reactions;

(5) Courts are increasingly awarding compensation for disability, workers' compensation, unemployment and entitlement to damages under traditional common law tort liabilities;

(6) Smoking is a potential cause of fires, and cigarette and cigar burns and ash stains on fixtures and furniture and cause unnecessary losses;

(7) The state has passed Part 126 of the Public Health Code (MCL 333.12601 et seq.), which states that an individual shall not smoke in a public place or at a public meeting, except in a designated smoking area.

(b) Accordingly, the city commission finds and declares that the purposes of this article are:

(1) To protect the public health and welfare by prohibiting smoking in enclosed areas of city facilities; and

(2) To strike a reasonable balance between the needs of persons who smoke and the need of nonsmokers to breathe smoke-free air; to recognize that where these needs conflict, that the need to breathe smoke-free air shall have priority.

(Code 1975, § 12-161; Code 2002, § 34-32)

*__State law reference—__ Michigan clean indoor air act, MCL 333.12601 et seq.

Sec. 34-33. Application of article to city facilities or vehicles.

All enclosed facilities or vehicles owned or leased by the city shall be subject to the provisions of this article, subject to the exceptions and limitations set forth in this article.
(Code 1975, § 12-163; Code 2002, § 34-33)

Sec. 34-34. Prohibition of smoking; exceptions and limitations.

(a) *Prohibition.* Smoking shall be strictly prohibited within all work areas and public spaces, including conference rooms, reception areas, restrooms, stairs and stairwells, hallways and corridors, lobbies and entryways, closets and storerooms, classrooms or other enclosed areas within facilities owned or leased by the city and within city vehicles.

(b) *Exceptions and limitations.* This article does not apply to facilities which are owned by the city but are leased in their entirety to another entity. The prohibition does apply to leased areas if less than the entire facility is leased.

(c) *Prohibition in Pere Marquette Park*. Smoking shall be strictly prohibited in the area of Pere Marquette Park bounded by the walkway leading from the bathhouse to the water's edge on the south, the walkway to the south breakwater on the north, the sidewalk adjacent to the roadway on the east and the water's edge on the west.
(Code 1975, § 12-164; Code 2002, § 34-34; Ord. No. 2231, 7-10-2007)

Sec. 34-35. Violations and penalties.

(a) It shall be unlawful for any person who manages, operates or otherwise controls the use of any premises owned by the city to fail to comply with any of the article's provisions.

(b) Any person who violates any provision of this article shall be responsible for a municipal civil infraction.
(Code 1975, § 12-166; Code 2002, § 34-35)

Sec. 34-36. Other applicable laws.

This article shall not be interpreted or construed to permit smoking where it is otherwise restricted by other applicable laws.
(Code 1975, § 12-167; Code 2002, § 34-36)

Secs. 34-37—34-60. Reserved.

ARTICLE III. WATER SUPPLIES

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:

Affected premises means a parcel of property any part of which is located within an appendix map made a part of this article, as originally enacted or as amended, which map shows the parcel to have contaminated groundwater under any part of the parcel or the parcel has been designated as a required buffer zone by the MDEQ.

Appendix map means a map derived from a plat or other map, or information relating to land in the city showing parcels which have contaminated groundwater under any part of the parcel or the parcel has been designated as a required buffer zone by the MDEQ. Such map has been modified by Ord. Nos. 2070, 2071 and 2315 and shall be further added or deleted by subsequent ordinance. The city, in its department of planning and community development, or such other department designated by the city manager (who shall notify the MDEQ of any change), will maintain and publish notice of a listing of the appendix maps by general location of the known geographical locations of affected premises, identifying same by property tax identification and tax assessment parcel numbers. The identification may be included in appendix maps. The listing and a copy of this article will be maintained in the same manner as a zoning ordinance at the city department. The list shall be reviewed and the article amended as necessary whenever the city is supplied with reliable information of such affected premises, provided advance notification to the MDEQ has been provided as required by section

34-63. Review and amendment of the article shall also occur whenever the city receives written notice from the MDEQ that it is considering approval of a remedial action plan or equivalent action which relies on this article as an institutional control to prevent groundwater use by adding the necessary affected premises to the article. Interested parties may petition the city to add new amendments by appendix maps, or to delete parcels by amendment, if its can be shown that such affected premises no longer poses a public health risk.

Contamination means groundwater contamination in concentrations that exceed the residential drinking water criteria established by the MDEQ pursuant to part 201, natural resources and environmental protection act (MCL 324.20101) by operational memorandum or rule.

Human consumption means use in food or drink intended for human ingestion, use in food preparation or food service, use in the interior of a dwelling or dwelling unit served by such well or secondary water supply for any household purpose, and use in any building for personal washing or ingestion by humans. The term "human consumption" does not mean use of water for irrigation.

MDEQ means the Michigan Department of Environmental Quality, or its successor agency.

Secondary water supplies means only secondary water supplies from wells.
(Ord. No. 2039, § 1(24-46), 12-12-2000; Ord. No. 2054, § 1, 9-11-2001; Ord. No. 2239, § 34-61, 12-11-2007)

Sec. 34-62. Findings.

The city commission finds that the use of wells and secondary water supplies from wells for the delivery or use of water from or on certain premises for human consumption or irrigation, or the use of wells which influence the movement of contaminated groundwater, constitutes a potential public health risk. The identified public health risk affects premises that are located in the vicinity of sites that are the source or location of contaminated groundwater, or where there is a known and identified threat of contaminated groundwater from a release. The commission has determined to prohibit certain uses of water from wells and secondary water supplies from such properties in order to protect against and minimize the public health risk.
(Ord. No. 2039, § 1(24-46), 12-12-2000; Ord. No. 2239, § 34-62, 12-11-2007)

Sec. 34-63. Modification or repeal of article; notice to the state.

At least 30 days prior to any amendment or repeal in whole or in part of this article, the city shall notify the MDEQ of its intent to so act.
(Ord. No. 2039, § 1(24-52.1), 12-12-2000; Ord. No. 2239, § 34-63, 12-11-2007)

Sec. 34-64. Penalty; permit denial; remedies.

(a) *Municipal civil infraction.* Any person violating this article, including, but not limited to, the maintenance, use or installation of a water supply for human consumption or irrigation from a well or secondary water supply as prohibited by this article, shall be liable for a municipal civil infraction.

(b) *Building or improvement permit.* No permit for building or alteration or other required permit for a premises or improvement thereon shall be issued by the city for any premises found in violation of this article, or where it is proposed to install or use a well or secondary water supply in violation of this article.

(c) *Injunctive relief.* The city may further enforce this article by action seeking injunctive relief.
(Ord. No. 2039, § 1(24-52.2)—(24-52.4), 12-12-2000; Ord. No. 2239, § 34-64, 12-11-2007)

Sec. 34-65. Prohibition of use of secondary water supplies for human consumption or irrigation; exceptions.

(a) *Prohibition.* Unless specifically excepted by this article, after the effective date of the ordinance from which this article is derived, no new groundwater wells may be installed on any affected premises, and the use of any secondary

water supply or well from or on affected premises, or the use of water from such sources for human consumption or irrigation, is prohibited.

(b) *Exceptions.*

(1) *Water service unavailable; human consumption.* If city water service is unavailable to an affected premises, and a well is tested and the test results are approved by the MDEQ annually, and written proof thereof is delivered to the city annually, a well may be installed or used temporarily for water for human consumption until the city water service is available to the premises. No split or conveyance of any premises shall be effective to render city water service unavailable. In the event of a split or conveyance, no occupancy or building permit shall be issued without the use of city water or certification by the appropriate authorities that the new parcel is not an affected premises.

(2) *Noncontact cooling or process water using contaminated groundwater if approved.* Installation of wells or the use of water from an affected premises for noncontact cooling or processing for manufacturing or commercial activities, which use is approved by the MDEQ and all governmental agencies having jurisdiction, is permitted. Such approvals shall be made only after determination that the use will not result in unacceptable exposure, cross-contamination, or adverse hydrogeological effects on contaminated groundwater.

(3) *Public emergencies and construction dewatering.* Installation and use of wells for public emergencies or short-term construction dewatering purposes shall not be prohibited by this article, provided that appropriate handling and disposing of contaminated water from construction dewatering projects shall be required.

(4) *Environmental investigation/remediation.* Installation or the use of wells and other devices constructed or used solely for the purpose of evaluating groundwater quality or to remediate subsurface contamination associated with a release of regulated substances into the environment shall not be prohibited, provided the wells or devices are installed by a qualified environmental consultant or engineer and the construction and use of the wells or devices otherwise complies with all applicable local, state and federal laws and regulations and does not cause or result in a new release, exacerbation of existing contamination, or any other violation of local, state or federal laws or regulations.

(Ord. No. 2039, § 1(24-47), 12-12-2000; Ord. No. 2239, § 34-65, 12-11-2007)

Sec. 34-66. Sources of water supplied for human consumption.

Except as provided in section 34-65, water supply for human consumption on any affected premises in the city shall be delivered only from the city water system or by the use of bottled water delivered or purchased in containers under conditions approved by the MDEQ or other appropriate agency.

(Ord. No. 2039, § 1(24-48), 12-12-2000; Ord. No. 2239, § 34-66, 12-11-2007)

Sec. 34-67. Irrigation.

No well located on any affected premises, or secondary water supply from such a well, shall be used for irrigation.

(Ord. No. 2039, § 1(24-49), 12-12-2000; Ord. No. 2239, § 34-67, 12-11-2007)

Sec. 34-68. Notification to county.

The city shall notify the county health department of the locations of all affected premises as defined and covered by this article, by delivering a copy of this article, with attachments and all amendments, to the department.

(Ord. No. 2039, § 1(24-50), 12-12-2000; Ord. No. 2239, § 34-68, 12-11-2007)

Sec. 34-69. Wells or secondary water supply affecting contaminated groundwater.

No well may be used or installed at any place in the city if the use of such well will have the effect of causing the migration of groundwater contam-

inants or pollution or a groundwater plume containing same to previously unimpacted groundwater, or adversely impacting any groundwater treatment system, unless such well is part of an MDEQ or United States Environmental Protection Agency approved groundwater monitoring or remediation system.
(Ord. No. 2039, § 1(24-51), 12-12-2000; Ord. No. 2239, § 34-69, 12-11-2007)

Sec. 34-70. City inspections; enforcement.

Where it is determined that a well or secondary water supply from an affected premises is being used as a source for human consumption, irrigation, or affecting contaminated groundwater on an affected premises, the city shall notify by appropriate means the owners and occupants thereof to connect to the city water supply or supply water in conformity with this article and to disconnect and disable, in accordance with legal or technical standards, the well or secondary water supply.
(Ord. No. 2039, § 1(24-52), 12-12-2000; Ord. No. 2239, § 34-70, 12-11-2007)

Sec. 34-71. Affected premises.

The properties identified on the attached appendix map are determined to be affected premises with the meaning of, and regulated in accordance with, Ordinance 2039 or any successor ordinance prohibiting wells on such premises. Affected premises are described by the property tax identification/tax assessment parcel number and are included as an attachment to the appendix map, on file in the office of the city clerk.
(Ord. No. 2054, 9-11-2001; Ord. No. 2070, 4-9-2002; Ord. No. 2071, 4-9-2002; Ord. No. 2139, 9-28-2004; Ord. No. 2239, § 34-80, 12-11-2007; Ord. No. 2315, 12-10-2013)

Sec. 34-72. Notification to register of deeds.

A copy of this article, or any amendment thereto, which describes affected premises involving multiple properties, shall be filed with the county register of deeds.
(Ord. No. 2239, § 34-81, 12-11-2007)

Secs. 34-73—34-100. Reserved.

ARTICLE IV. MEDICAL MARIHUANA*

Sec. 34-101. Intent.

(a) It is the intent of this article to give effect to the intent of initiated act 1 of 2008 (MCL 333.26421 et seq.), (the act), as approved by the electors, and not to determine and establish an altered policy with regard to marihuana. The act authorizes a narrow exception to the general rule and state policy that the cultivation, distribution, and use of marihuana amount to criminal acts. It is the further intent of this article to protect the public health, safety, and general welfare of persons and property, and to license certain locations as specified below. It is the further intent of this article to comply with the act while concurrently attempting to protect the health, safety, and welfare of law enforcement officers and other persons in the community, and also to address and minimize reasonably anticipated secondary effects upon children, other members of the public, and upon significant areas of the community, that would be reasonably expected to occur in the absence of the provisions of this article. This article is designed to recognize the fundamental intent of the act to allow the creation and maintenance of a private and confidential patient-caregiver relationship to facilitate the statutory authorization for the limited cultivation, distribution, and use of marihuana for medical purposes; and to regulate around this fundamental intent in a manner that does not conflict with the act so as to address issues that would otherwise expose the community and its residents to significant adverse conditions, including the following: adverse and long-term influence on children; substantial serious criminal activity; danger of law enforcement and other members of the public; discouragement and impairment of effective law enforcement with regard to unlawful activity involving the cultivation, distribution, and use of marihuana; the creation of a purportedly lawful commercial enterprise involving the cultivation, distribution, and use of marihuana that is not reasonably susceptible of

*__Editor's note—__Marihuana is spelled with an "h" and not a "j" throughout the Michigan medical marihuana act and, as such, shall be spelled that way in this article.

State law reference—Michigan medical marihuana act, MCL 333.26421 et seq.

being distinguished from serious criminal enterprise; and, the uninspected installation of plumbing and electrical facilities that create dangerous health, safety, and fire conditions.

(b) This article permits authorizations for activity based on the act. Nothing in this article shall be construed as allowing persons to engage in conduct that endangers others or causes a public nuisance, or to allow use, cultivation, growth, possession or control of marihuana not in strict accordance with the express authorizations of the act and this article; and, nothing in this article shall be construed to undermine or provide immunity from federal law or state law as it may be enforced by the federal or state government relative to the cultivation, distribution, or use of marihuana. Thus, the authorization of activity, and the approval of a license under this article, shall not have the effect of superseding or nullifying federal or state law applicable to the cultivation, use, and possession of marihuana, and all applicants and grantees of licenses are on notice that they may be subject to prosecution and civil penalty, including forfeiture of property.
(Ord. No. 2295, § 1(34-101), 3-22-2011)

Sec. 34-102. 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 Initiated Law of 2008, MCL 333.26421 et seq., and Michigan Administrative Rules, R 333.101 et seq.

Department means the State of Michigan Department of Community Health.

Dispensary, including marihuana stores, compassion clubs, compassion centers, and medical marihuana businesses, means an entity or facility that acquires, possesses, cultivates, manufactures, delivers, transfers, transports, supplies, or dispenses marihuana, other than in a one-to-one relationship between a caregiver and a qualified patient, as designated by the act.

Distribution means the physical transfer of any amount of marihuana in any form by one person to any other person, whether or not any consideration is paid or received.

Distributor means any person, including, but not limited to, a caregiver, patient or any other person, who engages in any one or more acts of distribution.

Facility or *premises* means one commercial business premises having a separate or independent postal address, one private office premises having a separate or independent postal address, one single-family residence having a separate or independent postal address, one apartment unit having a separate or independent postal address, one condominium unit having a separate or independent postal address, or one free-standing industrial building having a separate or independent postal address.

Marihuana means the substance or material defined in Section 7106 of the Public Health Code, Public Act No. 368 of 1978 (MCL 333.7106).

Primary caregiver or *caregiver* means a person as defined under MCL 333.26423(g) of the act, and who has been issued and possesses a registry identification card under the act.

Principal residence means the place where a person resides more than half of the calendar year.

Qualifying patient or *patient* means a person as defined under MCL 333.26423(h) of the act.

Registry identification card means the document defined under MCL 333.26423(i) of the act.
(Ord. No. 2295, § 1(34-102), 3-22-2011)

Sec. 34-103. Findings and declaration of facts.

The restrictions in the medical marihuana article are based on the following findings:

(1) Law enforcement officers are required to investigate and pursue prosecution with regard to the unlawful cultivation, distribution or consumption of marihuana. Yet, the act concurrently authorizes as lawful undertakings the same actions by those who meet the terms of the act. Although

this places a burden on law enforcement to make a distinction relating to very similar conduct, the act expressly denies law enforcement officials advanced access to the identity and location of those authorized to lawfully engage in the cultivation, distribution or consumption of marihuana - critical information needed to distinguish unlawful undertakings from lawful ones, particularly at critical investigatory stages. The experience of law enforcement dictates that the presence of significant quantities of unlawful controlled substances are often accompanied by large quantities of cash, and by weapons used to protect the controlled substances and cash. Thus, confrontations between law enforcement and persons engaged in unlawful drug enterprises can be extremely dangerous, and there is a need to use the element of surprise in order to protect the lives of officers and members of the public. Under the act, before the occurrence of a direct confrontation between law enforcement and persons engaged in cultivation and distribution of marihuana, law enforcement officers are prevented from securing the information necessary to determine whether such activities are being conducted by persons authorized under the act or by persons engaged in criminal enterprise. This in turn leads to the condition that, if there is a suspicion that an unlawful enterprise is being perpetrated, officers may need to seek a voluntary entry into premises, and may be met by a weapons-based confrontation without being permitted to utilize the element of surprise. Moreover, if an unlawful enterprise is not involved, substantial resources can easily be expended by law enforcement on a baseless investigation. Accordingly, the licensure of a particular facility as the site of cultivation and distribution, which need not undermine the privacy and confidentiality of the patient-caregiver relationship, could be critical to law enforcement in order to identify and distinguish sites of lawful activity from sites of unlawful activity.

(2) The experience in the State of California, a state that approved the medical use of marihuana more than a decade ago, is that concentrations of marihuana distribution activity lead to the following significant and serious secondary effects:

a. California law enforcement reported in 2009 that nonresidents in pursuit of marihuana, and out of area criminals in search of prey, are commonly encountered just outside marihuana dispensaries, as well as drug-related offenses in the vicinity—like resales of products just obtained inside—since these marihuana centers regularly attract marihuana growers, drug users, and drug traffickers. Sharing just purchased marihuana outside dispensaries also regularly takes place. There have been increased incidents of crime including murder and armed robbery.

b. In a 2009 California law enforcement presentation, referring again to the existence of a concentration of distribution activities, the Los Angeles Police Department reported:

1. 200 percent increase in robberies.
2. 52.2 percent increase in burglaries.
3. 57.1 percent rise in aggravated assaults.
4. 130.8 percent rise in burglaries from autos near cannabis clubs in Los Angeles.
5. Use of armed gang members as armed "security guards."

c. California law enforcement reported in 2009 that the dispensaries or "pot clubs" are often used as a front by organized crime gangs to traffic in drugs and launder money.

d. California law enforcement reported in 2009 that besides fueling marihuana dispensaries, some monetary proceeds from the sale of harvested

marihuana derived from plants grown inside houses are being used by organized crime syndicates to fund other legitimate businesses for profit and the laundering of money, and to conduct illegal business operations like prostitution, extortion, and drug trafficking.

e. California law enforcement reported in 2009 that other adverse secondary impacts from the operation of marihuana dispensaries include street dealers lurking about dispensaries to offer a lower price for marihuana to arriving patrons; marihuana smoking in public and in front of children in the vicinity of dispensaries; loitering and nuisances; acquiring marihuana and/or money by means of robbery of patrons going to or leaving dispensaries; an increase in burglaries at or near dispensaries; a loss of trade for other commercial businesses located near dispensaries.

(3) Children should not be encouraged by example to undertake uses and activities which are unlawful. However, considering that marihuana possession and use is a generally prohibited criminal activity, but the act authorizes an undisclosed group of individuals to possess and use marihuana, and because children are not capable of making distinctions between lawful and unlawful use and possession by individuals based upon the intricacies of the act, there is a need to insulate children from the narrowly permitted use and possession activity permitted under the act. California law enforcement reported in 2009 that minors exposed to marihuana at dispensaries or residences where marihuana plants are grown may be subtly influenced to regard it as a generally legal drug.

(4) The act requires that information concerning identity and location of caregivers is to be confidential, and that caregivers authorized under the act are not to be punished. However, the act does not expressly or implicitly specify an intent to pre-empt all local enforcement efforts. Analogously, persons performing in adult entertainment have been held to be engaged in activity involving free expression, protected under the First Amendment, and thus direct local regulation that restricts such activity has been deemed to be prohibited content restriction of free speech. Nonetheless, where it can be shown that there are adverse secondary effects that result from the adult entertainment establishments (and other related adult uses), including criminal activity closely associated with that reported above in connection with concentrations of medical marihuana distribution, reasonable regulation, and requirements for the locations of adult entertainment uses have been permitted under the First Amendment, and have been authorized in order to mitigate against the secondary effects.

(5) Considering the reports from California, and based upon the limited experience already reported in the state, it is found that there is a rational basis for concern that a concentration of distribution activities, conduct that would be criminal outside the narrow exception provided in the act, will have adverse secondary effects, particularly where law enforcement personnel have no information to distinguish lawful from unlawful activities at the scene of such activities. Therefore, it is the intent of this article to regulate distribution activities in order to mitigate the reasonably anticipated adverse secondary effects.

(6) Local regulation of distribution activities is implicitly contemplated under the act in view of the glaring gaps opened by the terms of the Act which would, absent local regulation, render it impossible for law enforcement to investigate and pursue criminal activity not protected by the act. By way of example:

a. While the act limits a caregiver from distributing marihuana to more than

five patients, because the act withholds direct advanced information that would allow a connection to be made by law enforcement between a caregiver and particular patients, especially if caregivers operate in the same facility or in close proximity, the five-patient limit upon a person acting as a caregiver would be practically impossible to investigate or enforce.

b. While the act limits the number of plants a caregiver may cultivate on behalf of patients, because the act withholds direct advanced information that would allow a connection to be made by law enforcement between a caregiver and particular grow locations, the limitation on the number of plants cultivated at multiple sites would be practically impossible to investigate and enforce.

(7) The inability of law enforcement officials to access relevant and often critical information concerning those cultivating, distributing and consuming marihuana amounts to a material barrier to the effective investigation/enforcement model. Without critical information to distinguish those operating under the act from those engaged in illegal trafficking, law enforcement is impeded in the effort of undertaking adequate operational planning, and this, in turn, exposes law enforcement, and innocent third parties, to substantial and unnecessary risks.

(8) Absent the requirement for an application and inspection of a premises at which substantial facilities have been installed to facilitate the cultivation of marihuana plants, including plumbing and electrical inspections, there have been reports that unauthorized installations relating to the cultivation of marihuana plants have been made, including unauthorized power lines that bypass meters. These installations create a threat to public safety, and result in a fire risk.

(9) The fundamental intent of the act is the creation of a private and confidential patient-caregiver relationship to facilitate the lawful cultivation, distribution, and use of marihuana strictly for medical purposes.

(10) The requirement to identify sites at which marihuana is cultivated for and distributed to others, while not requiring identification of names, is not in conflict with the terms of the act, and is deemed to be the minimum requirement necessary in order to protect the public and permit safe and effective enforcement of the act and the general laws relating to marihuana.

(Ord. No. 2295, § 1(34-103), 3-22-2011)

Sec. 34-104. Distribution centers; prohibition.

The cultivation, distribution and use of marihuana, except as permitted by qualifying patients or caregivers, is prohibited.

(Ord. No. 2295, § 1(34-104), 3-22-2011)

Sec. 34-105. Qualifying patient.

The cultivation of marihuana by a qualifying patient shall be permitted with no licensing requirement by the city. The cultivation shall be limited to that permitted under the act. The distribution of marihuana by a qualified patient is prohibited.

(Ord. No. 2295, § 1(34-105), 3-22-2011)

Sec. 34-106. Caregiver; requirement for license.

The cultivation of marihuana by a caregiver under the act, and the provision of caregiver services relating to medical marihuana use, shall be permitted in accordance with the act. No cultivation, distribution and other assistance to patients shall be lawful in this community at a location unless and until such location for such cultivation, distribution, and assistance shall have been licensed under this article. Licensure shall be subject to and in accordance with the following:

(1) The location of a facility used for the cultivation of marihuana by caregivers under the act shall comply with the city's zoning ordinance;

(2) The location of a facility used to provide any other assistance to patients by caregivers permitted under the act relating to medical marihuana shall comply with the city's zoning ordinance.

(Ord. No. 2295, § 1(34-106), 3-22-2011)

Sec. 34-107. Caregiver; application for license.

The requirement of this article is to license a location, and not to license persons. A confidential application for a license under this section shall be submitted to the city clerk, and shall conform to the following specifications. An application shall:

(1) Not require the name, home address, or date of birth of a patient or caregiver.

(2) Include the address and legal description of the precise premises at which there shall be possession, cultivation, distribution or other assistance in the use of marihuana. The fact that a caregiver has an ID card as a patient shall not relieve the obligation to provide this information.

(3) Describe the enclosed, locked facility in which any and all cultivation of marihuana is proposed to occur, or where marihuana is stored, with such description including: location in building; precise measurements, in feet, of the floor dimensions and height; the security device for the facility.

(4) Describe all locations in the premises where a caregiver authorized under the act shall render assistance to a qualifying patient.

(5) Specify the number of patients to be assisted, including the number of patients for whom marihuana is proposed to be cultivated, and the number of patients to be otherwise assisted on the premises, and the maximum number of plants to be grown or cultivated at any one time. If the location at which patients will be assisted is different from the licensed premises, the application shall provide the address of all such other locations (other than the address of a patient being assisted).

(6) For safety and other code inspection purposes, it shall describe and provide detailed specifications of all lights, equipment, and all other electrical, plumbing, and other means proposed to be used to facilitate the cultivation of marihuana plants as such specifications relate to the need for the installation of facilities.

(Ord. No. 2295, § 1(34-107), 3-22-2011)

Sec. 34-108. Caregiver; requirements and standards for approval of licensure and activity permitted.

(a) Locations used for the cultivation of marihuana by caregivers under the act, and the location used for the provision of assistance to patients by caregivers, but in all events not including a patient's principal residence which is not used to cultivate marihuana or assist in the use of medical marihuana for persons other than the patient at such residence, shall be prohibited:

(1) Within 1,000 feet from sites where children are regularly present, and specifically: a daycare facility, a church, synagogue, mosque, or other religious temple, and from a recreational park and a public community center, a public or private pre-school, elementary school, middle school, high school, community college, and all other schools that have different name references but serve students of the same age. Measurements for purposes of this subsection shall be made from property boundary to property boundary; and

(2) On any property which is not zoned I-2 pursuant to the city zoning ordinance.

(b) The location of the facility at which a caregiver cultivates marihuana, or assists a patient in the use of marihuana, shall not be the same facility at which any other caregiver cultivates marihuana or assists a patient in the use of marihuana. Accordingly, at a patient's principal residence used by such patient to cultivate marihuana for his personal use as permitted under the act, there shall be not more than 12 marihuana plants being cultivated at any one time; only at a licensed facility may there be more than 12 mar-

ihuana plants being cultivated at any one time; and, at a facility at which a caregiver cultivates marihuana for use by patients, there shall not be more than 12 marihuana plants being cultivated at any one time per patient, and in no event more than 60 marihuana plants being cultivated at any one time (which assumes cultivation for five patients, plus an additional 12 plants if the caregiver is also a patient that has not designated a caregiver to assist in providing medical marihuana).

(c) In order to insulate children and other vulnerable individuals from such actions, all medical marihuana cultivation, and all assistance of a patient in the use of medical marihuana by a caregiver, shall occur within the confines of a building licensed under this section, and such activities shall occur only in locations not visible to the public and adjoining uses, provided this subsection shall not prohibit a caregiver from assisting a patient at the patient's principal residence or at a hospital.

(d) The electrical and plumbing inspectors (and other inspectors) within whose expertise an inspection is needed) must, after inspection, provide a report confirming that all lights, plumbing, equipment, and all other means proposed to be used to facilitate the growth or cultivation of marihuana plants is in accordance with applicable code.

(e) Considering that the distribution of marihuana is generally unlawful, and that the act authorizes caregivers and does not authorize any activity such as a dispensary, and reading the act as a whole, the activities of caregivers are interpreted as being limited to private and confidential endeavors. Moreover, the location and identity of a caregiver is known to patients. Accordingly:

(1) There shall be no signage identifying a caregiver use or a place at which medical marihuana is distributed; and

(2) Unless conducted as part of a related licensed professional medical or pharmaceutical practice, caregiver activity shall not be advertised as a clinic, hospital, dispensary, or other name customary ascribed to a multi-patient professional practice.

(Ord. No. 2295, § 1(34-108), 3-22-2011)

Sec. 34-109. Caregivers; other conditions.

An approval of licensure may include reasonable conditions requested in writing by the applicant during the application and review process.
(Ord. No. 2295, § 1(34-109), 3-22-2011)

Sec. 34-110. Land use restriction.

If approved, all use of property shall be in accordance with an approved application, including all information and specifications submitted by the applicant in reliance on which the application shall be deemed to have been approved.
(Ord. No. 2295, § 1(34-110), 3-22-2011)

Sec. 34-111. Existing medical marihuana facilities.

A medical marihuana facility that exists on the effective date of the ordinance from which this article is derived must make application for and receive approval to continue to operate, provided, an application shall be filed within 15 days following the effective date of the ordinance from which this article is derived. If an application for licensure under this article is denied due to the minimum distance requirement standards, and a timely application has been filed seeking licensure under this article, such facility shall have 60 days from the date of application denial to cease operating at the denied site.
(Ord. No. 2295, § 1(34-111), 3-22-2011)

Sec. 34-112. Restriction on distribution.

(a) The restrictions in this article are based on the following findings:

(1) The act was passed by the initiative process. The ballot containing the proposal did not include, and as a practical matter could not have included, the full statute. Thus, electors approved the initiative proposal based upon a reading of a mere summary of the act. Both the summary and the act as a whole reflect the intent to a private and confidential patient-care-

giver relationship to facilitate the lawful cultivation, distribution, and use of marihuana strictly for medical purposes, that is, an authorization for confidential and private use of marihuana by patients, and for confidential and private assistance in such use by caregivers with whom individual patients are connected through the department's registration process. That is, the act does not authorize the broad legalization of the cultivation, distribution, or use of marihuana, and a reading that permits such broad legalization is inconsistent with the fundamental intent of the act read as a whole in context with generally applicable state law. Thus, it would be reasonable to expect and require that all undertakings of caregivers and other persons in assisting a patient are intended to occur on a confidential and private one-to-one basis.

(2) The act does not reflect the intent for distributions of marihuana by more than one caregiver or other person to one patient, or by one or more caregivers or other persons to more than one patient at any given time and place.

(3) The confidentiality provisions of the act reflect the intent for all caregivers and patients to remain anonymous in terms of their name and address, thus further reflecting the private and confidential nature of the activities contemplated between a caregiver and the patient he is assisting.

(b) Restrictions. A caregiver shall distribute medical marihuana only on a confidential, one-to-one, basis with no other caregiver being present at the same facility at the same time, and no other patient or other person being present at the same facility at the same time, provided, that a patient's immediate family members or guardian may be present within the patient's private residence, and one family member or guardian may be present in any facility other than the patient's private residence. For purposes of this subsection, the phrase "same time" shall mean and include concurrently as well as within a time interval of one hour.
(Ord. No. 2295, § 1(34-112), 3-22-2011)

Sec. 34-113. Penalty for violation.

All violations of sections 34-101 through 34-112 are declared to be municipal civil infractions.
(Ord. No. 2295, § 1(34-113), 3-22-2011)

Sec. 34-114. No vested rights.

A property owner shall not have vested rights or nonconforming use rights that would serve as a basis for failing to comply with this article or any amendment of this article.
(Ord. No. 2295, § 1(34-114), 3-22-2011)

Chapters 35—37

RESERVED

Chapter 38

HISTORICAL PRESERVATION*

Article I. In General

Secs. 38-1—38-100. Reserved.

Article II. Historic District

Sec. 38-101. Short title.
Sec. 38-102. Statement of purpose.
Sec. 38-103. Definitions.
Sec. 38-104. Historic district study committee and the study committee report.
Sec. 38-105. Establishing additional, modifying, or eliminating historic districts.
Sec. 38-106. The historic district commission.
Sec. 38-107. Historic district commission meetings, recordkeeping and rules of procedure.
Sec. 38-108. Delegation of minor classes of work.
Sec. 38-109. Ordinary maintenance.
Sec. 38-110. Review by the historic district commission.
Sec. 38-111. Design review standards and guidelines.
Sec. 38-112. Permit applications.
Sec. 38-113. Denials.
Sec. 38-114. Notice to proceed.
Sec. 38-115. Appeal of a historic district commission decision.
Sec. 38-116. Work without a permit.
Sec. 38-117. Demolition by neglect.
Sec. 38-118. Review of work in proposed districts.
Sec. 38-119. Emergency moratorium.
Sec. 38-120. Penalties for violations.
Sec. 38-121. Acceptance of gifts or grants.
Sec. 38-122. Acquisition of historic resources.
Sec. 38-123. Historic district boundary.

*__State law reference—__Michigan historical commission, MCL 399.1 et seq.

ARTICLE I. IN GENERAL

Secs. 38-1—38-100. Reserved.

ARTICLE II. HISTORIC DISTRICT*

Sec. 38-101. Short title.

This article shall be known as the "Historic District Ordinance of the City of Muskegon".
(Ord. No. 2290, § 1(38.101), 3-8-2011)

Sec. 38-102. Statement of purpose.

(a) Historic preservation is hereby declared to be a public purpose and the city commission may hereby regulate the construction, addition, alteration, repair, moving, excavation, and demolition of resources in historic districts within the city limits. The purpose of this article is to:

(1) Safeguard the heritage of the city by preserving districts which reflect elements of its history, architecture, archaeology, engineering, or culture.

(2) Stabilize and improve property values in each district and surrounding areas.

(3) Foster civic beauty.

(4) Strengthen the local economy.

(5) Promote the use of historic districts for the education, pleasure, and welfare of the citizens of the city and of the state.

(b) The city may, by ordinance, establish one or more historic districts. The historic district shall be administered by the historic district commission and pursuant to this article.
(Ord. No. 2290, § 1(38.102), 3-8-2011)

Sec. 38-103. 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:

Alteration means work that changes the detail of a resource but does not change its basic size or shape.

Certificate of appropriateness means the written approval of a permit application for work that is appropriate and does not adversely affect a resource.

Commission means the historic district commission of the city.

Demolition means the razing or destruction, whether entirely or in part, of a resource and includes, but is not limited to, demolition by neglect.

Demolition by neglect means neglect in maintaining, repairing, or securing a resource that results in deterioration of an exterior feature of the resource or the loss of structural integrity of the resource.

Denial means the written rejection of a permit application for work that is inappropriate and that adversely affects a resource.

Fire alarm system means a system designed to detect and annunciate the presence of fire or byproducts of fire. Fire alarm system includes smoke alarms.

Historic district means an area, or group of areas, not necessarily having contiguous boundaries, that contains one resource or a group of resources that are related by history, architecture, archaeology, engineering, or culture.

Historic preservation means the identification, evaluation, establishment, and protection of resources significant in history, architecture, archaeology, engineering, or culture.

Historic resource means a publicly or privately owned building, structure, site, object, feature or open space that is significant in the history, architecture, archaeology, engineering, or culture of the city, state, or the United States.

Notice to proceed means the written permission to issue a permit for work that is inappropriate and that adversely affects a resource, pursuant to a finding under Section 399.205(6) of Public Act 169 of 1970, as amended.

Open space means undeveloped land, a naturally landscaped area, or a formal or manmade landscaped area that provides a connective link or buffer between other resources.

***State law reference—**Local historic districts act, MCL 339.201 et seq.

Ordinary maintenance means keeping a resource unimpaired and in good condition through ongoing minor intervention, undertaken from time to time, in its exterior condition. Ordinary maintenance does not change the external appearance of the resource except through the elimination of the usual and expected effects of weathering. Ordinary maintenance does not constitute work for the purposes of this article.

Proposed historic district means an area, or group of areas not necessarily having contiguous boundaries, that has delineated boundaries and that is under review by a committee or a standing committee for the purpose of making a recommendation as to whether it should be established as a historic district or added to an established historic district.

Repair means to restore a decayed or damaged resource to good or sound condition by any process. A repair that changes the external appearance of a resource constitutes work for the purposes of this article.

Resource means one or more publicly or privately owned historic or non-historic buildings, structures, sites, objects, features, or open spaces located within a historic district.

Smoke alarm means a single-station or multiple-station alarm responsive to smoke and not connected to a system. As used in this subdivision, the term "single-station alarm" means an assembly incorporating a detector, the control equipment, and the alarm sounding device into a single unit, operated from a power supply either in the unit or obtained at the point of installation. The term "multiple-station alarm" means two or more single-station alarms that are capable of interconnection such that actuation of one alarm causes all integrated separate audible alarms to operate.

Work means construction, addition, alteration, repair, moving, excavation, or demolition.
(Ord. No. 2290, § 1(38.103), 3-8-2011)

Sec. 38-104. Historic district study committee and the study committee report.

Before establishing a historic district, the city commission shall appoint a historic district study committee. A majority of the persons appointed to the historic district study committee shall have a clearly demonstrated interest in or knowledge of historic preservation. The historic district study committee shall contain representation of at least one member appointed from one or more duly organized local historic preservation organizations. The historic district study committee shall do all of the following:

(1) Conduct a photographic inventory of resources within each proposed historic district following procedures established by the state historic preservation office of the Michigan Historical Center.

(2) Conduct basic research of each proposed historic district and historic resources located within that district.

(3) Determine the total number of historic and non-historic resources within a proposed historic district and the percentage of historic resources of that total. In evaluating the significance of historic resources, the historic district study committee shall be guided by the selection criteria for evaluation issued by the United States Secretary of the Interior for inclusion of resources in the National Register of Historic Places, as set forth in 36 CFR 60, and criteria established or approved by the state historic preservation office of the Michigan Historical Center.

(4) Prepare a preliminary historic district study committee report that addresses, at a minimum, all of the following:

a. The charge of the committee.

b. The composition of committee membership.

c. The historic district studied.

d. The boundaries of each proposed historic district in writing and on maps.

e. The history of each proposed historic district.

f. The significance of each district as a whole, as well as a sufficient number of its individual resources to fully

represent the variety of resources found within the district, relative to the evaluation criteria.

g. Transmit copies of the preliminary report for review and recommendations to the city planning commission, the state historic preservation office of the Michigan Historical Center, the Michigan Historical Commission, and the state historic preservation review board.

h. Make copies of the preliminary report available to the public pursuant to Section 3 (4) of Public Act No. 169 of 1970 (MCL 399.203(4)).

(5) Not less than 60 calendar days after the transmittal of the preliminary report, the historic district study committee shall hold a public hearing in compliance with Public Act No. 267 of 1976 (MCL 15.261 et seq.). Public notice of the time, date and place of the hearing shall be given in the manner required by Public Act No. 267 of 1976 (MCL 15.261 et seq.). Written notice shall be mailed by first class mail not less than 14 calendar days prior to the hearing to the owners of properties within the proposed historic district, as listed on the most current tax rolls. The report shall be made available to the public in compliance with Public Act No. 442 of 1976 (MCL 15.231 et seq.).

(6) After the date of the public hearing, the historic district study committee and the city commission have not more than one year, unless otherwise authorized by the city commission, to take the following actions:

a. The committee shall prepare and submit a final report with its recommendations and the recommendations, if any, of the local planning body to the city commission as to the establishment of a historic district. If the recommendation is to establish a historic district, the final report shall include a draft of the proposed ordinance.

b. After receiving a final report that recommends the establishment of a historic district, the city commission, at its discretion, may introduce and pass or reject an ordinance. If the city commission passes an ordinance establishing one or more historic districts, the city shall file a copy of the ordinance, including a legal description of the property or properties located within the historic district, with the register of deeds. The city commission shall not pass an ordinance establishing a contiguous historic district less than 60 days after a majority of the property owners within the proposed historic district, as listed on the tax rolls of the local unit, have approved the establishment of the historic district pursuant to a written petition.

(7) A writing prepared, owned, used, in the possession of, or retained by a committee in the performance of an official function of the historic district commission should be made available to the public in compliance with Public Act No. 442 of 1976 (MCL 15.231 et seq.).

(Ord. No. 2290, § 1(38.104), 3-8-2011)

Sec. 38-105. Establishing additional, modifying, or eliminating historic districts.

(a) The city commission may at any time establish by ordinance additional historic districts, including proposed districts previously considered and rejected, may modify boundaries of an existing historic district, or may eliminate an existing historic district. Before establishing, modifying, or eliminating a historic district, a historic district study committee appointed by the city commission shall follow the procedures as stated in Section 3 (1-3) of Public Act No. 169 of 1970 (MCL 399.203(1)—(3)). To conduct these activities, the city commission may retain the initial committee, establish a standing committee, or establish a committee to consider only specific proposed districts and then be dissolved. The

committee shall consider any previously written committee reports pertinent to the proposed action.

(b) In considering elimination of a historic district, a committee shall follow the procedures set forth in Section 3 (1-3) of Public Act No. 169 of 1970 (MCL 399.203(1)—(3)) for the issuance of a preliminary report, holding a public hearing, and issuing a final report but with the intent of showing one or more of the following:

(1) The historic district has lost those physical characteristics that enabled the establishment of the district.

(2) The historic district was not significant in the way previously defined.

(3) The historic district was established pursuant to defective procedures.

(Ord. No. 2290, § 1(38.105), 3-8-2011)

Sec. 38-106. The historic district commission.

(a) The city commission establishes a historic district commission. Each member of the historic district commission shall reside within the city limits. The historic district commission shall consist of seven members. Members shall be appointed by the city commission. A majority of the members shall have a clearly demonstrated interest in or knowledge of historic preservation. Members shall be appointed for a term of three years. Members shall be eligible for reappointment. In the event of a vacancy on the historic district commission, interim appointments shall be made by the city commission within 60 calendar days to complete the unexpired term of such position. Two members shall be appointed from a list submitted by duly organized local historic preservation organizations. If such a person is available for appointment, one member shall be an architect who has two years of architectural experience or who is duly registered in the state.

(b) The city commission may prescribe powers and duties of the historic district commission, in addition to those prescribed in this article, that foster historic preservation activities, projects, and programs in the local unit.

(Ord. No. 2290, § 1(38.106), 3-8-2011)

Sec. 38-107. Historic district commission meetings, recordkeeping and rules of procedure.

(a) The historic district commission shall meet at least quarterly or more frequently at the call of the historic district commission.

(b) The business that the historic district commission may perform shall be conducted at a public meeting held in compliance with the open meetings act, Public Act No. 267 of 1976 (MCL 15.261 et seq.). Public notice of the date, time, and place of the meeting shall be given in the manner required by Public Act No. 267 of 1976 (MCL 15.261 et seq.). A meeting agenda shall be part of the notice and shall include a listing of each permit application to be reviewed or considered by the historic district commission.

(c) The historic district commission shall keep a record of its resolutions, proceedings and actions. A writing prepared, owned, used, in the possession of, or retained by the historic district commission in the performance of an official function shall be made available to the public in compliance with the freedom of information act, Public Act No. 442 of 1976 (MCL 15.231 et seq.).

(d) The historic district commission shall adopt its own rules of procedure and shall adopt design review standards and guidelines to carry out its duties under this act.

(Ord. No. 2290, § 1(38.107), 3-8-2011)

Sec. 38-108. Delegation of minor classes of work.

The historic district commission may delegate the issuance of certificates of appropriateness for specified minor classes of work to city staff. The historic district commission shall provide to its delegated authority specific written standards for issuing certificates of appropriateness under this subsection. The historic district commission shall review the certificates of appropriateness issued by the delegate on at least a quarterly basis to determine whether or not the delegated responsibilities should be continued.

(Ord. No. 2290, § 1(38.108), 3-8-2011)

Sec. 38-109. Ordinary maintenance.

Nothing in this article shall be construed to prevent ordinary maintenance or repair of a resource within a historic district or to prevent work on any resource under a permit issued by the inspector of buildings or other duly delegated authority before this article was enacted.
(Ord. No. 2290, § 1(38.109), 3-8-2011)

Sec. 38-110. Review by the historic district commission.

The historic district commission shall review and act upon only exterior features of a resource and shall not review and act upon interior arrangements unless specifically authorized to do so by the city commission or unless interior work will cause visible change to the exterior of the resource. The historic district commission shall not disapprove an application due to considerations not prescribed in Subsection 5(3) of Public Act No. 169 of 1970 (MCL 399.205(3)).
(Ord. No. 2290, § 1(38.110), 3-8-2011)

Sec. 38-111. Design review standards and guidelines.

(a) In reviewing plans, the historic district commission shall follow the U.S. Secretary of Interior's Standards for Rehabilitation and guidelines for rehabilitating historic buildings as set forth in 36 CFR 67. Design review standards and guidelines that address special design characteristics of historic districts administered by the historic district commission may be followed if they are equivalent in guidance to the Secretary of Interior's Standards and guidelines and are established or approved by the state historic preservation office of the Michigan Historical Center.

(b) In reviewing plans, the historic district commission shall also consider all of the following:

(1) The historic or architectural value and significance of the resource and its relationship to the historic value of the surrounding area.

(2) The relationship of any architectural features of the resource to the rest of the resource and to the surrounding area.

(3) The general compatibility of the design, arrangement, texture, and materials proposed to be used.

(4) Other factors, such as aesthetic value, that the historic district commission finds relevant.

(5) Whether the applicant has certified in the application that the property where the work will be undertaken has, or will have before the proposed project completion date, a fire alarm system or a smoke alarm complying with the requirements of the Stille-DeRossett-Hale single state construction code act, Public Act No. 230 of 1972 (MCL 125.1501 et seq.).

(Ord. No. 2290, § 1(38.111), 3-8-2011)

Sec. 38-112. Permit applications.

(a) A permit shall be obtained before any work affecting the exterior appearance of a resource is performed within a historic district. The person, individual, partnership, firm, corporation, organization, institution, or agency of government proposing to do that work shall file an application for a permit with the inspector of buildings. Upon receipt of a complete application, the inspector of buildings shall immediately refer the application, along with all required supporting materials that make the application complete, to the historic district commission. A permit shall not be issued and proposed work shall not proceed until the historic district commission has acted on the application by issuing a certificate of appropriateness or a notice to proceed as prescribed in this article. A historic district commission shall not issue a certificate of appropriateness unless the applicant certifies in the application that the property where work will be undertaken has, or will have before the proposed project completion date, a fire alarm system or a smoke alarm complying with the requirements of the Stille-DeRossett-Hale single state construction code act, Public Act No. 230 of 1972 (MCL 125.1501 et seq.).

(b) The historic district commission shall file certificates of appropriateness, notices to proceed, and denials of applications for permits with the inspector of buildings. A permit shall not be issued until the historic district commission has acted as prescribed by this article.

(c) If an application is for work that will adversely affect the exterior of a resource the historic district commission considers valuable to the city, the state, or the nation, and the historic district commission determines that the alteration or loss of that resource will adversely affect the public purpose of the city, state, or nation, the historic district commission shall attempt to establish with the owner of the resource an economically feasible plan for the preservation of the resource.

(d) The failure of the historic district commission to act on an application within 60 calendar days after the date a complete application is filed with the historic district commission, unless an extension is agreed upon in writing by the applicant and the historic district commission, shall be considered to constitute approval.

(e) The historic district commission may charge a reasonable fee to process a permit application.
(Ord. No. 2290, § 1(38.112), 3-8-2011)

Sec. 38-113. Denials.

If a permit application is denied, the decision shall be binding on the inspector or other authority. A denial shall be accompanied by a written explanation by the historic district commission of the reasons for denial and, if appropriate, a notice that an application may be re-submitted for historic district commission review when the suggested changes have been made. The denial shall also include the notification of the applicant's right to appeal to the state historic preservation review board and to the circuit court.
(Ord. No. 2290, § 1(38.113), 3-8-2011)

Sec. 38-114. Notice to proceed.

Work within a historic district shall be permitted through the issuance of a notice to proceed by the historic district commission if any of the following conditions prevail and if the proposed work can be demonstrated by a finding of the historic district commission to be necessary to substantially improve or correct any of the following conditions:

(1) The resource constitutes a hazard to the safety of the public or to the structure's occupants.

(2) The resource is a deterrent to a major improvement program that will be of substantial benefit to the community and the applicant proposing the work has obtained all necessary planning and zoning approvals, financing, and environmental clearances.

(3) Retaining the resource will cause undue financial hardship to the owner when a governmental action, an act of God, or other events beyond the owner's control created the hardship, and all feasible alternatives to eliminate the financial hardship, which may include offering the resource for sale at its fair market value or moving the resource to a vacant site within the historic district, have been attempted and exhausted by the owner.

(4) Retaining the resource is not in the interest of the majority of the community.

(Ord. No. 2290, § 1(38.114), 3-8-2011)

Sec. 38-115. Appeal of a historic district commission decision.

(a) An applicant aggrieved by a decision of the historic district commission concerning a permit application may file an appeal with the state historic preservation review board. The appeal shall be filed within 60 calendar days after the decision is furnished to the applicant. The appellant may submit all or part of the appellant's evidence and arguments in written form. The state historic preservation review board shall consider an appeal at its first regularly scheduled meeting after receiving the appeal. A permit applicant aggrieved by the decision of the state historic preservation review board may appeal the decision to the county circuit court.

(b) Any citizen or duly organized historic preservation organization in the city, as well as resource property owners, jointly or severally aggrieved by a decision of the historic district commission may appeal the decision to the county circuit court, except that a permit applicant aggrieved by a decision rendered under this article may not appeal to the court without first exhausting the right to appeal to the state historic preservation review board.
(Ord. No. 2290, § 1(38.115), 3-8-2011)

Sec. 38-116. Work without a permit.

When work has been done upon a resource without a permit, and the historic district commission finds that the work does not qualify for a certificate of appropriateness, the historic district commission may require an owner to restore the resource to the condition that the resource was in before the inappropriate work or to modify the work so that it qualifies for a certificate of appropriateness. If the owner does not comply with the restoration or modification requirement within a reasonable time, the historic district commission may seek an order from the county circuit court to require the owner to restore the resource to its former condition or to modify the work so that it qualifies for a certificate of appropriateness. If the owner does not comply or cannot comply with the order of the court, the historic district commission or its agents may enter the property and conduct work necessary to restore the resource to its former condition or modify the work so that it qualifies for a certificate of appropriateness in accordance with the court's order. The costs of the work done shall be charged to the owner, and may be levied by the city as a special assessment against the property. When acting pursuant to an order of the circuit court, the historic district commission or its agents may enter a property for purposes of this section.
(Ord. No. 2290, § 1(38.116), 3-8-2011)

Sec. 38-117. Demolition by neglect.

Upon a finding by the historic district commission that a historic resource within a historic district or a proposed historic district subject to its review and approval is threatened with demolition by neglect, the historic district commission may do either of the following:

(1) Require the owner of the resource to repair all conditions contributing to demolition by neglect.

(2) If the owner does not make repairs within a reasonable time, the historic district commission or its agents may enter the property and make such repairs as necessary to prevent demolition by neglect. The costs of the work shall be charged to the owner, and may be levied by the city as a special assessment against the property. The historic district commission or its agents may enter the property for purposes of this section upon obtaining an order from the circuit court.

(Ord. No. 2290, § 1(38.117), 3-8-2011)

Sec. 38-118. Review of work in proposed districts.

Upon receipt of substantial evidence showing the presence of historic, architectural, archaeological, engineering, or cultural significance of a proposed historic district, the city commission may, at its discretion, adopt a resolution requiring that all applications for permits within the proposed historic district be referred to the historic district commission as prescribed in section 38-112. The historic district commission shall review permit applications with the same powers that would apply if the proposed historic district was an established historic district. The review may continue in the proposed historic district for not more than one year, or until such time as the city commission approves or rejects the establishment of the historic district by ordinance, whichever occurs first.
(Ord. No. 2290, § 1(38.118), 3-8-2011)

Sec. 38-119. Emergency moratorium.

If the city commission determines that pending work will cause irreparable harm to resources located within an established or proposed historic district, the city commission may by resolution declare an emergency moratorium on all such work for a period not to exceed six months. The

city commission may extend the emergency moratorium for an additional period not to exceed six months, upon finding that the threat of irreparable harm to resources is still present. Any pending permit application concerning a resource subject to an emergency moratorium may be summarily denied.
(Ord. No. 2290, § 1(38.119), 3-8-2011)

Sec. 38-120. Penalties for violations.

(a) A person that violates this article is responsible for a municipal civil infraction and may be fined the maximum permitted by law, not more than $5,000.00.

(b) A person that violates this article may be ordered by the court to pay the costs to restore or replicate a resource unlawfully constructed, added to, altered, repaired, moved, excavated or demolished.
(Ord. No. 2290, § 1(38.120), 3-8-2011)

Sec. 38-121. Acceptance of gifts or grants.

The city commission may accept state or federal grants for historic preservation purposes, may participate in state and federal programs that benefit historic preservation, and may accept public or private gifts for historic preservation purposes. The city commission may appoint the historic district commission to accept and administer grants, gifts, and program responsibilities.
(Ord. No. 2290, § 1(38.121), 3-8-2011)

Sec. 38-122. Acquisition of historic resources.

If all efforts by the historic district commission to preserve a resource fail, or if it is determined by the city commission that public ownership is most suitable, the city commission, if considered to be in the public interest, may acquire the resource using public funds, public or private gifts, grants or proceeds from the issuance of revenue bonds. The acquisition shall be based upon the recommendation of the historic district commission. The historic district commission is responsible for maintaining publicly owned resources using its own funds, if not specifically designated for other purposes, or public funds committed for that use by the city commission. Upon recommendation of the historic district commission, the city may sell resources acquired under this section with protective easements included in the property transfer documents, if appropriate.
(Ord. No. 2290, § 1(38.122), 3-8-2011)

Sec. 38-123. Historic district boundary.

(a) *Houston Historic District.* All land located within an area described by blocks 336, 337, 348, 349, 350, 351; block 367, lots 3-10; block 368.

(b) *Campus Historic District.* All land located within an area described by blocks 396, 397, 399.

(c) *McLaughlin Historic District.* All land located within an area described by blocks 226, lots 1-5, and 12; blocks 227, 228, 229; block 230, lots 1-5 and 14; block 238, lots 1-5 and 12; blocks 239, 240, 241; block 242, lots 7-10; blocks 243, 253; block 254, easterly 66 feet of lots 7-10; block 362, lots 10-19; block 383, lots 7-12; block 394, lots 9-16.

(d) *Clinton-Peck Historic District.* All land located within an area described by block 275, lots 1-9; block 276, lots 7-14; block 277; block 278, lots 1-6; blocks 288, 289; block 300, lots 1-6; block 423, lots 7-12; block 424, lots 7-12; block 444, lots 7-12; block 445, lots 7-12.

(e) *Jefferson Historic District.* All land located within an area described by block 425, lots 1-6; block 426, lots 8-14; block 442, lots 8-14; block 443, lots 1-6; block 446, W 162 feet lot 1, N 74.5 feet of W 154 feet lot 2, and N 75 feet of S 149.5 feet of W 154 feet lot 2; block 447, lots 8-14; block 463, lots 7-9 and E 105.1 feet lot 10; block 464, lots 1-4.

(f) *Clay-Western Historic District.* All land located within an area described by blocks 314, 315, 316, 323, 568 and 570.

(g) *National Register Historic District.* All land located within an area described by blocks 324, 325, 326; block 327, lots 4-9; block 334, lots 4-9; block 335.

(h) *Other areas.* The following land area is hereby included within the historic districts: Block 313, lots 1, 2 and the east 20 feet of lot 3; block 327, lots 10, 11; block 334, lots 1-3 and 10-12.
(Ord. No. 2290, § 1(38.123), 3-8-2011)

Chapters 39—41

RESERVED

Chapter 42

HUMAN RELATIONS*

Article I. In General

Secs. 42-1—42-30. Reserved.

Article II. Fair Housing

Sec. 42-31. Adoption of state law by reference.
Sec. 42-32. Penalties.

*__State law reference—__Elliott-Larsen civil rights act, MCL 37.2101 et seq.

ARTICLE I. IN GENERAL

Secs. 42-1—42-30. Reserved.

ARTICLE II. FAIR HOUSING*

Sec. 42-31. Adoption of state law by reference.

There is hereby adopted by reference Article 5 of Public Act No. 453 of 1976 (MCL 37.2501 et seq.), as if fully set forth herein.
(Code 1975, §§ 8½-11—8½-16; Code 2002, §§ 42-31—42-37)

Sec. 42-32. Penalties.

Any person who violates any provision of this article concerning discrimination in real property transactions shall be responsible for a municipal civil infraction.
(Code 1975, § 8½-17; Code 2002, § 42-32)

*__State law reference—__Housing discrimination, MCL 37.2501 et seq.

Chapters 43—45

RESERVED

Chapter 46

LAW ENFORCEMENT*

Article I. In General

Sec. 46-1. Enforcement personnel; appearance tickets for misdemeanors and civil infractions.
Secs. 46-2—46-30. Reserved.

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Division 2. Departmental Policies and Rules

Subdivision I. In General

Sec. 46-51. Application.
Sec. 46-52. Members to be familiar and comply with division and chief's rules and regulations.
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Sec. 46-80. Power to detail members.
Sec. 46-81. Power to make rules pertaining to release on bond of persons arrested without warrant.
Secs. 46-82—46-100. Reserved.

Subdivision III. Secretary

Sec. 46-101. Duties.
Secs. 46-102—46-120. Reserved.

Subdivision IV. School Crossing Guards

Sec. 46-121. Duties; identifying clothing; signs.

***State law references—**Mutual assistance agreements, MCL 123.811 et seq.; uniform crime reports, MCL 28.251 et seq.; commission on law enforcement standards act, MCL 28.601 et seq.

Sec. 46-122. Selection; training; supervision.
Sec. 46-123. Failure to obey signal as violation; presumption.
Secs. 46-124—46-150. Reserved.

Article III. Junk or Abandoned Property

Sec. 46-151. Definitions.
Sec. 46-152. Disposition of stolen, lost and abandoned property.
Sec. 46-153. Disposition of unclaimed property.
Sec. 46-154. Sale.
Secs. 46-155—46-200. Reserved.

Article IV. Municipal Civil Infractions

Sec. 46-201. Definitions.
Sec. 46-202. Issuance or service of citations.
Sec. 46-203. Municipal ordinance violations bureau.
Sec. 46-204. Schedule of civil fines established.

ARTICLE I. IN GENERAL

Sec. 46-1. Enforcement personnel; appearance tickets for misdemeanors and civil infractions.

(a) *Police and peace officer authority.* Police officers and peace officers shall have authority to issue notices of violation, citations and appearance tickets for civil infractions and misdemeanors under city ordinances.

(b) *Authority to issue civil infraction notices and citations.* Those persons designated as authorized city officials in section 46-201 shall have the power to issue notices of violations and citations for municipal civil infractions.

(c) *Authority to issue appearance tickets or citations for misdemeanors.* Pursuant to section 9c(2) of the Code of Criminal Procedure (MCL 764.9c(2)), the following public servants are specially authorized by this section to issue and serve citations or appearance tickets with respect to the misdemeanors set forth in this section upon persons whom they have reasonable cause to believe have committed offenses: Park rangers may issue misdemeanor appearance tickets where applicable for the following violations of ordinances or rules or successor ordinances or rules when they occur in city parks:

(1) Code section 54-1, Illegal occupation or business.

(2) Code section 54-2, Loitering where illegal occupation or business is conducted.

(3) Code section 54-36, Failure to pay fare of vehicle for hire.

(4) Code section 54-64, Assault, battery, breach of peace.

(5) Code section 54-91, Public intoxication.

(6) Code section 54-93, Window peeping.

(7) Code section 54-94, Jostling others.

(8) Code section 54-95, Fighting in public.

(9) Code section 54-96, Prowling.

(10) Code section 54-97, Loitering.

(11) Code section 54-100, Public obscenity.

(12) Code section 54-142(a), Solicitation of prostitution.

(13) Code section 54-143(a), Loitering in a place of prostitution.

(14) Code section 54-242, Use or possession of tobacco products by minors in public.

(15) Code section 54-264, Underage person in possession of alcoholic liquors.

(16) Violation of park rules when the violation constitutes a misdemeanor.

(Code 2002, § 2-61; Ord. No. 1177, § 1, 10-27-1998)

Secs. 46-2—46-30. Reserved.

ARTICLE II. POLICE DEPARTMENT*

DIVISION 1. GENERALLY

Sec. 46-31. Composition; appointment and oath of members.

(a) The police department shall consist of a chief of police, to be appointed by the city manger, and one or more captains, lieutenants, sergeants, secretaries, clerks, and such number of police officers with pay and such number of special police, guards, and security guard supervisors with or without pay as shall be deemed necessary by the chief of police, to be appointed by the chief of police with the approval of the city manager. All new members of the department, except secretaries and clerks, must be sworn in and take an oath of office.

(b) Throughout this article, the title of "chief of police" or "police chief" may be used interchangeably and shall be meant to include the title of director of public safety.

(Code 1975, § 15-1; Code 2002, § 46-31; Ord. No. 2127, § 1, 3-23-2004)

Sec. 46-32. Officers enumerated; rank.

(a) The officers of the police department shall rank as follows:

First—Chief.

*__State law reference—__Law enforcement officer employment standards, MCL 28.601 et seq.

Second—Assistant chief.

Third—Captains.

Fourth—Lieutenants.

Fifth—Sergeants.

Sixth—Police officers.

(b) Detectives shall be ranked as officers enumerated in this section, and shall have no separate rank by virtue of being designated as detectives. The situation in a case may require detectives to exercise command responsibilities regardless of rank.
(Code 1975, § 15-2; Code 2002, § 46-32)

Sec. 46-33. Sale of impounded vehicles.

A vehicle impounded by seizure under any city ordinance may, after one month from date of seizure, be sold by the police department, either at private or public sale, to the highest bidder, after first giving the owner of the car, as is shown to be in the office of the secretary of the state in which the car is licensed, on the day of seizure, a notice of seizure and proposed sale, in writing, delivered in person or sent by first-class mail addressed to such person at the owner's place of business or residence as shown in such secretary of state's office.
(Code 1975, § 15-3; Code 2002, § 46-33; Ord. No. 2158, 8-23-2005)

Sec. 46-34. Schedule of fees for services of noncriminal nature.

(a) The chief of police shall fix a schedule of fees which shall be charged for services supplied by the police department of a noncriminal nature such as the preparation of fingerprint cards and the supplying of accident reports.

(b) In addition to any fees charged by the police department, it shall also collect any direct expense it will incur, if any, in providing the service.

(c) All fees charged by the police department shall be reasonable in relation to the services included and shall be deposited in the general fund of the city.
(Code 1975, § 15-5; Code 2002, § 46-34)

Secs. 46-35—46-50. Reserved.

DIVISION 2. DEPARTMENTAL POLICIES AND RULES

Subdivision I. In General

Sec. 46-51. Application.

The rules and regulations set out in this division shall govern the police department.
(Code 1975, § 15-15; Code 2002, § 46-51)

Sec. 46-52. Members to be familiar and comply with division and chief's rules and regulations.

All members of the police department shall thoroughly familiarize themselves with the provisions of this division, and shall conduct themselves at all times in accordance with this division and in obedience to all rules and regulations prescribed and promulgated by the chief of police.
(Code 1975, § 15-16; Code 2002, § 46-52)

Sec. 46-53. Outside business activities of members and employees.

Members and employees of the police department shall devote their whole time and attention to the service of the department, except as provided in this section. During their off-duty hours, members and employees of the police department may engage in outside business activities so long as the latter in no way impairs or affects their efficiency or interferes with the performance of their official departmental duties. When engaged in such outside activities, members and employees of the police department shall file with the chief of police a written notice of the character of work engaged in and the place where engaged, and they shall make themselves available and be prepared, at all times, to respond immediately on call if their services are required by the department. It shall be the duty of the chief of police to determine whether such outside activities of any member of the department is impairing or affecting his efficiency or interfering with his official duties, and if so, such member shall be required to

discontinue such activity. Members may engage in work for other city departments whenever authorized by the chief of police.
(Code 1975, § 15-17; Code 2002, § 46-53)

Secs. 46-54—46-70. Reserved.

Subdivision II. Chief of Police

Sec. 46-71. Director of department.

The chief of police shall be the director of the police department subject to the rules and regulations of this division, and shall devote his full time and attention to the management of the department.
(Code 1975, § 15-24; Code 2002, § 46-71)

Sec. 46-72. Government of department; instruction of members.

The chief of police shall be responsible for the government, efficiency and general good conduct of the police department, and shall supervise the instruction of the members of the department in their duties.
(Code 1975, § 15-25; Code 2002, § 46-72)

Sec. 46-73. Rules and regulations generally; role with respect to grievances and conduct of members.

(a) The chief of police shall have the power to prescribe, promulgate and enforce rules and regulations for the government of the members and employees of the police department, which shall be approved by the city manager and filed with the city clerk, the city manager and the civil service commission. Each member of the department then shall be assumed to have knowledge of and shall become subject to such rules.

(b) All grievances, disputes and other controversies in which a member of the police department may be involved shall be first directed or brought to the attention of the chief of police for investigation and disposition, and no such matter shall be referred to, or given attention by, any other authority, unless such matter has been so brought to the attention and disposition thereof made by the chief of police. Observance of this rule by all members of the department at all times being deemed essential to the discipline of the members and the satisfactory conduct of the work of the department, violation of this rule shall be cause for immediate suspension of a member offending in such regard. No member shall report to anyone, other than the chief of police, upon the conduct, deportment or efficiency of any member or employee of the department, and it shall be the sole duty of the chief of police to make reports upon or reply to questionnaires regarding the conduct, deportment or efficiency of any member or employee of the department.
(Code 1975, § 15-26; Code 2002, § 46-73)

Sec. 46-74. Duty to enforce laws, procure evidence, keep prosecutors informed.

It shall be the duty of the chief of police to cause the public peace to be preserved and to enforce the laws of the state, the ordinances of the city and the rules of the city manager and the city commission, of all of which the police department takes cognizance. Whenever any violation thereof shall come to his knowledge, the chief of police shall cause the requisite complaint to be made and procure the evidence for the successful prosecution of the offender. The chief of police shall keep the city attorney and the prosecuting officers of the county informed of all matters that pertain to their several offices.
(Code 1975, § 15-27; Code 2002, § 46-74)

Sec. 46-75. Appointment and punishment of members.

The chief of police shall make all appointments in the police department subject to the confirmation of the city manager, following certification of the eligible person by the civil service commission, except that emergency appointments may be made for a period not exceeding 60 days. The chief of police may punish, by discipline, demotion, fine, suspension or dismissal, any member of the department who shall be guilty of any violation of the rules and regulations of the department. The chief of police shall immediately, in writing, notify the city manager and civil service commission of his action, specifying the offense and the reason for such punishment, and further report to the city manager and civil service commission, in

writing, all violations of the rules and regulations or disobedience of orders, as prescribed in this division, by the members and employees under his command.
(Code 1975, § 15-28; Code 2002, § 46-75)

Sec. 46-76. Duty to keep records and make reports.

The chief of police shall cause to be kept such books and records as may be specifically required by ordinance and shall report to the city manager semiannually the number of arrests and convictions made during such time, together with the causes of arrests made, and the chief of police shall give such other information to the city manager as may be required from time to time. The chief of police shall also cause to be made and kept such other books and records of the proceedings of the department as he may deem necessary.
(Code 1975, § 15-29; Code 2002, § 46-76)

Sec. 46-77. Custody of all department property.

The chief of police shall have the custody and control of all books, records, machines, tools, implements, apparatus or equipment of every kind necessary for use in the police department, and of all public property pertaining thereto.
(Code 1975, § 15-30; Code 2002, § 46-77)

Sec. 46-78. Written orders.

The chief of police shall give all important orders in writing and keep a record of such written orders, and it shall be the duty of the entire force to render to him and his orders, either written or oral, unquestioned obedience. All such orders must be in conformity with the law and the rules and regulations of this division.
(Code 1975, § 15-31; Code 2002, § 46-78)

Sec. 46-79. Duty to report incompetency or resignation of department member.

The chief of police shall promptly report to the city manager and civil service commission any officer or member or employee of the police department who, by reason of age, disease, accident or other incompetency, does not or cannot fully, energetically, promptly and properly perform his full duty. The chief of police shall report, in writing, the resignation of any member of the department or notice of intended resignation, transmitting such report to the city manager and civil service commission.
(Code 1975, § 15-32; Code 2002, § 46-79)

Sec. 46-80. Power to detail members.

The chief of police shall have the power to detail any member of the police department to perform any service at any time if the good of the department shall so demand.
(Code 1975, § 15-33; Code 2002, § 46-80)

Sec. 46-81. Power to make rules pertaining to release on bond of persons arrested without warrant.

The chief of police is hereby authorized to make such rules and regulations as shall be necessary for the release, on bond, of persons arrested without a warrant for the violation of any city ordinance, in keeping with the provisions of Public Act No. 44 of 1961 (MCL 750.581 et seq.).
(Code 1975, § 15-34; Code 2002, § 46-81)

Secs. 46-82—46-100. Reserved.

Subdivision III. Secretary

Sec. 46-101. Duties.

The secretary of the chief of police shall have supervision of the clerical force in the police department subject to the orders of the chief and shall be responsible for the proper and efficient performance of all duties and services required of the clerical force and the general good order of the clerical force. The secretary shall have such regular hours of duty as are prescribed, shall keep such books and records as may be designated, including the preparation of the department payroll, the compilation of monthly and annual reports and general statistics of the department, conducting the department correspondence, the auditing of department bills, the issuing of requisitions for the purchase of supplies and the mak-

ing of repairs as directed by the chief of police, and shall perform any other duties as required by the chief of police.
(Code 1975, § 15-96; Code 2002, § 46-101)

Secs. 46-102—46-120. Reserved.

Subdivision IV. School Crossing Guards

Sec. 46-121. Duties; identifying clothing; signs.

(a) When school crossing guards are assigned, they shall be stationed at school crossings during the times of day designated by the superintendent of the school district and the chief of police.

(b) When on duty, a school crossing guard shall wear an outer vest of a color and style meeting the standards of the state manual of uniform traffic control devices. The school crossing guard shall also hold a stop sign which conforms to the state manual of uniform traffic control devices for hand-held signs.

(c) When the school crossing guards are assigned at designated school crossings, warning signs shall be erected in conformance with the state manual of uniform traffic control devices.
(Code 1975, § 15-97; Code 2002, § 46-121)

Sec. 46-122. Selection; training; supervision.

(a) School crossing guards shall be selected, trained, and supervised by the city police department.

(b) School crossing guards shall receive not less than four hours of instruction in job-related matters before assuming duties and four hours of annual review thereafter.
(Code 1975, § 15-98; Code 2002, § 46-122)

Sec. 46-123. Failure to obey signal as violation; presumption.

(a) The driver of any vehicle shall obey the instructions of any official traffic control device applicable thereto placed in accordance with the traffic ordinances of the city, unless otherwise directed by a police officer.

(b) The driver of a motor vehicle who fails to stop at a school crossing when a school crossing guard is in the crossing and is holding the stop sign in an upright position visible to approaching vehicular traffic is guilty of a violation of subsection (a) of this section.

(c) In any proceeding for a violation of subsection (b) of this section, proof that the particular vehicle described in the citation, complaint or warrant was in violation of subsection (b) of this section, together with proof that the defendant named in the citation, complaint, or warrant was, at the time of the violation, the registered owner of the vehicle, shall constitute in evidence a presumption that the registered owner of the vehicle was the driver of the vehicle at the time of the violation.
(Code 1975, § 15-99; Code 2002, § 46-123)

Secs. 46-124—46-150. Reserved.

ARTICLE III. JUNK OR ABANDONED PROPERTY

Sec. 46-151. 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:

Junk means any property that does not have any fair market value or worth.

Notice means a notice the police department must send by first class mail to any known legal owner of property of major value to the last known address of record. The notice shall contain the following information:

(1) The date the property was found;

(2) The type of property found;

(3) The address where the property is located;

(4) The cost of storage per day, if any;

(5) A statement that the property must be claimed within six months from the date

of the letter or the property shall be considered abandoned and disposed of under the provisions of this section;

(6) The name of the law enforcement agency, the address and the telephone number where the legal owner can obtain the property.

Property of major value means any property whose fair market value exceeds the total cost of preparing a property report, plus the costs of storage and disposition.

Property of minor value means any property whose fair market value is less than the total cost of preparing a property report, plus the costs of storage and disposition.
(Code 1975, § 15-6; Code 2002, § 46-151)

Sec. 46-152. Disposition of stolen, lost and abandoned property.

(a) All property of major value shall be returned to the legal owner when the police department is reasonably satisfied of that ownership. If the legal owner is not located, after six months from the date the police department takes possession of the property, the property shall be disposed of pursuant to section 46-153.

(b) All property of minor value shall be returned to the legal owner when the police department is reasonably satisfied of that ownership. If, after three months, the property has not been claimed by the legal owner, the property may be disposed of in any manner by the police department.

(c) Stolen, lost or abandoned property that is determined to be junk may be disposed of in any manner by the police department.
(Code 1975, § 15-7; Code 2002, § 46-152)

Sec. 46-153. Disposition of unclaimed property.

(a) Property of major value that is not claimed as provided under section 46-152 shall be disposed of by the police department as follows:

(1) Retain the property for use by the police department or any other city department.

(2) Sell the property at a public sale pursuant to section 46-154 and deposit the money from the sale with the city treasurer to the credit of the city's general fund.

(3) Release the property to a charitable organization as defined in Section 2 of Public Act No. 169 of 1975 (MCL 400.272).

(b) Any police officer disposing of property in the manner provided in this article shall not be liable to the owner thereof.
(Code 1975, § 15-8; Code 2002, § 46-153)

Sec. 46-154. Sale.

(a) The police department shall publish notice in a newspaper of general circulation at least five days before the sale. The notice shall describe the property, including money, it shall state the time and place of public sale at which the property may be purchased by the highest bidder. Until the date of sale, the property, including money, may be claimed at the police office. If ownership is proved, the department shall turn the property, including money, over to the owner and cancel the sale insofar as the claimed property is concerned.

(b) The police department shall conduct such sale and shall deposit the proceeds of the sale, after deducting the costs of the sale, with the city treasurer to the credit of the city's general fund.

(c) If, within six months after the sale, the owner prior to sale of the property, including money, files with the police department a claim for the property, including money, and proves his right to the property, the police department shall direct the city treasurer to pay the money or the amount received for the property to the owner prior to sale. The police department shall not approve any claims filed more than six months after the sale.
(Code 1975, § 15-9; Code 2002, § 46-154)

Secs. 46-155—46-200. Reserved.

ARTICLE IV. MUNICIPAL CIVIL INFRACTIONS*

Sec. 46-201. 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 person authorized by this Code or any ordinance to issue municipal civil infraction citations or municipal civil infraction violation notices. The term "authorized city official" includes the following, in addition to police officers:

(1) City inspectors and all persons carrying on the inspection function under construction codes enforced in the city from time to time as well as any other codes or ordinances concerning the condition of property such as, but not limited to, the property maintenance code and the state construction code, and also including the director of neighborhood and construction services, the city building official or any successor department.

(2) All personnel designated as zoning and planning enforcement personnel, including, but not limited to, the zoning administrator, the director of planning or the director of community and economic development.

(3) The fire chief, the fire marshal, and all enforcement personnel who are employees of the fire department.

(4) Any persons employed to monitor or enforce or administer any park, marina or cemetery ordinances or rules, including park rangers, park supervisor, park interns, lifeguards, park maintenance staff, the cemetery forestry supervisor, cemetery maintenance staff, recreation supervisor, the youth/recreation coordinator, the harbor master, the marina staff, together with the director of the department of leisure services.

(5) The city clerk and any deputy clerk.

(6) The director, chief supervisor, safety and services supervisor, special operations supervisor, and resources and recycling coordinator, in the department of public works.

(7) The city engineer and the permit engineer, in the engineering department.

Bureau means the city municipal ordinance violations bureau as established by this article.

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 revised judicature act of 1961 (MCL 600.8396, 600.8707(6)).
(Code 1975, § 25-1; Code 2002, § 2-201)

Sec. 46-202. Issuance or service of citations.

The issuance by authorized city officials, service by authorized city officials and contesting of municipal civil infraction citations shall comply with state law.
(Code 1975, §§ 25-2, 25-3; Code 2002, § 2-202)

State law references—Issuance and service of citations, MCL 600.8707; contesting civil infractions, MCL 600.8715 et seq.

Sec. 46-203. Municipal ordinance violations bureau.

(a) *Bureau established.* The city hereby establishes a municipal ordinance violations bureau ("bureau") as authorized under section 8396 of the revised judicature act of 1961 (MCL 600.8396) to accept admissions of responsibility of municipal civil infractions in response to municipal civil infraction violation notices issued and served by

*__State law reference—__Municipal civil infractions, MCL 600.8701 et seq.

authorized city officials, and to collect and retain civil fines and costs as prescribed by this Code or any ordinance.

(b) *Location; supervision; employees; rules and regulations.* The bureau shall be located at Muskegon City Hall, 933 Terrace Street, City of Muskegon, Michigan, and shall be under the supervision and control of the city treasurer. The city treasurer, subject to the approval of the city manager, 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 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 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 rights, 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 in this article. In addition to any other information required by this Code or 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 filed with the court does not need to comply in all particulars with the requirements for citations as provided by sections 8705 and 8709 of the revised judicature act of 1961 (MCL 600.8705, 600.8709), but shall consist of a sworn complaint containing the allegations stated in the municipal ordinance violation notice and shall fairly inform the alleged violator how to respond to the citation.

(Code 1975, § 25-5; Code 2002, § 2-203)

State law reference—Ordinance violation notice, MCL 600.8707(6).

Sec. 46-204. Schedule of civil fines established.

(a) A schedule of civil fines payable to the bureau for admissions of responsibility by persons served with municipal ordinance violation notices is established by this article. The schedule shall be as follows:

Section	*Subject*	*First Offense*	*First Repeat**	*Second Repeat***
6-2	Animals	$100.00	$200.00	$500.00
10-31	Construction codes	100.00	250.00	500.00
10-63, 10-102	Dangerous buildings	100.00	250.00	500.00
10-131	Demolition of buildings	100.00	250.00	500.00
10-225	Moving of buildings	100.00	250.00	500.00
10-282	Property maintenance code	100.00	250.00	500.00
14-32	Cemeteries	100.00	250.00	500.00
22-35	Defective alarm systems	100.00	250.00	500.00
26-32	Noise	100.00	250.00	500.00
26-213	Point-source groundwater discharges	100.00	250.00	500.00
30-194	Fire codes	100.00	250.00	500.00
30-222	Recreational fires	100.00	250.00	500.00
34-35	Smoking	25.00	50.00	100.00
34-64	Water supplies	100.00	250.00	500.00
34-113	Medical marihuana	100.00	250.00	500.00
38-120	Historic districts	100.00	250.00	500.00
42-32	Fair housing	200.00	300.00	500.00
50-2	Business license	100.00	250.00	500.00
50-72	Dances and dance halls	100.00	250.00	500.00
50-203	Electronic filing requirement—pawn shops	100.00	250.00	500.00
54-4	Spitting in public	100.00	250.00	500.00
54-31	Theft of cable television services	100.00	250.00	500.00
54-32	Damaging, removing or defacing property	100.00	250.00	500.00
54-214	False impersonation of police officer	100.00	250.00	500.00
54-241	Curfew for underage persons	50.00	100.00	200.00
54-283	Parental responsibility	100.00	250.00	500.00
54-306	Fireworks	100.00	250.00	500.00

Section	*Subject*	*First Offense*	*First Repeat**	*Second Repeat***
58-1	Alcoholic liquors in parks or playgrounds	50.00	100.00	200.00
58-2	Obedience to signs or instructions in parks	50.00	100.00	200.00
58-34	Use of recreational facilities	50.00	100.00	200.00
70-3	Solid waste	100.00	250.00	500.00
74-1	Streets, sidewalks and public property	50.00	100.00	200.00
74-116	Street numbers for buildings	25.00	50.00	100.00
78-34	Subdivisions	100.00	250.00	500.00
90-21	Metropolitan extension telecommunications rights-of-way oversight	100.00	250.00	500.00
92-56	Junk vehicles	100.00	250.00	500.00
94-1	Utilities	100.00	250.00	500.00
98-1	Vegetation	25.00	50.00	100.00
98-38	Noxious weeds	100.00	250.00	500.00
	Zoning	100.00	250.00	500.00

*First repeat means a repeat of the offense by the same person in concert within 24 months of the first offense.

**Second repeat means a repeat of the offense by the same person in concert within 24 months of the first repeat offense.

(b) A copy of the schedule, as amended from time to time by ordinance, shall be posted at the bureau. (Code 1975, § 25-6; Code 2002, § 2-204; Ord. No. 1191, 6-8-1999; Ord. No. 1196, 8-10-1999; Ord. No. 2003, 9-14-1999; Ord. No. 2038, § 12-59, 12-12-2000; Ord. No. 2048, § 3, 8-14-2001; Ord. No. 2312, 5-14-2013)

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ARTICLE I. IN GENERAL

Sec. 50-1. 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:

Business activity means any act of buying, selling, leasing, renting, or otherwise marketing, any goods, services, merchandise or commodities of any kind or description, whether or not conducted from a business establishment.

Business establishment means any lot, building or structure, or a part thereof, including, without limitation, leased or occupied space in a mall, store or building, permanently located within the corporate limits of the city, from which a person engages in or causes to be engaged in any act of buying, selling, leasing, renting, or otherwise disposing of, performing or marketing, any goods, services, merchandise or commodities of any kind or description.
(Code 2002, § 50-1; Ord. No. 1166, § 1(5-2), 8-11-1998)

Sec. 50-2. Penalties and remedies.

Any person violating any of the provisions of this chapter shall be responsible for a municipal civil infraction. Each day on which any violation of this chapter shall continue shall constitute a separate offense. The city may utilize injunctive remedies to prevent further violations of this chapter and to require compliance with this chapter.
(Code 2002, § 50-2; Ord. No. 1166, § 1(5-17), (5-18), 8-11-1998)

Sec. 50-3. Provisions complementary and supplemental.

The provisions of this chapter, together with other relevant provisions of any other ordinance, or provisions authorized or required by state or federal law relative to business establishments or activity as defined in this chapter, shall be construed to be complementary and supplemental and, unless otherwise prescribed or inconsistent herewith, shall constitute a part of the regulations and conditions of certificates of registration under this chapter.
(Code 2002, § 50-3; Ord. No. 1166, § 1(5-1.2), 8-11-1998)

Sec. 50-4. Moral character.

(a) In this chapter the phrase "good moral character" shall be construed to mean the propensity of the person to serve the public in the licensed area in a fair, honest and open manner.

(b) A judgment of guilt in a criminal prosecution or a judgment in a civil action shall not be used in and of itself as proof of a person's lack of good moral character. It may be used as evidence in the determination and when so used the person shall be notified and shall be permitted to rebut the evidence by showing that:

(1) At the current time he has the ability to, and is likely to, serve the public in a fair, honest and open manner; and

(2) Such person is rehabilitated, or that the substance of the former offense is not reasonable related to the occupation or profession for which he seeks a license or permit.

(Code 2002, § 50-4)

State law reference—Moral character, MCL 338.41 et seq.

Secs. 50-5—50-30. Reserved.

ARTICLE II. REGISTRATION

Sec. 50-31. Purpose.

This chapter, concerning the registration of businesses in the city, is enacted to protect the health, safety and welfare of persons in the city by providing the city with the information necessary to ensure compliance with safety, structure and fire laws, identify business activities and establishments which affect or involve matters related to traffic, congestion, occupancy and density of occupancy, the presence, storage and handling of hazardous materials, the physical condition of places where persons are employed or carry on trade, and the enforcement of the law, including

local, state and federal laws, rules and regulations, applying to the business activities and establishments located in the city.
(Code 2002, § 50-31; Ord. No. 1166, § 1(5-1.1), 8-11-1998)

Sec. 50-32. Required.

No person shall operate or conduct, maintain or manage any business establishment, or carry on business activity within the corporate limits of the city without first obtaining a certificate of registration in the manner provided in this chapter. Any person licensed under a similar previous ordinance on the effective date of Ordinance No. 1166 shall be deemed registered hereunder for the balance of the current license year designated in this chapter.
(Code 2002, § 50-32; Ord. No. 1166, § 1(5-3), 8-11-1998)

Sec. 50-33. Application procedure.

An applicant for a certificate of registration shall make application to the city clerk on a form prescribed by the city clerk, which shall contain at least the following information:

(1) The full names, business addresses and residence addresses of the owners, proprietors, officers and local addresses of all owners, proprietors and officers and managers of the applicant's business; the names and addresses of each officer, if the applicant is a corporation; the names and addresses of all partners, if a partnership; and the names and addresses of all members, if a limited liability corporation.

(2) The nature and character of the business which is conducted at the business establishment.

(3) A list of all assumed, trade or firm names under which the registered applicant intends to do business.

(4) The location of the business establishment and the location of all personal property utilized in the conduct of the business.

(5) The name, telephone number and address of the person to notify in the event of an emergency.

(6) Each application shall have attached a current fire safety audit worksheet or a document substituted by the city containing the same information. This form must be approved and signed by the personnel from the city fire department's fire prevention bureau, or successor division or bureau.

(Code 2002, § 50-33; Ord. No. 1166, § 1(5-15), 8-11-1998)

Sec. 50-34. Terms.

Each certificate of registration issued pursuant to this chapter shall be of a duration not to exceed one year and shall terminate on May 1, following issuance thereof.
(Code 2002, § 50-34; Ord. No. 1166, § 1(5-4), 8-11-1998)

Sec. 50-35. Renewal.

(a) Any certificate of registration issued under this chapter must be renewed in the manner set forth in this article on or before May 1 of each year of existence of the business establishment or activity.

(b) Applications for renewal of a certificate of registration shall be filed, considered and issued in the same manner as an original application.
(Code 2002, § 50-35; Ord. No. 1166, § 1(5-5), (5-16), 8-11-1998)

Sec. 50-36. Fees.

The fee for a certificate of registration and the fees for annual renewals thereof shall be set from time to time by resolution of the city commission. The city commission reserves the right, upon proper application, to authorize the issuance of certificates of registration without fee or cost for any nonprofit tax exempt organization. Registration fees not paid within 30 days of the due date will be subject to a late fee of $15.00 per month for each month up to a maximum of six months, at which time all fees and late fees are due and then

a municipal civil infraction violation may be issued each day thereafter until the registration is submitted and fees are paid.
(Code 2002, § 50-36; Ord. No. 1166, § 1(5-6), 8-11-1998)

Sec. 50-37. Display.

Any certificate of registration issued pursuant to this chapter shall be prominently displayed in the business establishment.
(Code 2002, § 50-37; Ord. No. 1166, § 1(5-7), 8-11-1998)

Sec. 50-38. Transferability.

No certificate of registration issued pursuant to this chapter shall be transferable. Material changes in operation or ownership of businesses shall require new certificates of registration.
(Code 2002, § 50-38; Ord. No. 1166, § 1(5-8), 8-11-1998)

Sec. 50-39. General conditions for issuance and continuing in effect.

(a) *Compliance with other governmental requirements; preemption.* No certificate of registration shall be issued or continued in effect for any person who is required to obtain a license or permit from the United States of America, the state, or the county, until such person shall submit evidence that the required license or permit has been issued and continues in force, and that all fees pertaining to such license or permit have been paid. The fact that a person has received a license or permit from the United States, the state, the county, or other governmental entity for the business activities or establishment involved shall not exempt such person from the requirements of this chapter unless these requirements are clearly preempted by federal or state law.

(b) *Compliance with all other laws.* A holder of a certificate of registration must be in continuing compliance with all local, county, state and federal laws as a condition of issuance or continued effect of a certificate of registration under this chapter.

(c) *Conditions and activities on the premises.* The holder of a certificate of registration shall maintain a clean, neat and orderly establishment, take reasonable steps to provide security on the premises, and prevent unlawful conduct thereon.

(d) *Advertising sales as executors, receivers, close-out, damaged goods, etc.* No person shall advertise or represent that any sale is an assignee's, executor's, administrator's, personal representative's, mortgagee's, receiver's, or closing-out sale of goods, or of goods, wares and merchandise damaged by fire, smoke, water or otherwise, unless he shall at the time of applying for a license, make and file with the city clerk an affidavit showing all facts in regard to the sale which he proposes to conduct, including a true statement of the names of the persons from whom the goods to be sold were obtained, the date of the delivery of such goods to the licensee, the place from which such goods were brought, and all details necessary to fully identify the goods.

(e) *Engaging in fraudulent conduct.* A certificate of registration may be revoked if the holder is found to have engaged in fraudulent business practices, misrepresented the nature of the goods or services offered to the public, or has violated the consumer protection act of the state, the retail installment sales act of the state, or any other federal or state statute or law concerning business practices.

(f) *Payment of amounts owed city.* All personal property taxes and outstanding debts to the city, including, without limitation, fees for inspections or property services, water or sewer bills, municipal civil infraction fines applicable to the business or its premises, current special assessment installments, but not including real property or income taxes, due at the time of issuance or renewal of a certificate related to the business activity or establishment must be paid in full.

(g) *Standards for licenses.* Particular standards for licensees under this chapter may be determined, pursuant to section 50-40(b), from time to time in the form of regulations adopted by the city commission which shall be appended to the certificate of registration. The violation of such regulations will constitute a violation of this chapter.

(h) *Standards in chapter*. Each holder of a certificate of registration shall comply with the requirements found in additional applicable articles of this chapter.
(Code 2002, § 50-39; Ord. No. 1166, § 1(5-9), 8-11-1998)

Sec. 50-40. Additional conditions for issuance.

(a) *Compliance with applicable codes and regulations*. Any person applying for or holding a certificate of registration under this chapter shall demonstrate to authorized city personnel that the business establishment registered under this chapter complies with all construction and fire and safety codes of the city, all applicable health and safety laws, zoning laws and environmental laws and regulations of the city, the county, the state, or the United States, and including all provisions of this chapter. Further, affiant shall comply with special conditions promulgated pursuant to subsection (b) of this section.

(b) *Special conditions*. In connection with the registrations pursuant to this chapter, regulations which are particularly adapted and appropriate to the business activity or establishment so registered shall be promulgated by the city, approved by the city commission, and attached to or printed upon the registration issued. Such attachments and adoptions shall not be required for codes, ordinances and other regulations of general applicability which are in effect from time to time in the city and which affect the registered business. These regulations shall be uniform for all businesses of the same type and description.
(Code 2002, § 50-40; Ord. No. 1166, § 1(5-13), 8-11-1998)

Sec. 50-41. Inspections.

Every business establishment registered shall afford authorized personnel from the city full access to the premises and the emergency plan records of the business for the purpose of inspection to determine compliance with the registration which has been issued, for determination in connection with the application for the issuance of the registration, and to determine continuing compliance with all ordinances, codes and statutes applicable to the premises, the business establishment or the business activity. In the case of a proposed revocation or suspension, the holder of the registration shall afford reasonable opportunity for inspection by the city.
(Code 2002, § 50-41; Ord. No. 1166, § 1(5-14), 8-11-1998)

Sec. 50-42. Use of streets for business purposes.

Certificates of registration issued under this chapter or other ordinances shall not be construed as granting the right to park a vehicle at the curb for a longer period than is necessary to make deliveries. Persons who wish to sell or demonstrate articles while parked at the curb, or who desires to use the streets exclusively for their business, except as otherwise provided in this Code, shall make application to the city.
(Code 2002, § 50-42; Ord. No. 1166, § 1(5-10), 8-11-1998)

Sec. 50-43. Denial, revocation and suspension.

Holders of a certificate of registration applied for under this chapter may be denied, suspended, or revoked by the city clerk for any of the following causes:

(1) The violation of any of the conditions of issuance or continuation of a certificate of registration.

(2) Fraud, misrepresentation or any false statement made in the application.

(3) Fraud, misrepresentation or any false statement made in the operation of the business.

(4) Failure to pay personal property taxes, or timely file documentation or returns required for such taxes.

(5) Failure to pay any outstanding amounts owed the city (such as fees for inspections or property services, water or sewer bills, municipal civil infraction fines applicable to the business or its premises, current special assessment installments, etc.).

(6) Failure to pay registration fees imposed pursuant to this chapter and resolution of the city commission.

(7) Conducting a business in an unlawful manner or in such manner as to constitute a breach of peace or to constitute a menace to the health, morals, safety or welfare of the public.

(8) Failure or inability of an applicant to meet and satisfy any of the requirements and provisions of this chapter.

(9) Failure to allow inspection of the business premises or hazardous material storage records at a reasonable time.

(Code 2002, § 50-43; Ord. No. 1166, § 1(5-11), 8-11-1998)

Sec. 50-44. Procedure for revocation or suspension.

(a) Written notice of suspension or revocation stating the cause therefor shall be personally delivered or mailed to the address as shown in the application.

(b) Any person whose certificate or registration is revoked or suspended, or any person whose application is denied, shall have the right to a hearing before the city manager, or a hearing officer appointed by the city manager, provided a written request therefor is filed with the city clerk within ten days following the mailing of a notice of revocation or suspension, or within ten days following the denial of the application. The hearing shall be public, a record shall be made and preserved, and the person or applicant shall have the right to counsel. The hearing shall be held within 30 days of the filing of the request.

(c) The city manager may reverse or affirm any determination to deny, revoke or suspend the issuance of a certificate of registration. No person may carry on or operate a business establishment or any business activity during any time when the certificate of registration for such activity or business has been suspended, revoked or denied, except that the filing of an appeal to the city manager or, subsequently, to a court having jurisdiction, shall act to stay a suspension or revocation except in the event a condition threatening the life, health or safety of any person exists in the business establishment or is involved in the business activity. The action of the city manager and his reasons therefor shall be stated in writing.

(d) Any person aggrieved after decision by the city commission designee shall have the right of review in the circuit court for the county. The circuit court shall review the determination made by the city manager de novo on the record, not more than 21 days after the city manager's final action, and either reverse or affirm by remand for further findings, retaining jurisdiction in its discretion.

(Code 2002, § 50-44; Ord. No. 1166, § 1(5-12), 8-11-1998)

Secs. 50-45—50-70. Reserved.

ARTICLE III. DANCES AND DANCE HALLS

Sec. 50-71. 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:

Municipal dance means any teenage dance which is sponsored by the department of leisure services of the city.

Person means any person, copartnership, firm, corporation, society, club, organization or association sponsoring or conducting any public or teenage dance.

Public dance means any dance to which admission is granted by payment of a fee, or by purchase, possession or presentation of a ticket or token, obtained for any consideration, or in which a charge is made for checking clothing or other property, or any other dance to which the general public may gain admission, with or without payment of a fee.

Public dance hall or area means any hall, room or any other place at which a public or teenage dance shall be held.

Teenage dance means any dance where admission is granted exclusively to minors, 13 to 19 years of age inclusive, and to which all such general teenage public may gain admission, with or without payment of a fee.
(Code 1975, § 5-134; Code 2002, § 50-71; Ord. No. 1166, § 1(art. IV), 8-11-1998)

Sec. 50-72. Penalties.

Any person violating the provisions of this article concerning licensing of dances and dance halls shall be responsible for a municipal civil infraction.
(Code 1975, § 5-141; Code 2002, § 50-72; Ord. No. 1166, § 1(art. IV), 8-11-1998)

Sec. 50-73. Application of article.

The provisions of this article are intended to apply to public and teenage dances, and such provisions shall not apply to any dances given in private homes or by any religious, charitable, fraternal or other society, association or organization, where the attendance is restricted to the members of such religious, charitable, fraternal or other society, association or organization. Municipal dance sponsors, or the sponsors of any public or teenage dance, when such dance is sponsored by any of the public or parochial schools of the city, or the student bodies thereof, or by religious or charitable organizations, including the YMCA and YWCA, shall be exempted from paying any license fee as required in section 50-74, but shall be required to make application as stated in section 50-74 and shall be subject to all other restrictions, limitations and provisions contained within this article.
(Code 1975, § 5-135; Code 2002, § 50-73; Ord. No. 1166, § 1(art. IV), 8-11-1998)

Sec. 50-74. Licenses and permits.

(a) It shall be unlawful for any person to hold a public or teenage dance in any place within the limits of the city until such place in which the dance is to be held shall first be licensed for that purpose. The owner, operator or sponsoring organization of such public or teenage dance or public dance hall shall apply to the city clerk for a license, which application shall be made in the form and manner required by the city clerk. Before any license is granted, the application shall be approved by the chief of police and the city manager.

(b) Upon the approval of the application for a license under this section by the chief of police and the city manager, the applicant shall pay to the city treasurer the sum specified by resolution of the city commission for each and every public or teenage dance conducted or held by the applicant, which fee shall be paid to the city treasurer at least one day previous to the day on which any such dance is to be conducted or held, or the applicant shall pay the annual fee as prescribed by resolution of the city commission. Any annual license issued under this article shall expire on April 30 following the issuance of such annual license.

(c) No license for any public or teenage dance or dance hall shall be issued until the city manager, or other duly authorized city officials appointed by the city manager, shall inspect the premises and determine that such place where the dance is to be held complies with and conforms to all ordinances and health and fire regulations of the city, and that such place is properly ventilated and supplied with adequate toilet conveniences, and is a safe, sanitary and proper place for the purposes for which it is to be used.

(d) Upon the approval of the application for a license under this section, the city clerk shall issue the license and the person in charge of conducting or sponsoring the public or teenage dance shall post the license in a conspicuous place in or about the area in which the dance is to be held.

(e) The license for any public or teenage dance or dance hall may be suspended or revoked by the city manager for disorderly or immoral conduct therein, or for the violation of any of the provisions set forth in this article, or in any ordinance, law or regulation affecting such dance hall or dance; and such dance hall may be entered for inspection at any time by the city manager or any member of the police department or any other person duly authorized by the city manager for that purpose. Any police officer may cause any such dance to be discontinued and the dance hall

vacated during the progress of the dance for any reason for which a license may be suspended or revoked, and if any license granted under the provisions of this section shall be suspended or revoked as provided in this article, at least six months shall lapse before another license is issued to the person having made application therefor.

(f) It shall be unlawful for any person to hold any public or teenage dance in any place other than one licensed for such purpose, without having first obtained a permit therefor from the city manager, and no person having been granted such license, who fails to enforce at such dances the requirements of any statute or ordinance relative to such dances and public dance halls, shall be granted a second permit within six months from the date of such dance. Any failure or neglect, on the part of a manager, proprietor or other person in charge of any place used for such dances, to secure the required license or permit shall be subject to the penalty provided in section 50-72. Failure of the owner of the premises upon which such dance is held to ascertain that the license has been issued to the sponsoring organization shall subject such owner to the same penalties as provided in this section.

(Code 1975, § 5-136; Code 2002, § 50-74; Ord. No. 1166, § 1(art. IV), 8-11-1998)

Sec. 50-75. Floor manager; prohibited conduct.

Whenever any public or teenage dance is conducted in the city, a floor manager shall be present at all times, as well as other adult supervision to be determined and approved by the chief of police upon his investigation of the application for the license under this article. No licensee, by himself, directly or indirectly, or by any servant, agent, employee or floor manager, shall:

(1) Permit any disorderly conduct or any language that will cause an immediate breach of the peace.

(2) Permit the licensed premises to become a resort for disorderly persons of any type.

(3) Permit smoking in the area designated for dancing.

(4) Permit gambling or the use, possession or presence of gambling paraphernalia on the premises.

(5) Permit overcrowding in the area designated for dancing. For purposes of this subsection, the term "overcrowding" shall mean any number of persons in excess of the maximum number approved for the hall or place by the city fire department.

(6) Permit any person under the influence of intoxicating liquor or narcotics to participate in, be admitted to, or remain on the premises.

(7) Employ any person who is under the age of 18 years.

(8) Permit the possession or use of any alcoholic liquor on the premises, nor shall the licensed premises be accessible in any way to any place where alcoholic liquor is sold, distributed or given away. This prohibition shall not apply while a state liquor commission special beer and wine license is in effect at the licensed premises.

(Code 1975, § 5-137; Code 2002, § 50-75; Ord. No. 1166, § 1(art. IV), 8-11-1998)

Sec. 50-76. Closing hours.

All public dances and public dance halls shall be closed between the hours of 2:00 a.m. and 7:00 a.m. All such dances and dance halls shall be closed on or before 2:00 a.m. on Christmas Day and remain closed until 7:00 a.m. of the following day.

(Code 1975, § 5-138; Code 2002, § 50-76; Ord. No. 1166, § 1(art. IV), 8-11-1998)

Sec. 50-77. General restriction as to admission of persons under 17.

No person under the age of 17 years shall be admitted to or allowed to remain at a public dance or in a public dance hall after 9:00 p.m. of any day, unless accompanied by a parent or legal guardian. This age limitation shall not apply to those

persons licensed to conduct teenage dances, but shall be restricted by the provisions for such teenage dances as stated in this article.
(Code 1975, § 5-139; Code 2002, § 50-77; Ord. No. 1166, § 1(art. IV), 8-11-1998)

State law reference—Children in dance halls serving liquor, MCL 750.141.

Sec. 50-78. Special provisions relative to teenage dances.

All teenage dances shall be subject, in addition to the other restrictive provisions of this article for any public dance or public dance hall, to the following restrictions:

(1) No teenage dance or place where a teenage dance is held shall permit dancing between the hours of 11:00 p.m. and 7:00 a.m., in addition to, and in further limitation of, the closing hours of public dances and public dance halls as provided in section 50-76.

(2) The licensee shall provide proper and adequate adult supervision. Such supervision shall be determined and approved by the chief of police upon investigation of the application for the license.

(Code 1975, § 5-140; Code 2002, § 50-78; Ord. No. 1166, § 1(art. IV), 8-11-1998)

Secs. 50-79—50-100. Reserved.

ARTICLE IV. TRANSIENT BUSINESS ACTIVITIES*

Sec. 50-101. Application and definitions.

This article applies to transient business activities, such as those carried on by persons soliciting funds, providing services, or selling merchandise door-to-door, or in the public, persons temporarily located in malls or shopping centers, parking lots and on vacant lots at various places in the city. The following activities shall be considered transient business activities (even if charitable in nature) and are further defined as follows:

Auctioneer means a person carrying on the business of auctions of tangible personal property, except for an auction house in the city utilized as a permanent establishment for the carrying on of such auctions, or a person operating such an establishment.

Charitable solicitor means a solicitor who goes from place to place, or appears in public, soliciting funds or services on behalf of licensed, registered charitable organizations. A person, in order to qualify as a charitable solicitor, must be able to demonstrate that the charitable organization for which or on whose behalf the charitable solicitor acts is duly licensed or registered by the state, if required by law.

Religious solicitor means a person who carries on the activities of a charitable solicitor, but on behalf of a religious organization duly incorporated or permitted to operate in the state and having one or more established locations or places of worship in the state.

Solicitor means a person who goes from place to place, or house to house, or who stands in any street or public place taking or offering to take orders for merchandise or services to be performed in the future or for the making, manufacturing or repairing of any articles or things. The term "solicitor" does not apply to persons selling or delivering newspapers. The term "solicitor" includes the term "peddler."

Transient merchant means a person who establishes, for a period less than 45 days, a business activity at any location, building or lot.
(Code 2002, § 50-101; Ord. No. 1166, § 1(5-142), 8-11-1998; Ord. No. 2322, § 50-101, 4-22-2014)

Sec. 50-102. Application; activities not covered.

This article shall not apply, nor shall a business registration certificate be required, from the following persons:

(1) Veterans qualifying for a state peddlers license issued by the county clerk pursuant to Public Act No. 359 of 1921 (MCL 35.441 et seq.);

*__State law references—__Transient merchants, MCL 445.371 et seq.; home solicitation sales, MCL 445.111 et seq.; exemption for a veteran's license, MCL 35.441; charitable organizations and solicitations act, MCL 400.271 et seq.; public safety solicitation act, MCL 14.301 et seq.

(2) Newspaper or literature carriers selling or delivering newspapers or literature to subscribers;

(3) Farmers, truck gardeners, or their employees or affiliates, selling merchandise and farm products in established farmers markets;

(4) Persons participating or selling merchandise or food, or advertising, at organized athletic events, conventions, or at community celebrations or events;

(5) School sponsored events.

(Code 2002, § 50-102; Ord. No. 1166, § 1(5-143), 8-11-1998; Ord. No. 2322, § 50-102, 4-22-2014)

State law reference—Veteran's license for peddlers, MCL 400.271 et seq.

Sec. 50-103. Location restrictions.

The city commission may restrict locations of transient business activities or types of such activities by resolution or regulation stating the reasons for such restrictions.

(Code 2002, § 50-103; Ord. No. 1166, § 1(5-149), 8-11-1998; Ord. No. 2322, § 50-103, 4-22-2014)

Sec. 50-104. Registration certificate duration.

An annual license renewed on May 1st of each year.

(Code 2002, § 50-104; Ord. No. 1166, § 1(5-148), 8-11-1998; Ord. No. 2322, § 50-104, 4-22-2014)

Sec. 50-105. Solicitors.

Solicitors shall be required to have a business registration certificate. No such certificate shall be issued for such business activity, however, except where the following requirements are met:

(1) In the event the solicitation is for advance payment of services or merchandise to be delivered later, the solicitor shall deposit with the city clerk a bond, certified check or cash in the amount of $1,000.00 in favor of the city, such bond, check or cash (hereinafter "security") to be available for any claim made by any person who has not received the services or merchandise within the time and in the manner promised by the solicitor. The security shall be conditioned upon performance by the solicitor or the company or entity represented by the solicitor in delivering the services or merchandise in accordance with the agreement. Such security shall remain in full force and effect or retained by the city for a period of 90 days after the expiration of the business registration issued to the solicitor.

(2) All other requirements and information required in connection with the application and issuance of a business registration certificate shall be complied with before issuance.

(3) No solicitor, except a charitable or religious solicitor, shall represent that any monies received from a customer will be devoted to charitable or religious purposes.

(Code 2002, § 50-105; Ord. No. 1166, § 1(5-144), 8-11-1998; Ord. No. 2322, § 50-105, 4-22-2014)

State law references—Home solicitation sales, MCL 445.111 et seq.; refund of down payments, MCL 445.141 et seq.; transient merchants, MCL 445.371 et seq.

Sec. 50-106. Charitable and religious solicitors.

Charitable and religious solicitors shall be required to have a business registration certificate, provided that no fee shall be required for such business registration certificate. The applicant shall show, to the satisfaction of the city, the following:

(1) The charity being represented is fully registered with the state to the extent required by law.

(2) The religious organization meets the standards set forth in the definitions in section 50-101.

(3) Any merchandise or services involved in the solicitation are described in full and examples of such merchandise or services are supplied with the application.

(4) No security shall be required of a charitable or religious solicitor, provided the requirements of this section are met.

(Code 2002, § 50-106; Ord. No. 1166, § 1(5-145), 8-11-1998; Ord. No. 2322, § 50-106, 4-22-2014)

State law reference—Charitable organizations and solicitations act, MCL 400.271 et seq.

Sec. 50-107. Auctioneers.

Auctioneers shall obtain a separate business registration certificate for each auction held in the city. No auction shall be held at the same location for a period of more than three successive days in one period of 12 months, except that the city clerk may, upon reasonable showing by the auctioneer, provide for repeated licenses at a location of a sale of the contents of an estate or large building or property if the city clerk determines that the sale cannot be completed in one period of three successive days.

(Code 2002, § 50-107; Ord. No. 1166, § 1(5-146), 8-11-1998; Ord. No. 2322, § 50-107, 4-22-2014)

State law references—Auctioneers and duties upon sales at auctions, MCL 446.51 et seq.; sale by auction, MCL 40.2328.

Sec. 50-108. Display of business registration certificate.

Every person having a registration certificate under this article shall be required to display such registration certificate upon demand of any other person who is approached as a customer, or upon demand of the city clerk, his assistant, or a city police officer. Failure to carry such registration certificate on the person by any solicitor, whether regular, charitable or religious, shall constitute a violation of this chapter.

(Code 2002, § 50-108; Ord. No. 1166, § 1(5-147), 8-11-1998; Ord. No. 2322, § 50-108, 4-22-2014)

Sec. 50-109. Hours of operation.

No peddler, solicitor, or canvasser shall engage in such business in the city after 8:00 p.m. or sunset, whichever is earlier or before 9:00 a.m.

(Ord. No. 2322, § 50-109, 4-22-2014)

Sec. 50-110. Restrictions.

Peddlers, solicitors, canvassers shall not operate within 1,000 feet of any city approved special event or leased park, unless the vendor has obtained permission from the event sponsor and or lessee. This license also does not allow for the sale of goods or services at any city-owned park/facility or farmer's market without a permit from the city.

(Ord. No. 2322, § 50-110, 4-22-2014)

Sec. 50-111. Special event parking downtown.

Residents and businesses selling parking spaces on their property during a city approved special event in the downtown district are required to obtain a license. At least one ADA compliant restroom facility with a hand washing unit must be made available to the public for the first 50 parking spaces being offered on a parcel and two restroom facilities be available on parcels selling 100 or more parking spaces. The license must be prominently displayed at the entrance to the parking facility and if the number of parking spaces meets or exceeds 50, a sign must be prominently displayed indicating to the public that a public restroom is available.

(Ord. No. 2322, § 50-111, 4-22-2014)

Secs. 50-112—50-130. Reserved.

ARTICLE V. ALCOHOLIC LIQUOR*

DIVISION 1. GENERALLY

Secs. 50-131—50-145. Reserved.

DIVISION 2. LICENSE APPROVAL AND REVOCATION RECOMMENDATIONS†

Sec. 50-146. Applications for issuance or renewal, transfer of ownership or location, or revocation of license to sell beer, wine or spirits—Submission; contents.

Applications for approval by the city of the issuance, transfer of owner or location, or renewal

*__State law reference—__Michigan Liquor Control Code of 1998, MCL 436.1101 et seq.

†__State law reference—__License approval and revocation recommendations, MCL 436.1501.

of any license to sell beer, wine or spirits shall be made to the city commission, in writing, signed by the applicant, and shall contain the following information:

(1) Applications for issuance of a new license, or transfer of an existing license to a new licensee or transfer of an existing license to a new location:

a. The name, age and address of the applicant, in the case of an individual; or, in the case of a copartnership, the persons entitled to share in the profits thereof, in the case of a corporation, the objects for which organized, the names and addresses of the officers and directors, and, if a majority interest in the stock of such corporation is owned by one person or his nominee, the name and address of such person;

b. The citizenship of the applicant, his place of birth, and, if a naturalized citizen, the time and place of his naturalization;

c. The character of business of the applicant, and in the case of a corporation, the object for which it was formed;

d. The length of time such applicant has been in business of that character, or, in the case of a corporation, the date when its charter was issued;

e. The location and description of the premises or place of business which is to be operated under such license;

f. A statement of whether the applicant has made application for a similar or other license on premises other than described in this application, and the disposition of such application;

g. A statement that the applicant has never been convicted of a felony and is not disqualified to receive a license by reason of any matter or thing contained in this article or the laws of the state;

h. A statement that the applicant will not violate any of the laws of the state or of the United States or any ordinances of the city in the conduct of its business;

i. The application shall be accompanied by building and plot plans showing the entire structure and premises and in particular the specific areas where the license is to be utilized. The plans shall demonstrate adequate off-street parking, lighting, refuse disposal facilities and, where appropriate, adequate plans for screening, and noise control;

j. A statement that the applicant is in possession of a certificate of occupancy, as required under city ordinances, permitting occupancy of the licensed premises or of the premises to be licensed;

k. A statement from the applicant and, when applicable, the applicant's transferor that all personal property taxes and other fees and charges lawfully due the city from either applicant or the applicant's transferor are fully paid.

(2) Applications for renewal, if an existing license:

a. The length of time such applicant has been in business of that character, or, in the case of a corporation, the date when its charter was issued;

b. A statement that the applicant has never been convicted of a felony and is not disqualified to receive a license by reason of any in matter or thing contained in this article or the laws of the state;

c. A statement that the applicant will not violate any of the laws of the

state or of the United States or any ordinances of the city in the conduct of its business;

d. A statement that the applicant is in possession of a current certificate of occupancy, as required under city ordinances, permitting occupancy of the licensed premises;

e. A statement from the applicant that all personal property taxes and other fees and charges lawfully due the city from the applicant are fully paid.

(3) Applications for revocation of an existing license:

a. The name and address of the applicant;

b. The name and address of the licensee and the location of the licensed premises;

c. A statement of the reasons why the city commission should recommend revocation of the license.

(Code 1975, § 5-270; Code 2002, § 50-146)

Sec. 50-147. Same—Standards to be applied by the city commission in approving or denying applications.

The following are standards which shall govern the city commission in granting or denying any application for issuance, renewal, transfer to a new licensee or a new location, or revocation of any license to sell beer, wine and spirits:

(1) The applicant, or the partners or shareholders of the applicant, must be of good moral character whose criminal record evidences the applicant's willingness and ability to obey city ordinances, state and federal laws, and the regulations of the state liquor control commission.

(2) The chief of police has recommended granting of the application; provided, however, that the chief of police, in determining whether or not to recommend granting of the application, shall apply as standards in so doing, those standards set forth in this article.

(3) The applicant must demonstrate, upon request of the city manager, that he has sufficient assets for the successful operation of the licensed premises.

(4) The licensed premises has not caused nor will be likely to cause law enforcement problems to the degree or extent that effective law enforcement in the remainder of the city has been, or will be, impaired or denied.

(5) The licensed premises, or premises proposed to be licensed, has in full force and effect a certificate of occupancy as required pursuant to city ordinances.

(6) The applicant or applicant's transferor is current in payment to the city of personal property taxes, assessments, utilities and any other lawful charges due the city.

(7) The licensed premises, or premises proposed to be licensed, has adequate off-street and on-street parking, lighting, refuse disposal facilities, screening, and noise or nuisance control.

(8) The licensed premises, or premises proposed to be licensed, is reasonably harmonious with adjacent land uses and with the attitudes of adjacent residents and property owners; and that the premises have convenient access from abutting roads which are capable of accommodating increased commercial activity.

(Code 1975, § 5-271; Code 2002, § 50-147)

Sec. 50-148. Procedure following objection to issuance, renewal, transfer to new licensee or new location, and request for revocation.

(a) Before filing an objection to the issuance, renewal, or transfer to new licensee or new location, or a request for revocation of a license with the state liquor control commission, the city commission shall serve the licensee, and, when applicable, his transferor, by first class mail, mailed not less than ten days prior to hearing, with notice of a hearing, which notice shall contain the following:

(1) Notice of proposed action;

(2) Reasons for the proposed action;

(3) Date, time and place of hearing;

(4) A statement that the licensee or proposed licensee may present evidence and testimony and confront adverse witnesses.

(b) Following the hearing, the city commission shall submit to the license holder and, when applicable, proposed licensee, and the state liquor control commission, a written statement of the city's findings and determination.
(Code 1975, § 5-272; Code 2002, § 50-148)

Secs. 50-149—50-170. Reserved.

ARTICLE VI. PUBLIC NUISANCES NEAR BUSINESS ESTABLISHMENTS

Sec. 50-171. 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:

Business activity means any action or acts of buying, selling, leasing, renting, or otherwise marketing, any goods, services, merchandise or commodities of any kind or description, whether or not conducted from a business establishment.

Business establishment means any lot, building or structure, or a part thereof, including, without limitation, leased or occupied space in a mall, store or building, located within the corporate limits of the city, from which a person engages in or causes to be engaged in any act of buying, selling, leasing, renting, or otherwise disposing of, performing or marketing, any goods, services, merchandise or commodities of any kind or description.

Nuisance means any act or omission to act on the part of any person or group of people which creates or permits the existence of a situation which annoys, injures or endangers the peace, welfare, order, health or safety of the public in their persons, private property or public property, including public sidewalks, parking lots, streets and alleyways surrounding business establishments within the city. A nuisance results from disorderly and/or dangerous behavior, including, but not limited to, increased noise, loitering, littering, fighting, jostling, roughly crowding, use and/or display of weapons, public intoxication, public indecency, obscene conduct, collecting in crowds for unlawful purposes, or any other disruptive, obnoxious, offensive, threatening or intimidating behavior that contributes to the disturbance of the peace and quiet.

Owner means any person who possesses or has any legal or equitable interest in a business establishment. The term "owner" also means any person who has or exercises control, custody or dominion over any property and/or business establishment. As used in this article, for purposes of notification, the term "the owner," "an owner" or "owner" shall mean the owner/manager indicated on the business registration application filed with the city clerk to obtain a certificate of registration pursuant to section 50-33.

Property means any land, structure, house, building, premises or any part thereof.
(Ord. No. 2245, § 50-171, 7-22-2008)

Sec. 50-172. Findings with respect to disorderly and/or dangerous conduct.

(a) The city determines that whenever repeated instances of disorderly and/or dangerous behavior occur on or near any business establishment, and that business establishment is repeatedly the site of disruptive public behavior, a public nuisance results. Such a public nuisance results from the increased criminal activity that occurs in the neighborhood surrounding the relevant business establishment, the fear engendered in the minds of the public and the disturbance of the peace and quiet of those people living, recreating, shopping and/or doing business in the neighborhood surrounding the business establishment.

(b) A public nuisance is created where a business establishment or its effect on the neighborhood in which it is located is not reasonably harmonious with adjacent land uses and with the attitudes of adjacent residents and property owners. A public nuisance may be one that causes law enforcement problems to the degree that effective law enforcement in the remainder of the city has

been or will be impaired or denied. A finding that a business establishment is a public nuisance is not dependent upon any wrongdoing attributed to the owner, bur rather a showing that the disorderly and/or dangerous conduct continues to exist at the owner's business establishment.
(Ord. No. 2245, § 50-172, 7-22-2008)

Sec. 50-173. Declaration of public nuisance.

(a) Whenever repeated instances of disorderly and/or dangerous conduct, as outlined in section 50-172, occurs on or near any business establishment, the city commission may declare, by resolution, that the business establishment is a public nuisance and order that the nuisance be abated as provided in this article. Such a declaration may occur only after there has been notice given to the owner of the business establishment and the owner has had an opportunity to be heard at a public hearing.

(b) Notice of the public hearing shall be given to the owner and shall consist of personal service or the mailing of a certified letter to the owner at the mailing address indicated on the business registration application filed with the city clerk to obtain a certificate of registration for the business establishment pursuant to section 50-33. The notice shall state the nature of the alleged nuisance and the time, date and location of the hearing. If the notice is served by certified mail, it shall be delivered with a return receipt requested according to the practices of the post office. Receipt of the return receipt card by the city indicating the owner or a representative of the owner has received such notice shall be deemed notice to the owner. It shall not be necessary that the card be returned if the certified mail has been refused or there is other evidence that the owner has received notice. Such notice to an owner shall occur by the said mailing with postmark or personal delivery at least 14 calendar days prior to the date of the public hearing.

(c) The city commission may appoint a hearing officer to conduct the public hearing. The hearing officer, acting in a quasi-judicial capacity, shall make a determination as to whether a public nuisance exists under the standards established by this article. The hearing officer shall make this determination based solely upon the evidence presented at the public evidentiary hearing. In conducting the public evidentiary hearing, the hearing officer shall afford the owner, city personnel, other witnesses, and interested parties an opportunity to present relevant and material evidence and to make arguments as to factual or legal issues. Cross examination of opposing witnesses shall be permitted. The owner may appear in person and be represented by an attorney. Lay representation is not permitted. In conducting its public evidentiary hearing, the hearing officer shall not be bound by the rules of evidence and may admit and give weight to probative evidence of a nature that is commonly relied upon by reasonably prudent individuals in the conduct of their affairs. Irrelevant, incompetent and immaterial evidence and unduly repetitious evidence shall be excluded. A record of said hearing shall be made.
(Ord. No. 2245, § 50-173, 7-22-2008)

Sec. 50-174. Abatement of nuisance and costs; posting; recording and listing of public nuisances.

If the hearing officer determines by a preponderance of the evidence that a business establishment is a public nuisance, the city commission may, by resolution, in addition to any other remedies available to the city at law or in equity, order abatement of the nuisance. The resolution shall state the factual findings and the basis for the decision of the hearing officer in writing.

(1) The abatement process shall be conducted as follows:

a. If it is determined that the business establishment is to be closed temporarily, the city commission shall order that all business activity end and declare that all business activity is prohibited and authorize the police department to prohibit any business activity from occurring at the business establishment for a period of up to 30 days for the first offense, up to 60 days for a second offense committed by the same owner within 12 months from the last day of the first closure, and up to 90 days for a

third offense committed by the same owner within 12 months from the last day of the second closure;

b. Determine that the owner shall be liable for the full cost of any materials and personnel (including police and any other city employees or contractors) involved in ensuring that no business activity occurs at the business establishment; and/or

c. Determine that the costs set out herein shall be a personal debt of the owner and/or assess those costs against the business establishment as a lien as provided for in this article and by law, or both.

(2) The posting, recording and listing of public nuisances shall be as follows:

a. Whenever the city commission shall have ordered a business establishment to be closed temporarily, the police department shall post a notice so stating at each entrance to any building on the property and shall replace any notices that are missing or unreadable.

b. The city clerk shall maintain a list of those business establishments that have been declared to be a public nuisance and of the remedy ordered by the city commission. Immediately upon a declaration of public nuisance as provided for herein, the city clerk shall add the business establishment to the list. A list of such properties shall be available for public inspection at the city clerk's office.

c. No person other than an authorized city employee shall tamper with, damage, alter, destroy or remove any notice posted by the city.

d. The city may, at its discretion, record an affidavit setting forth its findings under this article and the remedies determined to apply to the property at the county register of deeds.

(Ord. No. 2245, § 50-174, 7-22-2008)

Sec. 50-175. Appeal.

(a) An owner aggrieved by any final determination by the city commission under this chapter may appeal the determination to the circuit court within 21 days of the date of the decision.

(b) The circuit court shall review the city commission's decision to determine whether it is in violation of the law, has been procured by fraud, if an abuse of discretion exists, and whether the decision is supported by competent, substantial and material evidence on the record as a whole. The circuit court's review shall be made upon the record made before the hearing officer. It is the responsibility of the appealing party to demonstrate error, and to present and settle the record. The court may return the matter for further hearing, reverse or modify the decision of the city commission, or affirm the same. If the court affirms the action of the city, or modifies it, the court may provide any order or relief it deems appropriate to enforce and aid in the enforcement of this article and the action of the city.

(Ord. No. 2245, § 50-175, 7-22-2008)

Secs. 50-176—50-200. Reserved.

ARTICLE VII. ELECTRONIC REPORTING: PAWN SHOPS, SECONDHAND DEALERS AND PRECIOUS METAL/GEM DEALERS

Sec. 50-201. Purpose of article.

The purpose of this article is to improve the system of reporting to law enforcement officials all items collected by pawn brokers, secondhand dealers and precious metal/gem dealers for the purpose of aiding law enforcement in locating and retrieving stolen property.

(Ord. No. 2311, § 50-201, 5-14-2013)

Sec. 50-202. Electronic filing required.

(a) Pursuant to state statutes, MCL 445.404, 445.405, 446.205 and 445.484, second hand or junk dealers, pawnbrokers, and precious metal and gem dealers are all required to keep detailed records of all articles received during the course of business and to send a copy of all such records to local law enforcement.

(b) All such required reports shall be submitted electronically using the services of an electronic reporting service company selected by the city. All such filings shall comply with all requirements regarding the specific information to be supplied and time frame for doing so, as outlined within the applicable state statute. Each transaction report shall include a digital photograph of the article attached to the electronic transfer.
(Ord. No. 2311, § 50-202, 5-14-2013)

Sec. 50-203. Penalty.

If a pawn broker, secondhand or junk dealer, or a precious metal/gem dealer does not comply with this article and/or any applicable state law, their license may be revoked for a period of up to one year. In addition, violation of this article shall result in the imposition of a civil fine, pursuant to section 46-204.
(Ord. No. 2311, § 50-203, 5-14-2013)

Secs. 50-204—50-300. Reserved.

ARTICLE VIII. MOBILE FOOD VENDING ORDINANCE

Sec. 50-301. 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:

Mobile food stand means a stand which may upon issuance of a license by the city clerk and conformance with the regulations established by this article may temporarily park and engage in the service, sale, or distribution of ready to eat food for individual portion service to the general public directly from the stand.

Mobile food trailer means a vehicle which may upon issuance of a license by the city clerk and conformance with the regulations established by this article may temporarily park and engage in the service, sale, or distribution of ready to eat food for individual portion service to the general public directly from the trailer.

Mobile food vehicle means a motorized vehicle which may upon issuance of a license by the city clerk and conformance with the regulations established by this article may temporarily park and engage in the service, sale, or distribution of ready to eat food for individual portion service to the general public directly from the vehicle.

Mobile food vehicle vendor means the registered owner of a mobile food vehicle or the owner's agent or employee; and referred to in this article as "vendor".
(Ord. No. 2321, § 50-301, 4-22-2014)

Sec. 50-302. Scope.

The provisions of this article apply to mobile food vehicles/trailers/stands engaged in the business of cooking, preparing and distributing food or beverage with or without charge upon or in public and private restricted spaces. This article does not apply to vehicles which dispense food and that move from place to place and are station in the same location for no more than 15 minutes at a time, such as ice cream trucks.
(Ord. No. 2321, § 50-302, 4-22-2014)

Sec. 50-303. License required.

(a) It shall be unlawful for any person, including any religious, charitable or nonprofit organization, to operate within the city a mobile food vehicle/trailer/stand without having obtained from the city clerk a license for that purpose.

(b) A person desiring to operate a mobile food vehicle/trailer/stand shall make written application for such license to the city clerk. The application for a license shall be on forms provided by the city clerk.

(c) Proof of insurance in the amount of $1,000,000.00 naming the city as additional insured must be provided.

(d) All vendors receiving a license under this article shall pay the monthly fee as set by the fee resolution.

(e) A license is valid for one vehicle/trailer/stand only and shall not be transferred between vehicles.
(Ord. No. 2321, § 50-303, 4-22-2014)

Sec. 50-304. Regulations.

(a) No operator of a mobile food vehicle/trailer/stand shall park, stand or move a vehicle and conduct business within areas of the city where the license holder has not been authorized to operate. The city commission shall by resolution identify those streets and public areas where parking by mobile food vehicles/trailers/stands is permitted.

(b) The customer service area for mobile food vehicles/trailers/stands shall be on the side of the truck that faces a curb, lawn or sidewalk when parked on a street or right-of-way. No food service shall be provided on the driving lane side of the vehicle/trailer/stand when parked on a street or right-of-way. No food shall be prepared, sold, or displayed outside of mobile food vehicles/trailers/stands when located on a city street or right-of-way.

(c) No mobile food stand may be larger than ten feet by ten feet nor more than 75 square feet in size. A five foot clearance must be maintained on all sides of the stand within the maximum space allotted.

(d) Customers shall be provided with single service articles such as plastic utensils and paper plates and a waste container for their disposal. All mobile food vehicle vendors shall offer a waste container for public use which the vendor shall empty at its own expense. All trash and garbage originating from the operation of mobile food vehicles/trailers/stands shall be collected and disposed of off-site by the operators each day. Spills of food or food by-products shall be cleaned up, and no dumping of gray water on the streets is allowed.

(e) No mobile food vehicle/trailer/stand shall make or cause to be made any unreasonable or excessive noise. The operation of all mobile food vehicles/trailers/stands shall meet the city noise ordinance, including generators. No loud music, other high-decibel sounds, horns, or amplified announcements are allowed.

(f) Signage is only allowed when placed on mobile food vehicles/trailers/stands. No separate freestanding signs are permitted on city streets, right-of-ways, or city-owned property.

(g) No flashing or blinking lights, or strobe lights are allowed on mobile food vehicles/trailers/stands or related signage when the vehicle/trailer/stand is parked and engaged in serving customers. All exterior lights with over 60 watts shall contain opaque, hood shields to direct the illumination downward.

(h) Mobile food vehicles/trailers/stands when parked on public streets shall be parked in conformance with all applicable parking restrictions, and shall not hinder the lawful parking or operation of other vehicles.

(i) A mobile food vehicle/trailer/stand shall not be parked on the street between the hours of 3:00 a.m. and 6:00 a.m. or left unattended and unsecured at any time. Any mobile food vehicle/trailer/stand found to be unattended shall be considered a public safety hazard and may be ticketed and impounded.

(j) A vendor shall not operate within 1,000 feet of any city approved special event or leased park, unless the vendor has obtained permission from the event sponsor and or lessee. This license also does not allow for the sale of goods or services at any city-owned park/facility or farmer's market without a permit from the city.

(k) The issuance of a mobile food vehicle/trailer/stand license does not grant or entitle the vendor to the exclusive use of any service route or parking space to the license holder.

(l) A vendor shall not operate on private property without first obtaining written consent to operate from the affected private property owner. A private property owner shall not permit parking by a mobile food vehicle/trailer/stand until a license has been obtained to allow for such use.

(m) No mobile food vehicle/trailer/stand shall use external signage, bollards, seating or other equipment not contained within the vehicle when parked on city streets or right-of-ways. When extended, awnings for mobile food vehicles/trailer/stand shall have a minimum clearance of seven feet between the ground level and the lowest point of the awning or support structure.

(n) Any power required for the mobile food vehicle/trailer/stand located on a public way shall be self-contained and a mobile food vehicle/trailer/stand shall not use utilities drawn from the public right-of-way. Mobile food vehicles/trailers/stands on private property may use electrical power from the property being occupied or an adjacent property, but only when the property owner provides written consent to do so. All power sources must be self-contained. No power cable or equipment shall be extended at or across any city street, alley sidewalk, or right-of-way.

(o) Mobile food vehicles/trailers/stands shall not be parked within 150 feet of an existing brick and mortar restaurant during the hours when such restaurant is open to the public for business, or closer than 50 feet from another approved mobile food vehicle/trailer/stand unless the vendor has obtained permission from the restaurant. (Ord. No. 2321, § 50-304, 4-22-2014)

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RESERVED

Chapter 54

OFFENSES AND MISCELLANEOUS PROVISIONS*

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ARTICLE I. IN GENERAL

Sec. 54-1. Illegal occupation or business—Prohibited; penalty.

No person shall engage in an illegal occupation or business.
(Code 1975, § 12-10(a)(3), (b); Code 2002, § 54-1)
State law reference—Similar provisions, MCL 750.167(1)(d).

Sec. 54-2. Same—Loitering.

(a) A person who knowingly and willfully loiters in and about a place where an illegal occupation or business (as prohibited by ordinance and state statute) is being conducted shall be guilty of a misdemeanor.

(b) The term "to knowingly and willfully loiter," as used in this section, is hereby defined as to linger idly, to stand or recline in one place or to move slowly about with full knowledge of such prohibited activity or occupation and with intent to engage or participate in any of such prohibited acts or occupations.
(Code 1975, § 12-10(a)(8), (b); Code 2002, § 54-2)
State law reference—Similar provisions, MCL 750.167(1)(j).

Sec. 54-3. Collecting on streets for unlawful purpose.

All persons who shall collect in crowds upon the streets or in the alleys for an unlawful purpose shall be deemed guilty of a misdemeanor.
(Code 1975, § 18-7; Code 2002, § 54-3)
State law reference—Disorderly persons, MCL 750.167.

Sec. 54-4. Spitting in public.

No person shall spit, expectorate or in any manner deposit upon any sidewalk, or the walks in any park, or on the floor, walls or furniture of any public room, library, office, theatre, hall, opera house, school building, church, hospital, public building, depot, passenger waiting room, or in any passageway in and out of such buildings or any of such places, or in any public conveyance, any phlegm, saliva, spittle, substance, sputum, excretion or discharge from the lungs, throat, mouth or nose. Any person who violates any provision of this section shall be responsible for a municipal civil infraction.
(Code 1975, § 12-4; Code 2002, § 54-4)

Sec. 54-5. False reporting of fires.

Any person who falsely reports the existence of a fire by any method, including, but not limited to, the use of a fire alarm system, telephone, word of mouth, radio transmission, electronic mail or any other method of reporting a fire, shall be guilty of a misdemeanor.
(Code 1975, § 12-28; Code 2002, § 54-6)
State law reference—False fire alarms, MCL 750.240.

Secs. 54-6—54-30. Reserved.

ARTICLE II. OFFENSES INVOLVING PROPERTY RIGHTS

Sec. 54-31. Theft of cable television services; defrauding persons of charges; damaging, tampering with or removing cable television equipment or willfully interrupting services.

(a) The term "cable television service" means any and all services provided by or through the facilities of any cable television system or closed circuit coaxial cable communication system, or any microwave similar transmission service used in connection with any cable television system or other similar closed circuit coaxial cable communication system.

(b) Any person who, with the intent to avoid payment by himself or another person or with the intent to defraud another person of the lawful charge for any cable television service, obtains or attempts to obtain such service for himself or another person, or avoids or attempts to avoid payment by himself or another person, by means of making or using, or attempting to make or use, unauthorized connections, whether physically, electrically, acoustically, inductively or otherwise, or without authority or permission, attaches or attempts to attach any device to any cable, wire, microwave or other component of a cable televi-

sion system duly licensed by this city commission, or to a television set, shall be responsible for a municipal civil infraction.

(c) Any person who sells, rents, lends, offers or advertises for sale, rental or use, any instrument, apparatus, equipment, device, or plans, specifications or instructions for making or assembling such device, for the purpose of making a fraudulent, unauthorized, or nonpermitted connection to a cable television system duly licensed by this city commission in violation of subsection (b) of this section shall be responsible for a municipal civil infraction.

(d) Any person who, without the consent of the owner, willfully tampers with, removes or damages any cable, wire, microwave or other component of a cable television system duly licensed by this city commission, or willfully interrupts the service of such a licensed cable television system without the consent or permission of the owner shall be responsible for a municipal civil infraction.

(Code 1975, § 12-27; Code 2002, § 54-31)

State law references—Theft of cable services, MCL 750.219a; devices used to defraud telecommunication companies, MCL 750.540c.

Sec. 54-32. Damaging, removing or defacing public property; generally.

(a) No person shall destroy, damage, deface or remove any:

(1) Barrier erected to protect any excavation or obstruction in any street, alley or public place, or any light placed as a warning of such excavation or obstruction;

(2) Street sign placed to designate the name of the street, avenue, court or place;

(3) Streetlamp, light post, pole or any of the parts or attachments thereto, or any telephone or telegraph pole, or any wire or appliances thereof;

(4) Device erected by the authority of the city; or

(5) Public property.

(b) No person shall deface or otherwise damage signs erected in public parks, playgrounds, ponds and other public places for the regulation of the use of such areas.

(c) Any person convicted of violating this section shall be responsible for a municipal civil infraction.

(Code 1975, § 12-38; Code 2002, § 54-32)

State law reference—Malicious mischief, MCL 750.377a et seq.

Sec. 54-33. Damaging buildings.

Any person who shall, with sticks, stones or in any manner, willfully break or injure any window, door or other part of any building, whether such building is occupied or not, shall be guilty of a misdemeanor.

(Code 1975, § 12-39; Code 2002, § 54-33)

State law reference—Malicious mischief, MCL 750.377a et seq.

Sec. 54-34. Obscenities on buildings, walls, fences, etc.

(a) No person shall write, print, paint, cut, mark or design on any wall of any room, building or hall, or on any fence, walk or other structure of any kind, or in any public place in the city, any indiscreet, vile or obscene language, words, pictures or representations.

(b) It is hereby made the duty of all police officers, whenever they shall have knowledge of any violation of this section, to notify the owner, occupant or person having control of the premises where such language, word, picture or representation may be to remove such language, word, picture or representation. It shall be unlawful for any person so notified to fail or refuse to remove such language, word, picture or representation within 24 hours after receipt of such notice.

(c) Any person who violates any provision of this section shall, upon conviction, be guilty of a misdemeanor.

(Code 1975, §§ 12-15, 12-26; Code 2002, § 54-34)

Sec. 54-35. Trespass.

(a) It shall be unlawful for any person to willfully enter upon the lands or premises of another, whether publicly or privately owned,

without lawful authority, after having been forbidden to do so by the owner or occupant, or the agent or servant of the owner or occupant, or for any person, being on the land or premises of another, whether publicly or privately owned, upon being notified to depart therefrom by the owner or occupant, or the agent or servant of either, to without lawful authority neglect or refuse to depart therefrom; and all police and other peace officers are hereby authorized to arrest any person detected by them in such unlawful act and to detain such person in custody until the proper complaint can be made against such person.

(b) It shall be unlawful for any person to commit any trespass, as defined in subsection (a) of this section, in or upon any land or buildings owned, occupied or otherwise used by a school within the city, and all persons not having legitimate business in and around the schools located in the city shall be presumed to be trespassing within the meaning of subsection (a) of this section; and all police and other peace officers are hereby authorized to arrest such persons.

(c) No person not a student or employee of any school located in the city, or parent or guardian of any student enrolled therein, shall remain within any school during normal school hours without securing the written permission of the principal or person in charge of such school. The term "student," as used in this subsection, is hereby defined as any person of school age and properly enrolled in the school at which he then is present.

(d) No person not a student, as defined in subsection (c) of this section, or employee of any school located in the city, or parent or guardian of any student enrolled therein, shall remain on any lands owned, occupied or use by any school within the city and adjacent to a school, without securing written permission of the principal or person in charge of such school.

(e) Any person convicted of a violation of this section shall be guilty of a misdemeanor.
(Code 1975, § 12-40; Code 2002, § 54-35)

State law reference—Trespass, MCL 750.546 et seq.

Secs. 54-36—54-60. Reserved.

ARTICLE III. OFFENSES INVOLVING PUBLIC SAFETY

Sec. 54-61. Use of weapons.

(a) No person shall use any revolver, pistol, rifle, shotgun, air gun, spring gun, sling shot or other implement or weapon designed for shooting, hurling or throwing missiles of any kind within the city.

(b) No person occupying or having control of any house, building, lot, yard or premises of any character within the city shall permit in or about such house, building, lot, yard or premises the use of any of the weapons or implements mentioned in subsection (a) of this section; provided that the use of appropriate lands, places or premises for practice in the use of such weapons or implements may be permitted, but only after written application to and authorization of the chief of police and the payment of the license fee required for such operation, if any. Such authorization shall be given upon a showing that public safety will not be endangered and that there will be compliance with all laws and ordinances.

(c) Nothing in this section shall be construed to prevent the police department or any other governmental agency from establishing weapons practice ranges at such place in the city as shall be approved from time to time by the chief of police.

(d) Any person violating any provision of this section shall, upon conviction, be guilty of a misdemeanor.
(Code 1975, § 12-5; Code 2002, § 54-61)

State law reference—Authority to prohibit discharge of firearms preserved, MCL 123.1104.

Sec. 54-62. Placing unwholesome substances in public fountains; improper use of water.

No person shall place or cause to be placed any unclean, impure or unwholesome substance in the watering or drinking fountain nor shall any person take from any such fountain any water for building purposes or for any purpose whatever, except to furnish drink to persons and stock. Any

person who violates the provisions of this section shall, upon conviction, be guilty of a misdemeanor.
(Code 1975, § 12-2; Code 2002, § 54-62)

Sec. 54-63. Abandoned refrigerators and similar containers.

(a) No person shall leave or suffer to remain outside of any building in a place accessible to children any abandoned, unattended or discarded icebox, refrigerator or container of any kind which has an air-tight door or lock which may not be released from the inside of such icebox, refrigerator or container, unless the door or lock is first removed therefrom.

(b) Any person who violates any provision of this section shall, upon conviction, be guilty of a misdemeanor. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such under this section.
(Code 1975, § 12-6; Code 2002, § 54-63)
State law reference—Abandoned or unattended icebox or refrigerator, MCL 750.493d.

Sec. 54-64. Assault and battery; breach of peace.

A person who commits any assault or assault and battery or other breach of the peace shall be guilty of a misdemeanor.
(Code 1975, § 12-10(a)(12), (b); Code 2002, § 54-64)
State law reference—Assaults, MCL 750.81 et seq.

Secs. 54-65—54-90. Reserved.

ARTICLE IV. OFFENSES INVOLVING PUBLIC PEACE AND ORDER

Sec. 54-91. Public intoxication.

A person who is intoxicated in a public place and who is either endangering directly the safety of another person or of property or is acting in a manner that causes a public disturbance shall be guilty of a misdemeanor.
(Code 1975, § 12-10(a)(4), (b); Code 2002, § 54-91)
State law references—Similar provisions, MCL 750.167(1)(e); local public intoxication ordinances, MCL 330.1286.

Sec. 54-92. Disturbing lawful assemblies.

(a) It shall be unlawful for any person to in any manner disturb any school, meeting or congregation lawfully assembled, whether religious, political or otherwise.

(b) Any person who violates any provision of this section shall, upon conviction, be guilty of a misdemeanor.
(Code 1975, §§ 12-22, 12-26; Code 2002, § 54-92)
State law reference—Disturbance of religious meeting, MCL 750.169.

Sec. 54-93. Window peeping.

No person shall look through the window of another person under circumstances that would violate the other person's reasonable expectation of privacy. A person who violates this section shall be guilty of a misdemeanor.
(Code 1975, § 12-10(a)(2), (b); Code 2002, § 54-93)
State law reference—Window peeping, MCL 750.167(1)(c).

Sec. 54-94. Jostling; roughly crowding.

A person who is found jostling or roughly crowding people unnecessarily in a public place shall be guilty of a misdemeanor. The term "jostling" is defined as roughly pushing, shoving or jabbing another person.
(Code 1975, § 12-10(a)(10), (b); Code 2002, § 54-94; Ord. No. 2272, § 54-94, 4-27-2010)
State law reference—Similar provisions, MCL 750.167(1)(l).

Sec. 54-95. Fighting.

A person who engages in quarreling or fighting in a public place shall be guilty of a misdemeanor.

(1) The term "quarreling" is defined as verbally disputing in a heated or angry manner, or arguing or bickering in a contentious manner.

(2) The term "fighting" is defined as engaging in a physical altercation or struggle; physically opposing somebody in battle; strug-

gling in hand to hand combat; coming to exchange blows; or otherwise scuffling or skirmishing physically with somebody.

(Code 1975, § 12-10(a)(11), (b); Code 2002, § 54-95; Ord. No. 2272, § 54-95, 4-27-2010)

Sec. 54-96. Prowling.

(a) No person shall willfully and knowingly prowl or attempt to conceal himself in or about any house, building, yard or other place in the city in the nighttime, without having the express or implied consent of the owner, lessee or other person having responsibility for the control of the premises; provided, however, that prior to arrest for the offense stated in this subsection, a police officer shall afford the person an opportunity to explain his presence and conduct or may request him to leave the area.

(b) The term "prowl," as used in this section, means to move or wander over in a stealthy, secret, furtive or clandestine manner.

(c) A person who violates this section shall be guilty of a misdemeanor.

(Code 1975, § 12-10(a)(13), (b); Code 2002, § 54-96)

Sec. 54-97. Loitering.

A person who willfully and knowingly loiters upon the sidewalks or streets adjacent to or in front of any public hall, church, theater, opera house, hotel, restaurant, tavern or other public building, so as to obstruct or block the free passage of pedestrians or vehicle traffic on a street or sidewalk, shall be guilty of a misdemeanor.

(Code 1975, § 12-10(a)(14), (b); Code 2002, § 54-97)

Sec. 54-98. Disorderly houses.

(a) No person occupying or having the control of any house, building, lot, yard or premises of any character shall permit any indecent, loud, boisterous or improper noise or disturbance in or about such house, building, lot, yard or premises, nor permit persons to congregate in or about such premises in a manner that results in such noise or disturbance, nor permit such premises to be resorted to by tipplers, gamblers, vagrant or other disorderly persons, nor permit in or about such premises any fighting, quarreling or lewd or lascivious conduct.

(b) Any person violating this section shall be guilty of a misdemeanor.

(Code 1975, § 12-11; Code 2002, § 54-98)

Sec. 54-99. Keeping a place of prostitution.

(a) No person keeping, managing or controlling, or who shall assist in keeping managing or controlling, any house, building, hall, barroom, theatre, dance house, room or other place within the city shall permit such place to be resorted to, visited, frequented or resided in by any prostitute, nor permit such place to be resorted to, visited or frequented by any other person who shall then and there behave or conduct himself in an indecent, boisterous, disorderly or improper manner.

(b) Any person who shall violate any provision of this section shall, upon conviction, be guilty of a misdemeanor.

(Code 1975, § 12-12(d), (e); Code 2002, § 54-99)

State law reference—Keeping house of ill-fame, MCL 750.452.

Sec. 54-100. Obscene conduct.

A person who engages in obscene conduct in a public place shall be guilty of a misdemeanor. The term "obscene conduct" is defined as conduct that is offensive to modesty or decency or is otherwise lewd or repulsive as judged by contemporary community standards.

(Code 1975, § 12-10(a)(5), (b); Code 2002, § 54-100; Ord. No. 2272, § 54-100, 4-27-2010)

State law reference—Similar provisions, MCL 750.167(1)(f).

Sec. 54-101. Disorderly conduct.

(a) A person who engages in disorderly conduct shall be guilty of a misdemeanor.

(b) A person commits disorderly conduct if he disturbs the peace or quiet of a neighborhood, family or person by:

(1) Engaging in fighting, violent or seriously disruptive behavior;

(2) Making unreasonable noise;

(3) Using abusive or offensive language or gestures to any person present in a manner likely to provoke immediate physical retaliation by such person;

(4) Making protracted commotion, utterance or display with the intent to prevent the transaction of the business of a lawful meeting, gathering or procession; or

(5) Refusing to obey a lawful order to disperse issued to maintain public safety in dangerous proximity to a fire, a hazard or any other emergency.

(Ord. No. 2272, § 54-101, 4-27-2010)

Secs. 54-102—54-120. Reserved.

ARTICLE V. OFFENSES INVOLVING PUBLIC MORALS

DIVISION 1. GENERALLY

Sec. 54-121. Drug implements.

(a) For purposes of this section, the term "controlled substances" are those defined as such by Article 7 of the Public Health Code (MCL 333.7101 et seq.). The term "knowingly and willfully loiter," as used in this section, is defined as to linger idly, or stand or recline in one place or to move slowly about with full knowledge of the activities and/or occupations prohibited in this section and with intent to engage in any such prohibited activities or occupations, or with intent to purchase or acquire any of such items illegally sold.

(b) The prohibition contained in this section shall not apply to manufacturers, wholesalers, jobbers, 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 so long as the device is not adapted to injection of illegal controlled substances. No person shall possess unless such possession is authorized by the certificate of a licensed medical doctor or osteopathic physician issued within the period of one year:

(1) Hypodermic syringe or needle or any other instrument or implement adapted for the use of controlled substances by subcutaneous injection or intracutaneous injection or any other manner or method of introduction and which is possessed for that purpose.

(2) Any pipe, tube or inhalation device used or adopted for the introduction of controlled substances into the body of a person when possessed for such purpose.

(c) No person shall knowingly and willfully loiter about, frequent or live in any building, apartment, store, automobile, boat, boathouse, airplane or other place of any description whatsoever, where controlled substances, hypodermic syringes, needles or other instruments or implements or empty gelatin capsules are used, sold, dispensed, furnished, given away, stored or kept illegally.

(d) Any person who violates any provision of this section shall, upon conviction, be guilty of a misdemeanor.

(Code 1975, §§ 12-20, 12-26; Code 2002, § 54-121)

State law reference—Drug paraphernalia, MCL 333.7451 et seq.

Sec. 54-122. Loitering in places where liquor is sold without license.

(a) It shall be unlawful for any person to knowingly and willfully loiter or frequent in any house, room, building or other place where intoxicating liquor is sold without a license to sell such liquor.

(b) The term "knowingly and willfully loiter or frequent," as used in this section, is hereby defined as to linger idly, to stand or recline in one place or to move slowly about with full knowledge of the illegal activities and/or occupations set forth in this section and with intent to engage in any of such prohibited activities or occupations, or with intent to purchase or consume any intoxicating liquors illegally sold.

(c) Any person who violates any provision of this section shall, upon conviction, be guilty of a misdemeanor.
(Code 1975, §§ 12-24, 12-26; Code 2002, § 54-122)

Secs. 54-123—54-140. Reserved.

DIVISION 2. PROSTITUTION AND RELATED OFFENSES*

Sec. 54-141. Prostitution prohibited.

No person shall commit an act of prostitution. A person who violates this section shall be guilty of a misdemeanor.
(Code 1975, § 12-10(a)(1), (b); Code 2002, § 54-141)

State law reference—Common prostitutes, MCL 750.167(1)(b).

Sec. 54-142. Solicitation.

(a) No person shall solicit the illegal services of a prostitute. A person who violates this subsection shall be guilty of a misdemeanor.

(b) It shall be unlawful for any person 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 illicit sexual intercourse or to do any other lewd or immoral act. Any person who violates any provision of this subsection shall, upon conviction, be guilty of a misdemeanor.
(Code 1975, §§ 12-10(a)(1), (b), 12-13; Code 2002, § 54-142)

State law reference—Soliciting acts of prostitution, MCL 750.448, 750.449a.

Sec. 54-143. Loitering in place of prostitution.

(a) A person who knowingly and willfully loiters in a house of ill fame or prostitution or place where prostitution or lewdness is practiced, encouraged or allowed shall be guilty of a misdemeanor.

(b) The term "knowingly and willfully loiter," as used in this section, is hereby defined as to linger idly, or stand or recline in one place or to move slowly about with full knowledge of the activities and/or occupations prohibited in this section and with intent to engage in any such prohibited activities or occupations, or with intent to purchase or acquire any of such items illegally sold.

(c) No person shall visit, frequent, reside in or be found in any house of ill fame for the purpose of prostitution or lewdness within the city.

(d) Any person who shall violate any provision of subsection (b) of this section shall, upon conviction, be guilty of a misdemeanor.
(Code 1975, §§ 12-10(a)(7), (b), (f), 12-12; Code 2002, § 54-143)

State law reference—Similar provisions, MCL 750.452.

Sec. 54-144. Keeping house of prostitution.

(a) No person shall keep, manage or control, or assist, directly or indirectly, in keeping, managing or controlling, a house of ill fame for the purpose of prostitution or lewdness within the city.

(b) No person shall keep, manage or control, or assist, directly or indirectly, in keeping, managing or controlling, any place, building, saloon, barroom, theatre, room or rooms resorted to for the purpose of prostitution or lewdness within the city.

(c) Any person who shall violate any provision of this section shall, upon conviction, be guilty of a misdemeanor.
(Code 1975, § 12-12(a), (c), (e); Code 2002, § 54-144)

State law reference—Managing, leasing, etc., house of prostitution, MCL 750.452 et seq.

Secs. 54-145, 54-146. Reserved.

***State law reference—**Prostitution and related offenses, MCL 750.448 et seq.

DIVISION 3. CONTROLLED SUBSTANCES AND PROSTITUTION NUISANCES*

Sec. 54-147. 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:

Owner means any person who possesses or has any legal or equitable interest in a property. The term "owner" also means any persons who have or exercise control, custody or dominion over any property. The term "owner" also means any persons having an ownership interest in a property as disclosed by the records referred to in this division. As used in this article, the term "the owner," "an owner" or "owner" shall mean any and all persons that the city is aware of who have or who may have an ownership interest. Whenever this division provides for notice to the owner, it shall be construed to mean that notice shall be given to all persons having a known ownership interest, and all tenants or occupants reasonably known to the city.

Property means any land, structure, house, building, premises or any part thereof.
(Code 1975, § 12-141; Code 2002, § 26-261)

Sec. 54-148. Penalty.

Whoever violates any prohibition in this division shall be subject to the following minimum criminal penalties which shall be assessed in addition to any other lawful sentence that the sentencing court may impose:

(1) For a first violation, a fine of not less than $175.00 nor more than $500.00.

(2) For a second violation, a fine of not less than $300.00 nor more than $500.00, and imprisonment for not more than 90 days.

(3) For a third or subsequent violation, a fine of not less than $400.00 nor more than $500.00, and imprisonment for not more than 90 days.

(Code 1975, § 12-150; Code 2002, § 26-262)

*__State law reference—__ Public nuisances, MCL 600.3801 et seq.

Sec. 54-149. Findings with respect to drug use and prostitution.

The city determines that whenever repeated use, sale, furnishing, giving or possession of controlled substances or drug paraphernalia occurs on any property or whenever property is repeatedly used for violation of the controlled substances or drug paraphernalia laws or for purposes of prostitution a public nuisance results. Such a public nuisance results from the increased criminal activity that occurs in the neighborhood surrounding the property, increased pedestrian and/or vehicular traffic in the neighborhood surrounding the property, and the disturbance of the peace and quiet of residents living in the neighborhood surrounding the property.
(Code 1975, § 12-142; Code 2002, § 26-263)

Sec. 54-150. Declaration of public nuisance.

(a) Whenever the illegal use, sale, furnishing, giving or possession of controlled substances or drug paraphernalia repeatedly occurs on any property or when any violation of the controlled substances act or the drug paraphernalia laws or any act of prostitution occurs on any property, the city commission may declare, by resolution, that the property is a public nuisance and order that the nuisance be abated as provided in this division. Such a declaration may occur only after there has been notice given to the owner of the property and the owner has had an opportunity to be heard at a public hearing.

(b) Notice of the public hearing shall be given to the owner and shall consist of personal service or the mailing of a certified letter to that owner as indicated by the city assessor's records, the records of the register of deeds of the county and the records of the inspection department. The notice shall state the nature of the alleged nuisance and the time, date and location of the hearing. If the notice is served by certified mail, it shall be delivered with a return receipt requested according to the practices of the post office. Receipt of the return receipt card by the city indicating the owner or a representative of the owner has received such notice shall be deemed notice to the owner. It shall not be necessary that the card be returned if the certified mail has been refused or

there is other evidence that the owner has received notice. Such notice to an owner shall occur by the mailing with postmark or personal delivery at least 14 calendar days prior to the date of the public hearing.

(c) At the public hearing, the city commission, sitting as an administrative body and acting in a quasi-judicial capacity, shall make a determination as to whether a public nuisance exists under the standards established by this division. The city commission shall make this determination based solely upon the evidence presented at the public evidentiary hearing. In conducting the public evidentiary hearing, the city commission shall afford the owner, city personnel, other witnesses, and interested parties an opportunity to present relevant and material evidence and to make arguments as to factual or legal issues. Cross examination of opposing witnesses shall be permitted. The owner may appear in person and be represented by an attorney. Lay representation is not permitted. In conducting its public evidentiary hearing, the city commission shall not be bound by the rules of evidence and may admit and give weight to probative evidence of a nature that is commonly relied upon by reasonably prudent individuals in the conduct of their affairs. Irrelevant, incompetent and immaterial evidence and unduly repetitious evidence shall be excluded.
(Code 1975, § 12-143; Code 2002, § 26-264)

Sec. 54-151. Abatement of nuisance and costs; posting; recording and listing of public nuisances.

(a) If the city commission determines by a preponderance of the evidence that a property is a public nuisance, it may, by resolution, in addition to any other remedies available to the city at law or in equity, order abatement of the nuisance. The resolution shall state the factual findings and the basis for the decision of the city commission in writing.

(b) The abatement process shall be conducted as follows:

(1) If it is determined that all or a portion of the property is to be ordered vacated, the city commission shall order the property vacated and declare that occupancy of all or a portion of the property is prohibited and authorize the police department to prohibit the occupancy of the property by either padlocking all or a portion of the property or boarding or otherwise securing all or a portion of the property, as is appropriate, for a period of up to one year as the city commission shall determine based upon the evidence;

(2) Determine that the owner shall be liable for the full cost of any materials and personnel (including police and any other city employees or contractors) involved in the padlocking, boarding or securing of the property in the first instance and the full cost of any personnel and materials involved in any subsequent or remedial padlocking, boarding or securing of the property;

(3) Determine that the costs set out in this division shall be a personal debt of the owner and/or assess those costs against the property as a lien as provided for in this division and by law, or both; and

(4) Determine that such costs shall be placed as a lien against the premises with collection to occur as in the case of real property taxes.

(c) Where only a discrete area or unit of a property under the control of a person or the owner is involved in the illegal activity, the city commission shall not order that any part of the property other than the part used for the illegal activity be vacated. It is the intent of this subsection to protect those truly and completely innocent of any participation in the act and those not having any notice of, or direct or imputed knowledge of, the illegal acts from being deprived of the use of their property. By way of example and not limitation, if only a single apartment in a multiple dwelling is determined to constitute the location of the public nuisance as provided for in this division, the city commission may vacate and secure only the apartment used for the illegal purposes and shall not vacate or secure the entire building.

(d) The posting, recording and listing of public nuisances shall be as follows:

(1) Whenever the city commission shall have ordered a property to be vacated and ordered that occupancy is prohibited, the police department shall post a notice so stating at each entrance to any building on the property and at the entrance to each dwelling unit or other portion of the property ordered and shall replace any notices that are missing or unreadable.

(2) The city clerk shall maintain a list of those properties that have been declared to be public nuisances and of the remedy ordered by the city commission. Immediately upon a declaration of public nuisance as provided for in this division, the city clerk shall add the property to the list. A list of such properties shall be available for public inspection at the city clerk's office.

(3) No person other than an authorized city employee shall tamper with, damage, alter, destroy or remove any notice posted by the city.

(4) The city may, at its discretion, record an affidavit setting forth its findings under this division and the remedies determined to apply to the property at the county register of deeds.

(Code 1975, § 12-144; Code 2002, § 26-265)

Sec. 54-152. Presumption of public nuisance—Drugs or drug paraphernalia.

The city commission may find that a public nuisance exists if the following conditions are established by the evidence presented at the public evidentiary hearing:

(1) The property has been:

a. Lawfully searched by the police and illegal controlled substances or drug paraphernalia have been found by the police; or

b. The location of a violation of the state or federal controlled substances law or of a drug paraphernalia ordinance or law, as evidenced by conviction of an individual for violation of either at that location;

(2) A letter informing the owner that an illegal controlled substance and/or illegal drug paraphernalia has been found by the police at the property or that a drug-related or drug paraphernalia-related crime has been committed on the property, and of the potential consequences if either of the above events occurs again at the property, has been:

a. Personally served on an owner; or

b. Sent by certified mail to an owner, as provided for in this division, and a return receipt card has been received by the city or other evidence of delivery is available in the event the certified mail is refused; and

(3) The same property is lawfully searched by the police again within six months from the date of the first search or the acts resulting in the conviction, and an illegal controlled substance or illegal drug paraphernalia is found by the police or, if within six months of the acts resulting in the first conviction above, an act occurs resulting in a conviction for violation of the state or federal controlled substance act or the drug paraphernalia ordinance or law.

(Code 1975, § 12-145; Code 2002, § 26-266)

Sec. 54-153. Same—Prostitution.

The city commission may find that a public nuisance exists if the following conditions are established by the evidence presented at the public evidentiary hearing:

(1) The property has been the location of an act of prostitution as proven by the conviction of an individual for engaging in an act of prostitution or solicitation of prostitution at that location;

(2) A letter, informing an owner that an act of prostitution or solicitation has occurred

on the property and of the potential consequences if a similar activity occurs at the property, has been:

a. Personally served on an owner; or

b. Sent by certified mail to an owner, as provided for in this division, and a return receipt card has been received by the city or other evidence of delivery is available in the event the certified mail is refused; and

(3) The same property is again proven to be the location of an act, occurring within six months of the acts resulting in the first conviction above, of prostitution or solicitation from which a conviction occurs.

(Code 1975, § 12-146; Code 2002, § 26-267)

Sec. 54-154. Appeal.

(a) An owner aggrieved by any final determination by the city commission under this division may appeal the determination to the circuit court within 21 days of the date of the decision.

(b) The circuit court shall review the city commission's decision to determine whether it is in violation of the law, has been procured by fraud, if an abuse of discretion exists, and whether the decision is supported by competent, substantial and material evidence on the record as a whole. The circuit court's review shall be made upon the record made before the city commission. It is the responsibility of the appealing party to demonstrate error, and to present and settle the record. The court may return the matter for further hearing, reverse or modify the decision of the city commission, or affirm the decision. If the court affirms the action of the city, or modifies it, the court may provide any order or relief it deems appropriate to enforce and aid in the enforcement of this division and the action of the city.

(Code 1975, § 12-147; Code 2002, § 26-268)

Sec. 54-155. Notification to the property owner.

The notification letters to the owner and the notice of a public evidentiary hearing shall contain a report of the nature of the violation and materials found, the nature of the drugs or drug paraphernalia seized, the individuals involved and, with reasonable specificity, the location where any contraband was found or illegal act committed.

(Code 1975, § 12-148; Code 2002, § 26-269)

Sec. 54-156. Entry into or use of property ordered vacated; occupancy prohibited.

No person shall enter upon any property that has been declared by the city commission to be a nuisance and which the city commission has ordered to be vacated and secured against occupancy or use under this division except to secure the property or perform necessary maintenance with written permission of the city, including designation of time and specific actions to be accomplished. The city is not responsible for maintaining the property.

(Code 1975, § 12-149; Code 2002, § 26-270)

Secs. 54-157—54-160. Reserved.

DIVISION 4. GAMBLING*

Sec. 54-161. Gambling.

(a) It shall be unlawful for any person to keep any table, wheel or other apparatus used wholly or in part for gaming or gambling purposes, or to permit any gambling to be done with or upon such table, wheel or apparatus for any valuable consideration whatever, or to engage in playing or gambling for money or any other thing which, among the persons so engaged, represents money or any other valuable thing.

(b) Any person who violates any provision of this section shall, upon conviction, be guilty of a misdemeanor.

(Code 1975, §§ 12-18, 12-26; Code 2002, § 54-161)

State law reference—Gambling, MCL 750.301 et seq.

Sec. 54-162. Frequenting gaming places.

Any person who shall attend or frequent any place where gambling or gaming if suffered or

*__State law reference—__Gambling, MCL 750.301 et seq.

permitted, or any place operated or occupied as a common gaming or gambling house or room within the city, shall be guilty of a misdemeanor.
(Code 1975, § 12-19; Code 2002, § 54-162)

State law reference—Frequenting gaming places, MCL 750.309.

Secs. 54-163—54-180. Reserved.

DIVISION 5. MODEL GLUE*

Sec. 54-181. Definition.

As used in this division the term "model glue" shall mean any glue or cement of the type commonly used in the building of model airplanes, boats and automobiles, containing toluene, acetone or other solvent or chemical having the property of releasing toxic vapors.
(Code 1975, § 12-69; Code 2002, § 54-181)

Sec. 54-182. Penalty for violations of division.

Any person convicted of a violation of the provisions of this division shall be guilty of a misdemeanor.
(Code 1975, § 12-74; Code 2002, § 54-182)

Sec. 54-183. Inhalation of fumes.

No person shall, for the purpose of causing a condition of intoxication, euphoria, excitement, exhilaration, stupefaction or dulling of the senses or nervous system, intentionally smell or inhale the fumes from any model glue; provided, however, that this section shall not apply to the inhalation of any anesthesia for medical or dental purposes.
(Code 1975, § 12-70; Code 2002, § 54-183)

State law reference—Similar provisions, MCL 752.272.

Sec. 54-184. Purchase or possession by minors.

No person under 17 years of age shall purchase or possess any model glue, without the written consent of his parent or guardian.
(Code 1975, § 12-71; Code 2002, § 54-184)

*__State law reference—__Chemical agents, MCL 752.271 et seq.

Sec. 54-185. Sale or transfer of possession to minors.

(a) No person shall sell or transfer possession of any model glue to another person who is under 17 years of age; provided, however, a person may sell or transfer possession of model glue to a person under 17 years of age for model building or other lawful use, where such juvenile has in his possession and exhibits the written consent of his parent or guardian.

(b) A person making a sale or transfer of possession of model glue to a person under 17 years of age, who exhibits the written consent of his parent or guardian, shall record the name, address, sex and age of the juvenile and the name and address of the consenting parent or guardian. Such data shall be kept in a permanent type register available for inspection by the police department for a period of at least six months.
(Code 1975, § 12-72; Code 2002, § 54-185)

Sec. 54-186. Possessing, buying, selling, etc., for purpose of violating division.

No person shall, for the purpose of violating or aiding another to violate any provision of this division, intentionally possess, buy, sell, transfer possession or receive possession of any model glue.
(Code 1975, § 12-73; Code 2002, § 54-186)

Secs. 54-187—54-210. Reserved.

ARTICLE VI. OFFENSES INVOLVING PUBLIC AUTHORITY

Sec. 54-211. Obstruction of police officer.

(a) No person shall knowingly or willfully obstruct, resist, oppose, assault, beat or wound any police officer, peace officer, sheriff or deputy sheriff or person acting with police officer powers or any other person authorized by law to maintain or preserve the peace, while such officer, sheriff, deputy sheriff or person is lawfully serving or executing process, carrying out lawful orders,

enforcing the laws, preserving or maintaining the peace or performing or attempting to perform their lawful duties.

(b) Any person who violates this section shall be guilty of a misdemeanor.
(Code 1975, § 12-1(c), (e); Code 2002, § 54-211)
State law reference—Obstruction of police, MCL 750.479.

Sec. 54-212. Identification.

(a) Where there is probable cause to arrest a person for the commission of a crime or reasonable basis to stop a person to issue him a municipal civil infraction citation, the person shall not fail to give true information of their identity and identifying information, including, but not limited to, their full name, address, and date of birth, to a police officer, peace officer, sheriff or deputy sheriff, or person acting with and having police officer powers, who is lawfully exercising police or peace officer powers, upon the lawful request or demand of such officer or authorized person. No person shall give false or misleading identifying information in response to such request or demand.

(b) Any person who violates this section shall be guilty of a misdemeanor.
(Code 1975, § 12-1(b), (e); Code 2002, § 54-212; Ord. No. 2046, 5-22-2001)
State law reference—Disobedience of police signal, MCL 750.479a.

Sec. 54-213. Disobedience of lawful instruction of police officer.

(a) No person shall disobey or act in a manner contrary to the notice authorized by the city on any sign or the lawful instructions of a police officer, peace officer, sheriff or deputy sheriff, or person acting with police officer powers in the city in any public place or city facility or building in the city.

(b) Any person who violates this section shall be guilty of a misdemeanor.
(Code 1975, § 12-1(a), (e); Code 2002, § 54-213)

Sec. 54-214. False impersonation of police officer.

No person, other than duly appointed and regularly acting police officers of the police department, shall wear any uniform of a pattern or design or in the semblance of the uniform adopted by the police department for the use of its regular members, or wear or carry about his person any star, badge or uniform of a pattern or design that may be mistaken or confounded with a star, badge or uniform adopted by the police department, with the intent to impersonate a police officer. Any person who violates any provision of this section shall be responsible for a municipal civil infraction.
(Code 1975, § 12-3; Code 2002, § 54-214)
State law reference—False impersonation, MCL 750.215.

Secs. 54-215—54-240. Reserved.

ARTICLE VII. OFFENSES INVOLVING MINORS

DIVISION 1. GENERALLY

Sec. 54-241. Curfew for underage persons.

(a) It is unlawful for any minor 16 years of age or younger to loiter, wander, stroll or play in or upon the public streets, highways, roads, alleys, parks, playgrounds or other public grounds, public places, public buildings, places of amusement, eating places, vacant lots or any place unsupervised by an adult having the lawful authority to be at such places between the hours of 11:00 p.m. on any day and 6:00 a.m. of the following day; provided that the provisions of this subsection shall not apply in the following instances:

(1) When a minor is accompanied by such minor's parent, guardian or other adult person having the lawful care and custody of the minor.

(2) 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.

(3) When the minor is returning directly home from a school activity, entertainment, recreational activity or dance.

(4) When the minor is returning directly home from lawful employment that makes it

necessary to be in the places referenced in this section during the proscribed period of time.

(5) When the minor is 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.

(6) When the minor is engaged in interstate travel with the consent of his parent or guardian.

(b) It is unlawful for the parent, guardian or other person having custody or control of any child to allow such child to violate the provisions of subsection (a) of this section.

(c) Any person who violates this section shall be responsible for a municipal civil infraction.
(Code 1975, § 12-86; Code 2002, § 54-241)
State law reference—Curfew, MCL 722.751 et seq.

Sec. 54-242. Use or possession of tobacco products by minors in public; penalty; special conditions of probation.

(a) A person under 18 years of age shall not possess or smoke cigarettes or cigars; or possess or chew, suck, or inhale chewing tobacco or tobacco snuff; or possess or use tobacco in any other form on a public highway, street, alley, park, or other lands used for public purposes, or in a public place of business or amusement. A person who violates this section is guilty of a misdemeanor, punishable by a fine of not more than $50.00 for each offense. In addition, a court may order probation, which may include, in addition to the court's general probation orders, provisions for probation found in MCL 722.642(2)(a)—(c).

(b) Definitions of the terms "chewing tobacco" and "tobacco snuff" shall be the same as those found in MCL 722.644.
(Code 2002, § 54-242; Ord. No. 1194, 8-10-1999)
State law reference—Youth tobacco act, MCL 722.641 et seq.

Secs. 54-243—54-260. Reserved.

DIVISION 2. ALCOHOLIC LIQUORS

Sec. 54-261. Children in places where liquor is sold.

No minor child under 17 years of age shall be permitted to remain in any dance hall, saloon, barroom or any place where any spirituous or intoxicating liquor, or any wine or beer, or any beverage, liquor or liquors containing any spirituous or intoxicating liquor, beer, or malt liquor is sold, given away or furnished for a beverage, unless such minor is accompanied by a parent or guardian. Any proprietor, keeper or manager of any such place who shall permit such minor child to remain in any such place, and any person who shall encourage or induce in any way such minor child to enter such place or to remain therein, shall be deemed guilty of a misdemeanor.
(Code 1975, § 12-93; Code 2002, § 54-261)
State law reference—Similar provisions, MCL 750.141.

Sec. 54-262. Selling, furnishing; notice.

(a) Alcoholic liquor shall not be sold or furnished to a person unless the person has attained 21 years of age. A person who knowingly sells or furnishes alcoholic liquor to a person who is less than 21 years of age, or who fails to make diligent inquiry as to whether the person is less than 21 years of age, is guilty of a misdemeanor. A suitable sign which describes this section and the penalties for violating this section shall be posted in a conspicuous place in each room where alcoholic liquors are sold. The signs shall be approved and furnished by the state liquor control commission.

(b) In an action for the violation of this section, proof that the defendant or the defendant's agent or employer demanded and was shown, before furnishing alcoholic liquor to a person under 21 years of age, a motor vehicle operator's license or a registration certificate issued by the federal selective service, or other bona fide documentary evidence of the age and identity of that person, shall be a defense to an action under this section.
(Code 1975, § 12-94; Code 2002, § 54-262)
State law reference—Sales to underage persons and required signs, MCL 436.1701.

Sec. 54-263. Purchase or consumption of alcoholic liquors by persons under 21.

(a) A person under 21 shall not purchase or attempt to purchase alcoholic liquor, consume or attempt to consume alcoholic liquor, possess or attempt to possess alcoholic liquor, or have any bodily alcohol content, except as provided in this section. A person who violates this subsection is guilty of a misdemeanor punishable by the following fines and sanctions:

(1) For the first violation by a fine of not more than $100.00. A court may order a person under this subsection to participate in substance abuse prevention services or substance abuse treatment and rehabilitation services as defined in Section 6107 of the Public Health Code, Public Act No. 368 of 1978 (MCL 333.6107), and designated by the administrator of the office of substance abuse services, and may order that person to perform community service and to undergo substance abuse screening and assessment at his own expense as described in subsection (e) of this section.

(2) For a second violation of this subsection, Section 33b(1) of former 1933 (Ex Sess) PA 8, or a local ordinance substantially corresponding to this subsection or Section 33b(1) of former 1933 (Ex Sess) PA 8, by imprisonment for not more than 30 days but only if the court finds that the person violated an order of probation, failed to successfully complete any treatment, screening, or community service ordered by the court, or failed to pay any fine for that conviction or juvenile adjudication, by a fine of not more than $200.00, or both. A court may order a person under this subsection to participate in substance abuse prevention services or substance abuse treatment and rehabilitation services as defined in Section 6107 of the Public Health Code, Public Act No. 368 of 1978 (MCL 333.6107), and designated by the administrator of the office of substance abuse services, to perform community service, and to undergo substance abuse screening and assessment at his own expense as described in subsection (e) of this section.

(3) For a third or subsequent violation of this subsection, Section 33b(1) of former 1933 (Ex Sess) PA 8, or a local ordinance substantially corresponding to this subsection or Section 33b(1) of former 1933 (Ex Sess) PA 8, by imprisonment for not more than 60 days but only if the court finds that the person violated an order of probation, failed to successfully complete any treatment, screening, or community service ordered by the court, or failed to pay any fine for that conviction or juvenile adjudication, by a fine of not more than $500.00, or both. A court may order a person under this subsection to participate in substance abuse prevention services or substance abuse treatment and rehabilitation services as defined in Section 6107 of the Public Health Code, Public Act No. 368 of 1978 (MCL 333.6107), and designated by the administrator of the office of substance abuse services, to perform community service, and to undergo substance abuse screening and assessment at his own expense as described in subsection (e) of this section.

(b) An individual who furnishes fraudulent identification to a person under 21, or notwithstanding subsection (a) of this section, a person under 21 who uses fraudulent identification to purchase alcoholic liquor, is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than $100.00, or both.

(c) When an individual who has not previously been convicted of or received a juvenile adjudication for a violation of subsection (a) of this section pleads guilty to a violation of subsection (a) of this section or offers a plea of admission in a juvenile delinquency proceeding for a violation of subsection (a) of this section, the court, without entering a judgment of guilt in a criminal proceeding or a determination in a juvenile delinquency proceeding that the juvenile has committed the offense and with the consent of the accused, may defer further proceedings and place the individual on

probation. The terms and conditions of that probation include, but are not limited to, the sanctions set forth in subsection (a)(1) of this section, payment of the costs including minimum state cost as provided for in Section 18m of Chapter XIIA of the Probate Code of 1939, Public Act No. 288 of 1939 (MCL 712A.18m), and Section 1j of Chapter IX of the Code of Criminal Procedure, Public Act No. 175 of 1927 (MCL 769.1j), and the costs of probation as prescribed in Section 3 of Chapter XI of the Code of Criminal Procedure, Public Act No. 175 of 1927 (MCL 771.3). If a court finds that an individual violated a term or condition of probation or that the individual is utilizing this subsection in another court, the court may enter an adjudication of guilt, or a determination in a juvenile delinquency proceeding that the individual has committed the offense, and proceed as otherwise provided by law. If an individual fulfills the terms and conditions of probation, the court shall discharge the individual and dismiss the proceedings. Discharge and dismissal under this subsection shall be without adjudication of guilt or without a determination in a juvenile delinquency proceeding that the individual has committed the offense and is not a conviction or juvenile adjudication for purposes of disqualifications or disabilities imposed by law upon conviction of a crime. An individual may obtain only one discharge and dismissal under this subsection. The court shall maintain a nonpublic record of the matter while proceedings are deferred and the individual is on probation and if there is a discharge and dismissal under this subsection. The secretary of state shall retain a nonpublic record of a plea and of the discharge and dismissal under this subsection. These records shall be furnished to any of the following:

(1) To a court, prosecutor, or police agency upon request for the purpose of determining if an individual has already utilized this subsection.

(2) To the department of corrections, a prosecutor, or a law enforcement agency, upon the department's, a prosecutor's, or a law enforcement agency's request, subject to all of the following conditions:

a. At the time of the request, the individual is an employee of the department of corrections, the prosecutor, or the law enforcement agency, or an applicant for employment with the department of corrections, the prosecutor, or the law enforcement agency.

b. The record is used by the department of corrections, the prosecutor, or the law enforcement agency only to determine whether an employee has violated his conditions of employment or whether an applicant meets criteria for employment.

(d) A violation of subsection (a) of this section successfully deferred, discharged, and dismissed under subsection (c) of this section is considered a prior violation for the purposes of subsections (a)(2) and (a)(3) of this section.

(e) A court may order an individual convicted of violating subsection (a) of this section to undergo screening and assessment by a person or agency as designated by the substance abuse coordinating agency as defined in Section 6103 of the Public Health Code, Public Act No. 368 of 1978 (MCL 333.6103), in order to determine whether the individual is likely to benefit from rehabilitative services, including alcohol or drug education and alcohol or drug treatment programs. A court may order an individual subject to a conviction or juvenile adjudication of, or placed on probation regarding, a violation of subsection (a) of this section to submit to a random or regular preliminary chemical breath analysis. The parent, guardian, or custodian of a person under 18 years of age not emancipated under Public Act No. 293 of 1968 (MCL 722.1 to 722.6), may request a random or regular preliminary chemical breath analysis as part of the probation.

(f) The secretary of state shall suspend the operator's or chauffeur's license of an individual convicted of violating subsection (a) or (b) of this section as provided in Section 319 of the Michigan Vehicle Code, Public Act No. 300 of 1949 (MCL 257.319).

(g) A peace officer who has reasonable cause to believe a person under 21 has consumed alcoholic liquor or has any bodily alcohol content may require that individual to submit to a preliminary chemical breath analysis. A peace officer may

arrest an individual based in whole or in part upon the results of a preliminary chemical breath analysis. The results of a preliminary chemical breath analysis or other acceptable blood alcohol test are admissible in a criminal prosecution to determine whether the person has consumed or possessed alcoholic liquor or had any bodily alcohol content. A person who refuses to submit to a preliminary chemical breath test analysis as required in this subsection is responsible for a state civil infraction and may be ordered to pay a civil fine of not more than $100.00.

(h) A law enforcement agency, upon determining that an individual less than 18 years of age who is not emancipated under Public Act No. 293 of 1968 (MCL 722.1 to 722.6), allegedly consumed, possessed, purchased alcoholic liquor, attempted to consume, possess, or purchase alcoholic liquor, or had any bodily alcohol content in violation of subsection (a) of this section shall notify the parent, custodian, or guardian of the individual as to the nature of the violation if the name of a parent, guardian, or custodian is reasonably ascertainable by the law enforcement agency. The law enforcement agency shall notify the parent, guardian, or custodian not later than 48 hours after the law enforcement agency determines that the individual who allegedly violated subsection (a) of this section is less than 18 years of age and not emancipated under Public Act No. 293 of 1968 (MCL 722.1 to 722.6). The law enforcement agency may notify the parent, guardian, or custodian by any means reasonably calculated to give prompt actual notice, including, but not limited to, notice in person, by telephone, or by first-class mail. If an individual less than 17 years of age is incarcerated for violating subsection (a) of this section, his parents or legal guardian shall be notified immediately as provided in this subsection.

(i) This section does not prohibit a person under 21 from possessing alcoholic liquor during regular working hours and in the course of his employment if employed by a person licensed by state law, by the commission, or by an agent of the commission, if the alcoholic liquor is not possessed for his personal consumption.

(j) The following individuals are not considered to be in violation of subsection (a) of this section:

(1) A person under 21 who has consumed alcoholic liquor and who voluntarily presents himself to a health facility or agency for treatment or for observation, including, but not limited to, medical examination and treatment for any condition arising from a violation of Sections 520b to 520g of the Michigan Penal Code, Public Act No. 328 of 1931 (MCL 750.520b to 750.520g), committed against a person under 21.

(2) A person under 21 who accompanies an individual who meets both of the following criteria:

a. Has consumed alcoholic liquor.

b. Voluntarily presents himself to a health facility or agency for treatment or for observation, including, but not limited to, medical examination and treatment for any condition arising from a violation of Sections 520b to 520g of the Michigan Penal Code, Public Act No. 328 of 1931 (MCL 750.520b to 750.520g), committed against a person under 21.

(3) A person under 21 who initiates contact with a peace officer or emergency medical services personnel for the purpose of obtaining medical assistance for a legitimate health care concern.

(k) If a person under the age of 18 who is not emancipated under Public Act No. 293 of 1968 (MCL 722.1 to 722.6), voluntarily presents himself to a health facility or agency for treatment or for observation as provided under subsection (j) of this section, the health facility or agency shall notify the parent, guardian, or custodian of the individual as to the nature of the treatment or observation if the name of a parent, guardian, or custodian is reasonably ascertainable by the health facility or agency.

(l) This section does not limit the civil or criminal liability of a vendor or the vendor's clerk, servant, agent, or employee for a violation of this section.

(m) The consumption of alcoholic liquor by a person under 21 who is enrolled in a course offered by an accredited postsecondary educational institution in an academic building of the institution under the supervision of a faculty member is not prohibited by this section if the purpose of the consumption is solely educational and is a requirement of the course.

(n) The consumption by a person under 21 of sacramental wine in connection with religious services at a church, synagogue, or temple is not prohibited by this section.

(o) Subsection (a) of this section does not apply to a person under 21 who participates in either or both of the following:

(1) An undercover operation in which the person purchases or receives alcoholic liquor under the direction of the person's employer and with the prior approval of the local prosecutor's office as part of an employer-sponsored internal enforcement action.

(2) An undercover operation in which the person purchases or receives alcoholic liquor under the direction of the state police, the commission, or a local police agency as part of an enforcement action unless the initial or contemporaneous purchase or receipt of alcoholic liquor by the person was not under the direction of the state police, the commission, or the local police agency and was not part of the undercover operation.

(p) The state police, the commission, or a local police agency shall not recruit or attempt to recruit a person under 21 for participation in an undercover operation at the scene of a violation of subsection (a) of this section.

(q) In a criminal prosecution for the violation of subsection (a) concerning a person under 21 having any bodily alcohol content, it is an affirmative defense that the person consumed the alcoholic liquor in a venue or location where that consumption is legal.

(r) As used in this section:

Any bodily alcohol content means either of the following:

(1) An alcohol content of 0.02 grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.

(2) Any presence of alcohol within a person's body resulting from the consumption of alcoholic liquor, other than consumption of alcoholic liquor as a part of a generally recognized religious service or ceremony.

Emergency medical services personnel means that term as defined in Section 20904 of the Public Health Code, Public Act No. 368 of 1978 (MCL 333.20904).

Health facility or agency means that term as defined in Section 20106 of the Public Health Code, Public Act No. 368 of 1978 (MCL 333.20106). (Code 1975, § 12-96; Code 2002, § 54-264; Ord. No. 2288, 1-25-2011)

State law reference—Similar provisions, MCL 436.1703.

Sec. 54-264. Enforcement by authorized officers.

(a) A police officer or an inspector of the liquor control commission who witnesses a violation of this division or Section 703 of the Michigan Liquor Control Code of 1998 (MCL 436.1730), may stop and detain the person for purposes of obtaining satisfactory identification, seizing illegally possessed alcoholic liquor, and issuing an appearance ticket.

(b) As used in this section, the term "appearance ticket" means a complaint or written notice, issued and subscribed by a police officer or inspector of the liquor control commission, directing a designated person to appear in a designated district, municipal, or probate court at a designated

time in connection with the alleged violation. The appearance ticket shall consist of the following parts:

(1) The original which shall be a complaint or notice to appear by the officer and filed with the court.

(2) The first copy which shall be the abstract of court record.

(3) The second copy which shall be delivered to the alleged violator.

(4) The third copy which shall be retained by the law enforcement agency.

(c) A judge may accept a plea of guilty by the defendant of the allegations of an appearance ticket and the court shall then impose a fine, license suspension, or other sanction as further authorized by this section. If the defendant denies the allegations of the appearance ticket, the court shall then set a date for trial or hearing.
(Code 1975, § 12-97; Code 2002, § 54-265)

State law reference—Similar provisions, MCL 436.1705.

Secs. 54-265—54-280. Reserved.

DIVISION 3. PARENTAL RESPONSIBILITY

Sec. 54-281. 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:

Criminal acts means those acts which violate statutes of the state or the ordinances of the city.

Habitual offender means one who commits two or more criminal acts within a 12-month period.

Minor means any juvenile under the age of 17 years residing with his parents.

Parent means mother, father, legal guardian or any other adult person having the care or custody of a minor or with whom a minor may be found residing.
(Code 1975, § 12-104; Code 2002, § 54-281)

Sec. 54-282. Finding of fact.

The city commission finds and determines that many crimes committed by minors are a direct result of a failure on the part of the parents of such minors to exercise reasonable parental control and supervision over the activities of such minors and that some parents have allowed or encouraged their minor children to commit criminal acts or become delinquent within the meaning of the state probate code as pertains to juveniles, contrary to the best interests of the community.
(Code 1975, § 12-103; Code 2002, § 54-282)

Sec. 54-283. Penalty for violation of division.

Any parent, legal guardian, or person determined responsible for a minor who is found guilty of a violation of this division shall be responsible for a municipal civil infraction.
(Code 1975, § 12-108; Code 2002, § 54-283)

Sec. 54-284. Notice to parent when minor arrested.

Whenever a minor shall be arrested or detained for the commission of any criminal act within the city, the parent of such minor shall be immediately notified by the police department, either by personally delivering the notice in writing, or by United States mail, advising the parent of such arrest or detention, the reasons therefor and his responsibility under this division. A record of such notification shall be kept by the police department.
(Code 1975, § 12-105; Code 2002, § 54-284)

Sec. 54-285. Parental neglect—Prohibited.

It shall be unlawful for the parent of any minor to fail to exercise reasonable parental control and supervision of any minor, which failure results in the minor committing any criminal act, or to allow or encourage any minor to commit any criminal act or become delinquent in accordance with the probate code as it pertains to juveniles.
(Code 1975, § 12-106; Code 2002, § 54-285)

Sec. 54-286. Same—Presumptions and required proof.

In any prosecution for a violation of section 54-285:

(1) The presence of property stolen by a minor upon the premises occupied by the parent shall be prima facie evidence that the parent has failed to exercise reasonable parental control over the minor.

(2) The parent of a habitual offender shall be presumed to have failed to exercise reasonable parental control over a minor who commits subsequent criminal offenses.

(3) Failure of the parent to report a felony or high court misdemeanor committed by the minor, of which the parent has knowledge, to the police, shall be prima facie evidence of a failure of the parent to exercise reasonable parental control.

(4) Violation by a minor of the provisions of section 54-241 or of any other lawful curfew shall be prima facie evidence that the parent has failed to exercise reasonable parental control over the minor.

(5) Trial or conviction of a minor for a criminal act giving rise to the charge against the parent shall not be required in order to convict the parent. Proof beyond a reasonable doubt that the minor did in fact commit the criminal act shall, however, be required in order to convict the parent.

(Code 1975, § 12-107; Code 2002, § 54-286)

Chapters 55—57

RESERVED

Chapter 58

PARKS AND RECREATION*

Article I. In General

Sec. 58-1. Consumption or possession of alcoholic liquors in parks or playgrounds.
Sec. 58-2. Obedience to signs or instructions.
Sec. 58-3. Parking vehicles within city parks or within 50 feet of a public boat launch in violation of parking rules; violation as a municipal civil infraction.
Secs. 58-4—58-30. Reserved.

Article II. Department Of Leisure Services

Sec. 58-31. Department created.
Sec. 58-32. Appointment, compensation and duties of director.
Sec. 58-33. Licenses and permits.
Sec. 58-34. Violations; penalties.
Sec. 58-35. Budget; receipt of gifts or bequests; deposit of funds.

*__State law references—__Authority to operate recreation and playgrounds, MCL 123.51 et seq.; playground equipment safety act, MCL 408.681 et seq.

ARTICLE I. IN GENERAL

Sec. 58-1. Consumption or possession of alcoholic liquors in parks or playgrounds.

(a) Except within premises licensed pursuant to state law and except within the Greater Muskegon Jaycee's Launch Ramp, Grand Trunk Launch, Hartshorn Marina and Fisherman's Landing, no person shall consume any alcoholic liquor or have in his possession an open receptacle containing an alcoholic liquor in any park or playground owned, operated or supervised by the city.

(b) Any person who violates any provision of this section shall be responsible for a municipal civil infraction.
(Code 1975, § 16-6; Code 2002, § 58-1)

State law reference—Possessing or consuming alcoholic liquors in parks, MCL 436.1915.

Sec. 58-2. Obedience to signs or instructions.

(a) No person shall disobey or act in a manner contrary to the notice authorized by the city on any sign or the instructions of an attendant or other person having authority or public duties concerning the operation or use of any place designated by the city as a park to be administered by the department of leisure services or its successor.

(b) Any person who violates any provision of this section shall be responsible for a municipal civil infraction.
(Code 1975, § 12-1(d), (f); Code 2002, § 58-2)

Sec. 58-3. Parking vehicles within city parks or within 50 feet of a public boat launch in violation of parking rules; violation as a municipal civil infraction.

No person shall park a vehicle inside a city park in violation of the parking ordinances of the city, or within 50 feet of a public boat launch. Violation of this section shall be subject to a level 3 parking fine.
(Ord. No. 2120, § 58-3, 1-13-2004)

Secs. 58-4—58-30. Reserved.

ARTICLE II. DEPARTMENT OF LEISURE SERVICES*

Sec. 58-31. Department created.

There is hereby created a department of leisure services in the city.
(Code 1975, § 16-1; Code 2002, § 58-31)

Sec. 58-32. Appointment, compensation and duties of director.

(a) The city manager shall appoint a director of leisure services who shall be responsible to the city manager, but who shall have supervision, management and control of the department of leisure services, and who shall receive such compensation as may be from time to time fixed by the city manager. It shall be the duty of the director of leisure services, operating within the approved budget for the department, to provide, conduct, supervise, equip and maintain public playgrounds, athletic fields, parks, swimming pools and beaches, camps, indoor recreation centers, boat launch ramp sites, marinas and other recreation facilities and activities on any of the properties owned or controlled by the city, including the L. C. Walker Arena, or on other public property under the control of other municipal corporations or boards, and on private properties, with the consent of the owners.

(b) In addition, the director of leisure services shall serve as staff to the board of leisure services, as hereafter constituted, and shall determine, after consultation with the city manager, the agenda of board of leisure services meetings.

(c) The director of leisure services may appoint, with the consent and approval of the city manager, such trained and qualified assistants, play leaders, caretakers, supervisors and other

*__State law references—__Authority to operate systems of public recreation and playgrounds, MCL 123.51 et seq.; authority to delegate operation of recreation system to board, MCL 123.53, 123.54; authority of political subdivisions to cooperate in conduct of recreation systems, MCL 123.53.

employees as may be necessary for the efficient administration and development of a public leisure services system.
(Code 1975, § 16-2; Code 2002, § 58-32)

Sec. 58-33. Licenses and permits.

The director of leisure services is expressly authorized and empowered to rent or license the use of any of the facilities as described in section 58-32; provided, however, that the amount and terms of any such rentals or licenses shall be subject to the prior approval of the city commission. In addition, the director of leisure services may issue permits for the use of those facilities described in section 58-32, when required by the city commission and upon conditions promulgated by the city commission.
(Code 1975, § 16-3; Code 2002, § 58-33)

Sec. 58-34. Violations; penalties.

Use by any person of any of the facilities described in section 58-32 without first obtaining a permit, where such permit is required by the city commission, or use of such facilities in violation of permit conditions, or the failure to pay any fees required for use of facilities, are violations of this section, and such persons committing any such violation shall be responsible for a municipal civil infraction.
(Code 1975, § 16-4; Code 2002, § 58-34)

Sec. 58-35. Budget; receipt of gifts or bequests; deposit of funds.

(a) Annually, the director of leisure services shall submit to the city manager a budget of funds required for the operation of the leisure services department.

(b) The director of leisure services and/or the board of leisure services may also solicit any gifts, bequests of money or other real or personal property for and on behalf of the department of leisure services, the acceptance of which and the expenditure of which shall be approved by the city commission. Any conditional gift or gift in trust shall not, after acceptance by the city commission, be utilized by the city for any purpose other than as set forth in such conditional gift or gift in trust.
(Code 1975, § 16-5; Code 2002, § 58-35)

Chapters 59—65

RESERVED

Chapter 66

PLANNING*

Article I. In General

Secs. 66-1—66-33. Reserved.

Article II. Planning Commission

Sec. 66-34. Created; composition; appointment of members.
Sec. 66-35. Terms of members; filling of vacancies.
Sec. 66-36. Removal of members.
Sec. 66-37. Election and term of officers.
Sec. 66-38. General powers and duties.
Sec. 66-39. Meetings; rules; records.
Sec. 66-40. Employees; service contracts.
Sec. 66-41. Compensation; expenses; preparation of budget; acceptance of gifts.
Sec. 66-42. Bylaws adoption; public record requirements; annual report by planning commission.

*__State law reference—__Michigan planning enabling act, MCL 125.3801 et seq.

ARTICLE I. IN GENERAL

Secs. 66-1—66-33. Reserved.

ARTICLE II. PLANNING COMMISSION

Sec. 66-34. Created; composition; appointment of members.

A city planning commission is hereby created to consist of six members, who shall be representative of important segments of the community, 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 territory of the city to the extent practicable, and who shall be appointed by the mayor, subject to approval by a majority vote of the members-elect of the city commission. In addition, the mayor, one of the administrative officers of the city selected by the mayor and one member of the city commission elected by it shall be members ex officio of the planning commission.
(Code 1975, § 2-135; Code 2002, § 66-31)

State law references—Authority to create a planning commission, MCL 125.3811; composition of planning commission, MCL 125.3815.

Sec. 66-35. Terms of members; filling of vacancies.

(a) The term of each appointed member of the planning commission shall be three years. All members shall hold office until their successors are appointed.

(b) The terms of ex officio members of the planning commission shall correspond to their respective official tenures, except that the term of the administrative official shall terminate with the term of the mayor selecting him.

(c) If a vacancy occurs on a planning commission, the vacancy shall be filled for the unexpired term in the same manner as provided for an original appointment. A member shall hold office until his successor is appointed.
(Code 1975, § 2-136; Code 2002, § 66-32)

State law reference—Similar provisions, MCL 125.3815.

Sec. 66-36. Removal of members.

The city commission may remove a member of the planning commission for misfeasance, malfeasance, or nonfeasance in office upon written charges and after a public hearing. 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 section constitutes malfeasance in office. Unless the city commission, by ordinance, defines conflict of interest for the purposes of this section, the planning commission shall do so in its bylaws.
(Code 1975, § 2-139; Code 2002, § 66-35)

State law reference—Removal of members, MCL 125.3815(9).

Sec. 66-37. Election and term of officers.

(a) The planning commission shall elect a chairperson and secretary from its members and create and fill other offices as it considers advisable. An ex officio member of the planning commission is not eligible to serve as chairperson. The term of each officer shall be one year, with opportunity for reelection as specified in bylaws.

(b) The planning commission may appoint advisory committees whose members are not members of the planning commission.
(Code 1975, § 2-141; Code 2002, § 66-37)

State law reference—Similar provisions, MCL 125.3817.

Sec. 66-38. General powers and duties.

The planning commission shall have and exercise all of the powers granted to it under the provisions of Public Act No. 33 of 2008 (MCL 125.3801 et seq.) and shall perform all of the duties on its part to be performed as provided in such Act and shall be subject to all of the regulations therein provided.
(Code 1975, § 2-142; Code 2002, § 66-38)

Sec. 66-39. Meetings; rules; records.

(a) 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.

(b) The business that a planning commission may perform shall be conducted at a public meeting of the planning commission held in compliance with the open meetings act, Public Act No. 267 of 1976 (MCL 15.261 et seq.). Public notice of the time, date, and place of a regular or special meeting shall be given in the manner required by that Act.

(c) A writing prepared, owned, used, in the possession of, or retained by a planning commission in the performance of an official function shall be made available to the public in compliance with the freedom of information act, Public Act No. 442 of 1976 (MCL 15.231 et seq.).
(Code 1975, § 2-143; Code 2002, § 66-39)

State law reference—Similar provisions, MCL 125.3821.

Sec. 66-40. Employees; service contracts.

(a) The city may employ a planning director and other personnel as it considers necessary, contract for the services of planning and other technicians, and incur other expenses, within a budget authorized by the city commission. This authority shall be exercised by the city commission, unless a charter provision or ordinance delegates this authority to the planning commission or another body or official. The appointment of employees is subject to the same provisions of law as govern other corresponding civil employees of the city.

(b) For the purposes of state law, the planning commission may make use of maps, data, and other information and expert advice provided by appropriate federal, state, regional, county, and municipal officials, departments, and agencies. All public officials, departments, and agencies shall make available public information for the use of planning commissions and furnish such other technical assistance and advice as they may have for planning purposes.
(Code 1975, § 2-144; Code 2002, § 66-40)

State law reference—Similar provisions, MCL 125.3825.

Sec. 66-41. Compensation; expenses; preparation of budget; acceptance of gifts.

(a) Members of a planning commission may be compensated for their services as provided by the city 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 commission, including, but not limited to, attendance at conferences, workshops, educational and training programs, and meetings.

(b) After preparing the annual report required under section 66-42 the planning commission may prepare a detailed budget and submit the budget to the city commission for approval or disapproval. The city commission annually may appropriate funds for carrying out the purposes and functions permitted under state law, and may match city funds with federal, state, county, or other city or private grants, contributions, or endowments.

(c) The planning commission may accept gifts for the exercise of its functions. A gift of money so accepted in either case shall be deposited with the city treasurer in a special nonreverting planning commission fund for expenditure by the planning commission for the purpose designated by the donor. The treasurer shall draw a warrant against the special nonreverting fund only upon receipt of a voucher signed by the chairperson and secretary of the planning commission and an order drawn by the city clerk. The expenditures of a planning commission, exclusive of gifts and grants, shall be within the amounts appropriated by the city commission.
(Code 1975, § 2-145; Code 2002, § 66-41)

State law reference—Similar provisions, MCL 125.3823.

Sec. 66-42. Bylaws adoption; public record requirements; annual report by planning commission.

(a) The planning commission shall adopt bylaws for the transaction of business, and shall keep a public record of its resolutions, transactions, findings, and determinations.

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

State law reference—Similar provisions, MCL 125.3819.

Chapters 67—69

RESERVED

Chapter 70

SOLID WASTE*

Article I. In General

Sec. 70-1. Purpose and intent.
Sec. 70-2. Definitions.
Sec. 70-3. Penalty; complicity.
Sec. 70-4. Responsibility of owners and occupants.
Sec. 70-5. Unauthorized dumping; littering.
Sec. 70-6. Nuisances.
Secs. 70-7—70-30. Reserved.

Article II. Collection And Disposal

Division 1. Generally

Sec. 70-31. City refuse collection.
Sec. 70-32. Anti-scavenging provisions.
Sec. 70-33. Receptacles generally.
Sec. 70-34. Removal of uncontained refuse and unacceptable materials.
Sec. 70-35. Bulk items and household appliances; stickers required.
Sec. 70-36. City refuse stickers; sale and use.
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Division 2. Rates and Charges

Sec. 70-56. Fees established.
Sec. 70-57. Manner of billing.
Sec. 70-58. Change of occupancy.
Sec. 70-59. Deposit.
Sec. 70-60. Notification of vacancy.
Sec. 70-61. Billing procedures.
Sec. 70-62. Lien for charges.
Sec. 70-63. Fees for stickers.
Sec. 70-64. Termination of service for failure to pay fees.

***State law references—**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.

ARTICLE I. IN GENERAL

Sec. 70-1. Purpose and intent.

(a) It is the intent of the city commission that this chapter be liberally construed for the purpose of providing a sanitary and satisfactory method of preparation, collection and disposal of solid waste and recyclable materials, as well as the maintenance of public and private property in a clean, orderly and sanitary condition, for the health, safety and welfare of the community, and to provide for a reasonable system of user fees to defray the cost incurred by the city in collecting and administering waste removal and, if possible, to institute recycling programs.

(b) The city manager is hereby authorized to make such rules and regulations as, from time to time, appear to be necessary to carry out this intent; provided, however, that such rules are not in direct conflict with this Code or the laws of the state.
(Code 1975, § 10-1; Code 2002, § 70-1)

Sec. 70-2. 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:

Additional mixed refuse bag means a polyethylene or similar plastic bag of not less than two mils thickness, designed to store refuse and secured in a manner to prevent spillage, leakage or other release of its contents by the use of wire, string or ties appropriate for this purpose. The total weight of a bag and its contents shall not exceed 30 pounds.

Brush means yard wastes such as shrub clippings, twigs, tree trimmings not greater than four inches in diameter and four feet in length and tied in bundles not to exceed 30 pounds. No wire shall be used to tie the bundles.

Bulk items means, but shall not be limited to, any household furniture, bed springs, storm doors and windows, metal furniture, water closets, toilets, bathtubs, sinks, carpets and pads, railroad ties, fences or fence posts not exceeding three feet by four feet in dimension, and other discarded material incidental to the usual routine of housekeeping.

City contractor means a person with whom the city has entered into a contract for the collection, transportation and disposal or refuse from residential premises within the city.

City refuse sticker means a sticker that shall be printed with the city seal or other appropriate words which indicate to the city or its contractor that when a sticker is affixed to extra bags of mixed refuse or bulk items that such is intended for collection authorized by this chapter.

Collection point means the point of distribution of a mixed refuse collection cart, additional mixed refuse bag, or a recycling container. A residential unit is a single collection point. Apartment buildings with no more than six residential units may also have one or more collection points.

Commercial refuse means any and all accumulation of mixed refuse generated by business establishments, churches, schools, apartment buildings with greater than six units, office buildings, and other establishments, whether or not engaged in commerce. Commercial refuse shall not include residential unit mixed refuse, construction waste or industrial refuse.

Construction waste means waste materials from the demolition, construction, remodeling and repair operations on residences and other buildings.

Curbside means the designated physical location from the placement of refuse accumulations intended for single collection, point collection and disposal. This designated location shall be as near as possible to the curb or edge of the roadway where the collection point is located.

Extracted stumps means stumps that have been extracted, dug, or removed from the ground. The term "extracted stumps" includes the attached roots of the tree stumps.

Garbage means all waste animal, fish, fowl, fruit or vegetable matter incident to the use, preparation and storage of food for human consumption. The term "garbage" does not include food processing wastes from canneries, slaughter-

houses, packing houses or similar industries, which shall be classified as industrial refuse or hazardous waste.

Hazardous waste means waste, or a combination of waste and other discarded material, including solid, liquid, semisolid or contained gaseous material, which, because of its quality, concentration or physical, chemical or infectious characteristics, may cause or significantly contribute to an increase in mortality or an increase in serious irreversible illness or serious incapacitating, but reversible illness, or pose a substantial present or potential hazard to human health or the environment, if improperly treated, stored, transported, disposed of or otherwise managed. The term "hazardous waste" does not include material which is sold for recycling or treatment and stored for one year or less, solid or dissolved material in domestic sewage discharge, solid or dissolved material in an irrigation return flow discharge, authorized industrial discharge to a municipal treatment system or industrial discharge which is a point source subject to permits under section 402 of the clean water act of 1977, 33 USC 1342, or is a source, special nuclear or byproduct material, as defined by the atomic act of 1985, 42 USC 2011 to 2281. (See MCL 324111.1 et seq.). The term "hazardous waste" shall include waste defined in section 1102(2)(a) of the natural resources and environmental protection act (MCL 324.11102(2)(a) and (b)).

Household appliances means, but shall not be limited to, washers, dryers, air conditioners, microwave ovens, humidifiers, stoves, refrigerators and hot water heaters, not including sinks, lavatories, toilets and other plumbing devices.

Industrial waste means all waste materials resulting from industrial or manufacturing operations or processes of every nature whatsoever, including organic and nonorganic wastes. The term "industrial waste" includes refuse material resulting from cleaning up on connection with such industrial or manufacturing operations, and refuse material resulting from offices, stores, lunch rooms, warehouses or other operations established in conjunction with such industrial or manufacturing operations as well as garbage and rubbish. The term "industrial waste" excludes hazardous waste.

Junk means parts of machinery or motor vehicles, used stoves or other appliances, remnants of any personal property, any wood, metal, concrete, building materials or any other material or other cast-off material of any kind, whether or not the same could be put to any reasonable use.

Medical waste (also referred to as medical and contagious waste*)* means such waste as identified in Part 138 of the Public Health Code (MCL 333.13801 et seq.).

State law reference—Similar provisions, MCL 324.11506(b).

Mixed refuse means garbage, rubbish and brush which constitutes household refuse, but does not contain unacceptable items.

Mixed refuse collection cart means an approved cart supplied by the city or its contractor to each residential unit.

Multiple-family residence means a building with a total of more than six household living units.

Refuse means all waste, rubbish, garbage, trash, junk, bulk items, discarded materials of every kind, unacceptable materials, medical and contagious waste, industrial waste, commercial waste, domestic waste and any discard or discarded materials otherwise defined in this chapter. The term "refuse" includes all the definitional terms in this chapter describing, identifying or defining any material, substance, or personal property.

Residential premises means a separate parcel of land containing a residential structure containing no more than six household living units, plus any residential condominium unit designated as a residential premises by the city manager.

Residential unit means a household living unit contained in a residential premises.

Rubbish means miscellaneous solid waste material resulting from housekeeping, and shall include, but not be limited to, packing boxes, cartons, magazines, ashes, tin cans, bottles, glassware, dishes, rubber, rags, wood, leather, automobile tires, floor sweepings, cans, bottles, paper, cartons, rags, discarded clothing, discarded utensils,

containers, sweepings, glass, crockery, nails, model wire, light bulbs, signs, advertising matter, newspaper, and similar materials.

Solid waste means garbage and rubbish. The term "solid waste" does not include human body waste, liquid waste, materials that have been separated either at the source or a processing site for the purpose of reuse, recycling or composting, or any material that has been identified by state or federal regulation to be unsuitable for disposal in a type II sanitary landfill. The term "solid waste" also has the meaning assigned to it by section 11506 of the natural resources and environmental protection act (MCL 324.11506).

Trash means discarded household appliances, dismantled boats, airplanes, dismantled vehicle parts, dismantled machinery or tools, machinery parts, scrap metal, paper, broken furniture and similar property.

Unacceptable bulk items means a bulk item which has no sticker or tag authorized by this chapter attached.

Unacceptable items or materials means building materials in large amounts, including, but not limited to, concrete, wood, earth, motor vehicle or machinery parts, junk vehicles of any type, used oil, tires, tree branches, logs or wood exceeding four feet in length or four inches in diameter, tree stumps, industrial waste, any item not contained in a container or bag authorized by this chapter, and any bulk item or appliance without an authorized sticker attached.

Yard waste means the miscellaneous waste material resulting from landscaping a home, including, but not limited to, grass, weeds, house plants, leaves, brush, garden waste material and dirt incidental to minor plantings.
(Code 1975, § 10-2; Code 2002, § 70-2; Ord. No. 2038, § 10-2, 12-12-2000)

State law reference—Definitions, MCL 324.11501 et seq.

Sec. 70-3. Penalty; complicity.

(a) *General penalty.* Whenever, in this chapter or in any technical or other code adopted by reference in this chapter, or in any rule, regulation or order promulgated or made under authority of any provision of this chapter, or under authority of state law, an act is prohibited, or whenever the doing of any act is required or the failure to do any act is declared to be unlawful, where no specific penalty is otherwise provided, whoever violates or fails to comply with any such provision shall be responsible for a municipal civil infraction. A separate offense shall be deemed committed each day during or on which a violation or noncompliance occurs or continues.

(b) *Expenses; equitable remedies.* The imposition of any penalty provided for in this section shall be in addition to any expense levied for a violation of or noncompliance with a provision of this chapter, or a provision of a technical or other code adopted by reference in this chapter, or a rule, regulation or order promulgated or made under authority of either, or of a state law, and shall be in addition to any equitable remedy provided by a provision of this chapter, or provided by state law, including the enforced removal of prohibited conditions.

(c) *Complicity.* Every person who commits or procures, counsels, aids or abets the commission of any act declared in this chapter with another person, or as principal, agent or accessory, shall be responsible for a municipal civil infraction. Every person who falsely, fraudulently, forcibly or willfully induces, causes, coerces, requires, permits or directs another to violate any provision of this chapter shall likewise be responsible for a municipal civil infraction.
(Code 1975, § 10-15; Code 2002, § 70-3)

Sec. 70-4. Responsibility of owners and occupants.

(a) Every owner, occupant or person in possession of any premises in the city is required to have refuse removed and disposed of in accordance with this chapter and in accordance with all rules and regulations promulgated under this chapter. The city shall provide for certain refuse removal services for residential premises and there shall be paid to the city charges specified by the city commission for such services. Every owner, occupant or person in possession of multiple residential or nonresidential, commercial or industrial premises shall be responsible for the storage, collection and disposal of refuse on and from the

premises, as authorized, required and as prohibited by this chapter, or federal, state or local laws, rules, and regulations.

(b) Upon meeting every requirement of this chapter and the rules and regulations adopted by the city, a person may dispose of refuse. If a person acts in accordance with section 70-31, the person shall be deemed to elect the city collection service, which shall be charged to the property.

(c) No owner, occupant, tenant or lessee of any building, structure, property or premises in the city shall store, collect, transport, or dispose of any refuse, garbage, rubbish or other rejected, unwanted or discharged waste materials, except in compliance with this chapter and applicable state, federal and local laws, rules and regulations.

(d) No refuse of any description may be accumulated on any premises in the city for a period longer than seven days, or the period between scheduled collection dates, whichever is longer. All refuse shall be collected from each premises and disposed of in accordance with this chapter, federal, state or local laws, rules and regulations immediately. Notwithstanding the above periods, refuse not eligible for city contractor or licensee collection shall be immediately disposed of in a legal manner.

(e) It shall be unlawful for any person to burn refuse at any place in the city, whether owned or occupied by such person or not, or upon any alley, street, or other public place within the city unless in an enclosed incineration device approved or licensed by a public authority having exclusive jurisdiction thereof. No open burning of any materials shall be allowed in the city.

(f) In order to comply with the requirements of this chapter and the rules and regulations adopted under this chapter, no person shall use the services of a collector unless a collector has been licensed by the city after meeting all lawful requirements of the city.
(Code 1975, § 10-3; Code 2002, § 70-4; Ord. No. 2038, § 10-3(a), 12-12-2000)

Sec. 70-5. Unauthorized dumping; littering.

(a) It shall be unlawful for any person, without the written consent or license of the city, to enter into the city for the purpose of disposing, depositing or leaving any refuse of any kind, unacceptable items, unacceptable bulk items, discarded bulk refuse of any kind, or construction waste.

(b) It shall be unlawful for any person to throw, deposit or leave, or cause or permit the throwing, depositing or leaving, of refuse of any kind, directly or indirectly, on public or private property or waters, other than property lawfully designated and set aside for such purposes by a public authority having jurisdiction.

(c) In any proceeding for violation of this chapter involving littering from a motor vehicle or watercraft, proof that the particular motor vehicle or watercraft described in the citation, complaint or warrant was used in the violation, or proof that the defendant named in the citation, complaint or warrant at the time of the violation, shall give rise to a presumption and be prima facie evidence that the registered owner or person in charge of the vehicle or watercraft at the time of the violation was responsible therefor.

(d) The owner or person in charge of a motor vehicle or watercraft in which there are other occupants shall be presumed to be responsible for littering on public or private property, or waters until the contrary is established by competent evidence.
(Code 1975, § 10-4; Code 2002, § 70-5)
State law reference—Littering, MCL 324.8901 et seq.

Sec. 70-6. Nuisances.

(a) *Removal or abatement.* Any unauthorized accumulated refuse, any scattered or uncontained refuse, broken or open additional mixed refuse bag, or overturned mixed refuse cart, additional mixed refuse bag in excess of 30 pounds, additional mixed refuse bag containing unacceptable materials, mixed refuse collection cart containing unacceptable materials or any bag placed in front of a residence contrary to any collection procedure referred to in this chapter, any refuse bag or device without an authorized sticker attached, any unacceptable items, or any unacceptable bulk item or bulk item or appliance placed in front of a

residence contrary to this chapter is hereby declared to be a public nuisance and is subject to removal or abatement. The city may enter any premises for the purpose of removing or abating the nuisance. The city commission shall provide, by rule or regulation, for notice to the owner and occupant of abatement procedures.

(b) *Expenses.*

(1) Any expense, including the administration costs to the city, incurred in the removal or abatement of the nuisance shall be the responsibility of the owner and occupant of the property on which or in front of which the condition existed and shall be paid by the owner and occupant in whose name the property appears on the city's real property tax assessment records.

(2) The expense incurred shall be a lien against the real property and shall be reported to the city assessor who shall assess the expense against the property on which or in front of which the nuisance was located.

(3) The owner or party in interest in whose name the property appears upon the last local tax assessment records shall be notified on the amount of such cost by first class mail at the address shown on the tax records. If the owner or party in interest fails to pay the amount within 30 days after mailing by the city assessor of a notice of the amount thereof, the city assessor shall add the amount to the next tax roll of the city and such amount shall be collected in the same manner in all respects as provided by law for the collection taxes by the city.

(Code 1975, § 10-14; Code 2002, § 70-6)

Secs. 70-7—70-30. Reserved.

ARTICLE II. COLLECTION AND DISPOSAL

DIVISION 1. GENERALLY

Sec. 70-31. City refuse collection.

(a) *Placement of refuse.* Unless authorized by section 70-4(b), every owner and occupant of a residential unit for which city refuse collection service is afforded under this chapter shall place all accumulated and acceptable refuse for collection in a mixed refuse collection cart supplied by the city or its contractor which cart shall be tightly sealed, with excess mixed refuse in additional mixed refuse bags with authorized stickers attached. Mixed refuse collection carts and additional refuse bags intended for collection with stickers attached shall be placed by the owner and occupant of the residential unit at the curb in front of the residence not earlier than 7:00 p.m. of the day preceding the collection day and not later than 6:00 a.m. of the day of collection. Additional refuse bags intended for collection shall not be broken nor weigh more than 30 pounds when filled. The owner and occupant shall not place or cause to be placed any unacceptable items in any additional refuse bag or mixed refuse collection cart intended for collection. No person shall place refuse materials of any kind on the premises of or in front of a residence for city collection service, except refuse originating in that residence.

(b) *Rules and regulations.* The city manager shall make such rules and regulations, including schedules, as he deems necessary to govern the collection and disposal of all refuse within the city. Such rules and regulations shall be in effect upon their approval by the city commission. The rules and regulations may provide for unique or infrequent waste collections such as Christmas trees or seasonal yard waste. The rules may provide for recycling and the placement of recycling containers. All rules and regulations shall be publicized.

(c) *City contractor.* The city may, by advertising for bids, enter into a contract for city refuse collection with a contractor, who shall be licensed. The contractor shall be a person the city commission deems best able to collect and dispose of residential refuse in the city in accordance with the best interests of the city and its residents, and pursuant to this chapter and rules and regulations adopted by the city. The contract documents shall contain provisions that the city contractor shall commit to collect and dispose of refuse from all residential premises in the city in full compliance with this chapter and applicable local, state

and federal laws, rules and regulations, subject to provisions for alternate collection and disposal under section 70-4(b), if any.
(Code 1975, § 10-5; Code 2002, § 70-31)

Sec. 70-32. Anti-scavenging provisions.

(a) From the time of placement at the curb for collection, any mixed refuse, yard waste, properly tagged household appliances, additional bags, bulk items, or recyclable material required to be separated from the resident's solid waste in accordance with this chapter or rules and regulations for the purposes of collection shall be the property of the city or its authorized agent.

(b) No person shall take, collect, scavenge, rifle, or transport refuse or recyclable material from any street right-of-way, alley, refuse or garbage dumpster, trash bags or mixed refuse collection cart without city authorization for such activity.
(Code 1975, § 10-6; Code 2002, § 70-32)

Sec. 70-33. Receptacles generally.

(a) *Required.* No person, whether owner or occupant, shall deposit, place or permit to remain any refuse upon any property, whether owned by such person or not, within the limits of the city, unless such refuse is enclosed in a mixed refuse collection cart of a size, shape, and construction as is determined to be appropriate by the city manager in the rules and regulations, in an additional mixed refuse bag with sticker or it is a household appliance or bulk item with lawful stickers attached.

(b) *Nonconforming receptacles.* Receptacles that are badly broken or otherwise fail to meet the requirements of this chapter or are of a design or capacity other than those provided by the city may be classified as refuse and, after due notice to the owner, may be collected as refuse.
(Code 1975, § 10-7; Code 2002, § 70-33)

Sec. 70-34. Removal of uncontained refuse and unacceptable materials.

(a) The owner and occupant of a residential unit shall remove any scattered or uncontained refuse, including unacceptable materials, within 24 hours after such refuse has been scattered or deposited, and dispose of such refuse in accordance with this chapter or in accordance with federal and state laws, rules and regulations.

(b) Unacceptable items, including, but not limited to, commercial, medical and contagious, industrial refuse, untagged or unacceptable appliance or bulk items, shall be removed from all premises and disposed of by the owner and occupant thereof in accordance with this chapter or federal and state laws, rules and regulations. It shall be unlawful to store any unacceptable items on any premises.
(Code 1975, § 10-8; Code 2002, § 70-34)

Sec. 70-35. Bulk items and household appliances; stickers required.

(a) City bulk item and household appliance stickers shall be as follows:

(1) City bulk item and household appliance stickers shall have distinctive colors and shall be printed with the city seal or appropriate words which will readily indicate to city collectors that the bulk items or household appliances are intended for citywide residential bulk collection and household appliance service.

(2) City bulk item and household appliance stickers shall be sold, at a price determined by resolution of the commission, at outlets designated by the city. Designated sales outlets shall sell city bulk item and household appliance stickers only at the price established by the commission. However, the appropriate sales tax may be charged by the retail establishment if required by state statute.

(b) The city shall collect and dispose of all bulk items and household appliances from all single unit collection points within the city on a schedule approved by the city manager. All such items must have the appropriate city sticker attached.

(c) The conditions for service of bulk items and household appliances and the collection schedules shall be the same as those listed in this chapter for other materials, or set out in rules and regulations.

(d) No person shall transport bulk items or household appliances to public property for the purpose of depositing the bulk items in trash receptacles located within the public property.

(e) The removal of bulk items or household appliances and unacceptable items shall be as follows:

(1) The city is not required to collect unacceptable bulk items. When such items are encountered, the city or its contractor shall affix a notice to the item or collection of items explaining that such material is unacceptable and the telephone number of its office where inquiries may be received.

(2) The owner and occupant shall remove from the curb in front of his residence any unacceptable bulk item, or any bulk item placed in front of the residence at a time other than provided for placement of refuse under this chapter and rules and regulations.

(Code 1975, § 10-9; Code 2002, § 70-35)

Sec. 70-36. City refuse stickers; sale and use.

(a) Specifications for city mixed refuse stickers and their use shall be promulgated by the city manager.

(b) The prices for the various stickers shall be determined by resolution of the city commission.

(c) The city or its authorized representative may sell city solid waste or yard stickers to individuals and/or through participating retail sales establishments. Participating sales establishments shall sell the stickers for not more than the price specified by the city commission. However, the appropriate sales tax may be charged by the retail establishment if so required by state or federal law.

(d) City refuse stickers must be attached to additional mixed refuse bags which is not within the provided mixed refuse collection cart. Additional mixed refuse must be contained in appropriate plastic or degradable garbage bags. Each bag must not weigh greater than 30 pounds.

(e) Additional refuse bags with no attached sticker will not be removed by the contractor and will be considered a public nuisance according to the provisions of this chapter and constitute a violation by the owner and occupant of the premises.

(Code 1975, § 10-10; Code 2002, § 70-36)

Secs. 70-37—70-55. Reserved.

DIVISION 2. RATES AND CHARGES

Sec. 70-56. Fees established.

The city commission shall establish, by resolution, all fees for refuse collection. Such fees shall be subject to revision by the city commission, from time to time. Owners and occupants of each residential unit served by city refuse collection shall be charged and responsible for the payment of the applicable fees.

(Code 1975, § 10-16(a); Code 2002, § 70-56)

Sec. 70-57. Manner of billing.

In the case of a residential premises containing more than one dwelling unit, which units are billed separately for charges by the city for sewer or water service, fees for refuse collection shall be billed to the person who is the customer of the city. In the case of such premises containing more than one residential unit, which premises are served by a single water and sewer bill, so that occupants or tenants cannot be billed separately by the city, fees for refuse collection shall be billed to the customer of the single utility bill and that customer shall be liable for the fee for such premises. Owners and occupants of residential premises who are not water or sewer customers of the city shall be billed. Regardless of billing procedures, owners of all premises served shall be responsible for all charges.

(Code 1975, § 10-16(b); Code 2002, § 70-57)

Sec. 70-58. Change of occupancy.

Collection of refuse and appropriate charges for service shall continue, regardless of the customer's response to the billing procedure, so long as the residential unit is deemed occupied and service has not been lawfully refused by the

owner and occupant, or terminated by the city. The owner of the premises shall advise the city or its contractor of any change in occupancy of the residential unit or use of the service for purposes of service billing. Every owner and occupant of a premises charged for refuse collection shall be responsible for the period billed, or such portion of a billing period as may be provided for in the rules and regulations.
(Code 1975, § 10-16(c); Code 2002, § 70-58)

Sec. 70-59. Deposit.

If the city is notified that a tenant is responsible for city refuse service charges, the city shall require a tenant deposit of such amount as may be determined by regulation, which shall be applied to the final bill upon termination of refuse service to a tenant.
(Code 1975, § 10-16(d); Code 2002, § 70-59)

Sec. 70-60. Notification of vacancy.

(a) Owners and occupants of residential units shall notify the city if such premises are being vacated. An owner and occupant taking title to or possession of a residential unit in the city shall notify the department immediately to avoid delay in billing and collection procedures.

(b) No charge shall be made to nor collection service rendered to, a residential unit when it is temporarily vacated by order of the city.

(c) Responsibility for notification of vacancy for the purpose of terminating collection service shall be upon the owner and occupant.
(Code 1975, § 10-16(e); Code 2002, § 70-60)

Sec. 70-61. Billing procedures.

The following billing procedures shall be controlling as to city refuse collection service:

(1) Statements shall be rendered on combined city water, sewer and waste collection bills, and shall be payable in the same manner as is normal for the payment of water and sewer bills. Separate billings for premises where no water or sewer services occur shall be made.

(2) The billing statement shall be payable on or before the due date shown on the statement. The payment date shall constitute the date upon which payment is received at the appropriate office. Late charges in accordance with water and sewer bills shall be assessed on all charges for waste collection.

(3) Partial payments on combined water, sewer and waste collection bills shall be prorated to each service. There shall be no allocation of charges among services.

(Code 1975, § 10-16(f); Code 2002, § 70-61)

Sec. 70-62. Lien for charges.

(a) Charges for city refuse collection shall constitute a lien on such premises.

(b) In addition to the methods for collecting fees imposed by or pursuant to this chapter, the city treasurer's office shall certify all unpaid charges for waste collection services to any premises which have remained unpaid in the same manner as water and sewer charges. Such unpaid charges shall be certified to the city assessor who shall place such charges on the tax assessment roll of the city.
(Code 1975, § 10-16(g); Code 2002, § 70-62)

Sec. 70-63. Fees for stickers.

Fees to be paid for stickers as set forth in the regulations shall be payable in cash at the time of purchase of the stickers.
(Code 1975, § 10-16(h); Code 2002, § 70-63)

Sec. 70-64. Termination of service for failure to pay fees.

The city may terminate refuse collection service to a premises for failure to pay fees. The power to terminate refuse collection service does not require the city to do so, and the city may elect to continue service and invoke other remedies for failure to pay fees.
(Code 1975, § 10-16(i); Code 2002, § 70-64)

Chapters 71—73

RESERVED

Chapter 74

STREETS, SIDEWALKS AND OTHER PUBLIC PROPERTY*

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Sec. 74-2. Erection of utility poles and wires.
Sec. 74-3. Posting advertising matter on utility poles.
Sec. 74-4. Signs or signposts on streets.
Sec. 74-5. Placing goods, wares, etc., on or over sidewalks.
Sec. 74-6. Leaving building materials on sidewalks.
Sec. 74-7. Removal of snow and ice from sidewalks.
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ARTICLE I. IN GENERAL

Sec. 74-1. Penalty for violation of this chapter.

Any person who violates any provision of this chapter shall be responsible for a municipal civil infraction.
(Code 1975, § 18-29; Code 2002, § 74-1)

Sec. 74-2. Erection of utility poles and wires.

(a) No person shall erect any telegraph, telephone or electric light pole or wire within any street, alley or other public ground of the city without first obtaining a permit therefor. All such poles and wires shall be erected under the supervision of the city engineer, but no wires shall be erected over the fire alarm telegraph wires, nor shall any wires be erected or placed within 25 feet of the ground in any street, alley or other public place in the city.

(b) The provisions of this section shall not be construed as granting any right to the maintenance of any poles and wires already erected in the streets, alleys or other public grounds of the city, except such rights as have heretofore been granted by the city commission, and the right to compel the removal or change of any such poles and wires is reserved.
(Code 1975, § 18-1; Code 2002, § 74-2)

Sec. 74-3. Posting advertising matter on utility poles.

No person shall hang, post, place, paste or put up any handbill, bill, notice, advertisement, sign, placard, card or any other advertising device or matter on any telegraph, telephone or electric light pole erected in any street, alley or other public place in the city, except signs by any government authority.
(Code 1975, § 18-2; Code 2002, § 74-3)

Sec. 74-4. Signs or signposts on streets.

No person shall place or cause to be placed any sign or signpost upon any sidewalk, terrace, parkway or other portion of any public street in the city, except traffic control devices and street markers installed and maintained by the city or state, and except signs of churches and other nonprofit organizations approved by the city manager and installed and maintained under the supervision and control of the police department.
(Code 1975, § 18-3; Code 2002, § 74-4)

Sec. 74-5. Placing goods, wares, etc., on or over sidewalks.

(a) Except as otherwise specifically provided, no person shall place or suffer to remain any goods, wares, merchandise, boxes or other articles or thing in front of any store or shop on or above the sidewalk, except awnings and signs.

(b) Persons may use the sidewalks of the city in receiving or delivering goods, wares and merchandise, provided a clear passageway of at least six feet is left and maintained on the sidewalk for the use of pedestrians. No person receiving or delivering such goods, wares or merchandise shall suffer such goods to be or remain upon a sidewalk for a period of more than six hours.
(Code 1975, § 18-4; Code 2002, § 74-5)

Sec. 74-6. Leaving building materials on sidewalks.

No person owning, building or repairing any house or other building shall permit any lumber, brick, plaster, mortar, earth, clay, cement, stone or other material to remain on the sidewalk after sunset of the day on which it was placed there without a permit from the city.
(Code 1975, § 18-5; Code 2002, § 74-6)

Sec. 74-7. Removal of snow and ice from sidewalks.

(a) The owner, occupant and/or person in charge of each property located within the city shall, within 24 hours after the cessation of any storm depositing snow on the sidewalk abutting the property or as soon as practical, clear the snow from the sidewalk.

(b) Each violation and each day on which a violation occurs and continues shall constitute a separate offense. This section shall not preclude the city from maintaining any other appropriate action to prevent or remove a violation of this chapter.

(c) A police officer or other city employee authorized by the city manager in writing and filed with city clerk may issue civil infraction tickets to enforce the provisions of this section.

(d) Any person violating the provisions of this chapter shall be responsible for a civil infraction and fined accordingly.
(Code 1975, § 18-8(a); Code 2002, § 74-7; Ord. No. 2318, § 74-7, 3-11-2014)

Sec. 74-8. Snow and ice from private property not to be placed on street or sidewalk.

No person shall move, or cause to be moved, any snow or ice from any private property upon any public sidewalk pavement, alley or roadway in the city.
(Code 1975, § 18-9; Code 2002, § 74-8)

Sec. 74-9. Deposit of wastewater or flammable liquids on streets or sidewalks.

No person shall throw, or cause to be thrown, any wastewater, or cause or permit flammable liquids, oil or grease to flow or be washed into or upon any public street or sidewalk of the city.
(Code 1975, § 18-10; Code 2002, § 74-9)

Sec. 74-10. Leaves, grass, etc., in public ways prohibited.

(a) No person shall cause to be placed any grass clippings, leaves, lawn rakings, tree or bush trimmings, tree trunks, stumps, ashes, soil dirt or household debris in or on any public sidewalk, pavement, gutter, drain, ditch, alley or roadway in the city.

(b) No materials may be used in the improvement of streets, alleys or roadways without permission therefor first being obtained from the city manager or the director of public works, and the use thereof shall be under the direction and supervision of the director of public works.

(c) Persons placing tree trimmings, tree trunks, stumps or household debris on any terrace or parkway shall cause such material to be removed within 48 hours thereafter.
(Code 1975, § 18-11; Code 2002, § 74-10)

Sec. 74-11. Entrances or stairs projecting on sidewalks.

Every entrance or flight of stairs projecting beyond the building line on the sidewalk and descending into any cellar or basement story shall be enclosed with a permanent iron railing on each side, not less than three feet high, with a gate opening into the entrance or stairs, and such entrance and stairs shall be thoroughly lighted to prevent accidents, and such projection shall not occupy more than one-fifth of the width of the sidewalk.
(Code 1975, § 18-12; Code 2002, § 74-11)

Sec. 74-12. Uncovered cellars or excavations.

Any cellar or other excavation left uncovered by the burning or removal of the buildings therefrom shall be enclosed by the owner or occupant of the premises with a sufficient fence or barrier to prevent accidents.
(Code 1975, § 18-13; Code 2002, § 74-12)

Sec. 74-13. Gates projecting onto public ways.

(a) No person shall construct, hang, place or maintain any gate upon any premises owned, controlled or occupied by him in the city, nor suffer such work to be done, in such manner as to project over or obstruct any part of the sidewalk or street adjacent to the premises. Provided, however, that nothing in this section shall be held to apply to gates at railroad crossings or elsewhere when placed or maintained by competent authority.

(b) All gates in the city shall be so constructed that such gates cannot swing outwards into the public ways of the city.
(Code 1975, § 18-14; Code 2002, § 74-13)

Sec. 74-14. Excavating, filling, paving, etc., on public property.

(a) No person shall cart or deposit any wood, stone or other substance into any of the drains or sewers of the city, cause such deposit to be done, cause obstruction or damage in or to such drains or sewers, or hinder or obstruct the making or repairing of any pavement, sidewalk or cross-

walk, drain or sewer being constructed or repaired under any ordinance or any resolution of the city commission.

(b) No person, by permit or otherwise, shall dig or tear up any pavement, sidewalk or crosswalk or dig any hole, ditch, drain or sewer, or deposit any sand, mortar, gravel, earth, timber or building material of any nature, in any street, alley or public place or on any property abutting any public place, unless such property shall be well and sufficiently guarded by a railing, fence or barrier at least three feet in height at all times and in such manner as to prevent accidents or injury to persons or property. There shall also be placed and kept upon such railing or barrier suitable and sufficient colored lights, showing a bright yellow color, from sunset to sunrise during the time such excavation, hole, drain or sewer remains uncovered or unfilled, and during the time such sand, mortar, gravel, earth, timber or other building material remains in such street, alley or public place.

(c) Fences or barriers required by this section shall be constructed of good and sufficient boards, planks or scatlings nailed or fastened to strong uprights secured to the ground in such a manner as to render them firm and solid. It shall be the duty of the department of public works to insert in all contracts for the performance of public works in any street, lane or public place in the city a covenant requiring the contractor to carefully and securely guard such work during its progress and to keep and save the city harmless and indemnified against all loss or damage by reason of any negligence or carelessness in the manner of doing such work.
(Code 1975, § 18-16; Code 2002, § 74-14)

Secs. 74-15—74-30. Reserved.

ARTICLE II. CONSTRUCTION, REPAIRS, IMPROVEMENTS AND ALTERATIONS

DIVISION 1. GENERALLY

Sec. 74-31. Definitions concerning landscaping.

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:

Major landscaping and *landscaped changes* mean the planting of trees, shrubs growing over three feet in height, landscaping activities which create vision obstructions or overhanging or encroachment into the street. The terms "major landscaping" and "landscaped changes" do not include damaging, destruction, excavation, removal or filling of earth or stone, paving, changing grades by filling or removing substances. The terms "major landscaping" and "landscaped changes" do not include the normal planting of low lying flowers and shrubs or planting of grass.
(Code 1975, § 18-19(5); Code 2002, § 74-31)

Sec. 74-32. Traffic control.

All persons granted a permit under this article must comply with the guidelines for traffic control in accordance with the state manual of uniform traffic control devices. The city shall inspect the work site to ensure compliance with the established guidelines.
(Code 1975, § 18-22; Code 2002, § 74-32)

Sec. 74-33. Restoration.

All persons performing any construction, excavation, repair or improvement on the public ways must restore the property to its original condition or better. Restoration measures shall be included and specified in the plan submitted to the city for a permit, and shall be followed.
(Code 1975, § 18-23; Code 2002, § 74-33)

Sec. 74-34. Liability.

The permittee is liable to the city for any resulting damage to any public property that is caused by the permittee's activities or failure to

comply with the guidelines as established by the city and the state manual of uniform traffic control devices. The permittee shall indemnify the city against any loss or damage it may sustain by reason of the permittee's activities, including the payment of all claims and damages determined against the city, as well as costs associated with such claims, including, but not limited to, fees, court costs, and legal expense of any kind.
(Code 1975, § 18-24; Code 2002, § 74-34)

Secs. 74-35—74-50. Reserved.

DIVISION 2. PERMIT

Sec. 74-51. Construction, repairs, improvements and alterations.

The following acts are prohibited unless the individual, franchise, business entity or any other person first obtains a permit from the city. In all cases there must be compliance with Public Act No. 53 of 1974 (MCL 460.701 et seq.). Bonds must be posted as required by resolution.

(1) *Construction.*

a. *Driveway.* No person shall begin construction or modification of a driveway without first obtaining a permit.

b. *Sidewalks.* No person shall begin construction or modification of a sidewalk without first obtaining a permit.

(2) *Excavation, alteration.* No person shall damage, destroy or make any excavation in any pavement, sidewalk or crosswalk, drain or sewer or any part thereof, make any excavation in any public street, remove any earth or stone therefrom, perform major landscaping or landscape changes in terraces or boulevards, pave any street or public way or change the grade of any street or public way by filling in any earth, stone, sand or gravel, or by removing any substance therefrom, without first having obtained a permit.

(3) *Alleys and other rights-of-way.* No person shall make any construction, excavation, grade changes, filling, paving, or removal of any earth or stone from any alley or other right-of-way without first having obtained a permit.

(4) *Public utilities.* No person shall install, remove or repair public utilities on city streets, sidewalks, alleys or rights-of-way without first obtaining a permit.

(Code 1975, § 18-19(1)—(4); Code 2002, § 74-51)

State law reference—Mandatory that city require compliance with Public Act No. 53 of 1974, MCL 460.706.

Sec. 74-52. Permits and bonds; right of review and inspection.

(a) All permits for any work as described in section 74-51 must be obtained from the city. Before a permit is granted, the person requesting to repair, construct, excavate, etc., shall submit plans to the city engineering department for review. The city shall review and approve or reject those plans within 30 days. If the city rejects the proposed plan, written reasons must be given.

(b) Permit application fees will be set by type of project as determined by resolution. Fees shall be established by resolution which may include the following criteria: application fee, additional fees based on lineal feet, additional fees based on each pole or structure placed in the public way, complexity of the project, type of restoration, amounts based on the potential damage to the surrounding lands, streets and public improvements.

(c) All persons other than public utility franchises are required to file with the city clerk a bond, in a sum to be determined by resolution and approved by the city manager, to indemnify the city against any loss or damage it may sustain by reason of such construction, repair or excavation, etc. If, upon approval, a bond is required, the bond must be posted before any work begins. The bond amounts may be based on the following criteria: complexity of the project, type of restoration, potential damage to the surrounding lands and public ways, length of project, amount of permit fee. The city may require insurance depending on the size of the project. Criteria for insurance coverage shall be determined by resolution.

(d) All construction, repairs, excavations, etc., must be done in accordance with the guidelines established by the city. The guidelines shall be provided to the person applying for a permit upon approval of the permit. The city shall inspect the construction, repair, excavation, etc., to determine if there is compliance.
(Code 1975, § 18-20; Code 2002, § 74-52)

Sec. 74-53. Emergencies.

If an emergency requires immediate repair, the person or public utility performing the repair must obtain a permit within five working days of the emergency. Failure to obtain a permit within five working days of the emergency subjects the person or utility to an additional fee of 50 percent of the original permit fee amount.
(Code 1975, § 18-21; Code 2002, § 74-53)

Secs. 74-54—74-80. Reserved.

ARTICLE III. SIDEWALK IMPROVEMENTS

Sec. 74-81. Sidewalk maintenance.

All sidewalks within the city shall be kept and maintained in good repair by the owner of the land adjacent to and abutting upon it. If any owner shall neglect to keep and maintain the sidewalk along the front, rear, or side of the land owned by him in good repair and safe for the use of the public, the owner shall be liable to the city for any damages recovered against the city sustained by any person by reason of such sidewalk being unsafe and out of repair.
(Code 1975, § 18-31; Code 2002, § 74-81)

Sec. 74-82. Authority of city commission to order work done.

The city commission may, by resolution, order the grading, constructing, raising, lowering, relaying or repairing of any sidewalk required to be graded, constructed, raised, lowered, relaid or repaired in the city, and the city commission may, by resolution, at any time alter or change the grade of any sidewalk in the city whenever, in its judgment, a change in grade is required.
(Code 1975, § 18-32; Code 2002, § 74-82)

Sec. 74-83. Establishing grades.

(a) Whenever the city commission shall order any sidewalk to be graded, constructed, raised, lowered, relaid or repaired, and the street on which such work is to be done has not been graded, the city manager shall cause such a grade to be established and shall present a profile estimate and specifications to the city commission of the sidewalk to be raised, lowered, relaid or repaired, in accordance with the resolution of the city commission.

(b) If the street upon which a sidewalk is to be built, repaired, relaid, lowered or raised has been surveyed and the grade of the sidewalk established, all such sidewalks shall be built, repaired, relaid, lowered or raised according to such grade as already established, and no other survey shall be required.
(Code 1975, § 18-33; Code 2002, § 74-83)

Sec. 74-84. Authority to assess costs against owner of abutting property.

All hazardous sidewalks in the city right-of-way may be graded, constructed and repaired, and the expense thereof, except where the work is done by the owner, agent or occupant of the premises contiguous thereto, shall be recovered as permitted by section 74-86.
(Code 1975, § 18-35; Code 2002, § 74-84; Ord. No. 2284, § 1(74-84), 10-12-2010)

Sec. 74-85. Notice to owners or occupants of property contiguous to defective sidewalk.

(a) The city may, in its discretion, give written notice to the owner or the person listed on the tax rolls that a sidewalk contiguous to a certain property is defective or in need of repair. The letter shall set a time before which the repair must be completed by the owner or occupant, and shall inform the addressee that the specifications for repair and a permit must be obtained from the city.

(b) The notice shall further inform the owner, occupant or person on the tax roll that the city, after the deadline date has passed, may perform

the work and recover the associated costs thereof, including assessment costs, as permitted by section 74-86.
(Code 1975, § 18-36; Code 2002, § 74-85; Ord. No. 2284, § 1(74-85), 10-12-2010)

Sec. 74-86. Work by city.

If the owner, occupant or person named on the tax roll fails, refuses or neglects to build, repair, raise, lower or relay the sidewalk within the time specified in the notice, the city may then cause the work to be done and recover the costs of such by creating a special assessment and levy such assessment against the property, collecting the cost from the person listed on the tax rolls as the owner, and/or placing a lien on the property.
(Code 1975, § 18-37; Code 2002, § 74-86; Ord. No. 2284, § 1(74-86), 10-12-2010)

Secs. 74-87—74-110. Reserved.

ARTICLE IV. STREET NUMBERS FOR BUILDINGS

Sec. 74-111. Required.

All buildings erected or fronting on any street, lane, alley or other public place in the city shall be numbered in accordance with the plan provided in this article.
(Code 1975, § 18-50; Code 2002, § 74-111)

Sec. 74-112. Plan on file; inspection.

The numbers upon all buildings, as required by section 74-111, shall be in accordance with the plan prepared by the city engineer and on file in his office, and the books containing such plan shall be public records and open for inspection at all reasonable times to all persons.
(Code 1975, § 18-51; Code 2002, § 74-112)

Sec. 74-113. Duty of city engineer to furnish numbers.

It shall be the duty of the city engineer to furnish each owner or occupant of any building with a written copy of the correct number by which such building is designated.
(Code 1975, § 18-52; Code 2002, § 74-113)

Sec. 74-114. Duty of owner to affix numbers.

It shall be the duty of the owner or agent of any building, within 30 days after receiving the copy of the building number provided for in section 74-113, to cause to be placed upon such building, in a conspicuous place in front of such building, the proper number specified in plain and legible figures of at least two inches in length.
(Code 1975, § 18-53; Code 2002, § 74-114)

Sec. 74-115. Display of unofficial number prohibited.

It shall be unlawful for any person to display any number other than the official number upon any building.
(Code 1975, § 18-54; Code 2002, § 74-115)

Sec. 74-116. Penalty for violation of article.

Any person violating any of the provisions of this article shall be responsible for a municipal civil infraction.
(Code 1975, § 18-55; Code 2002, § 74-116)

Secs. 74-117—74-140. Reserved.

ARTICLE V. PUBLIC AND PRIVATE UTILITY FRANCHISES

Sec. 74-141. 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 utility company which has applied for a utility franchise pursuant to this article.

Energy means electricity, natural gas and all similar forms of energy or substances which are used for lighting, heating, cooling and similar purposes.

Energy utility means a person or company which transports, delivers or sells energy to one or more customers through the use of facilities located in the public ways, including highways, streets, alleys and bridges, or who otherwise

transact business in the city for the transportation and/or delivery of electric, natural gas, or similar energy.

Facilities means any plants, works, systems, improvements and equipment owned, leased or used by a utility, including poles, wires, fixtures, underground circuits, conduits, cables, towers, masts, transformers and other property used or installed in the public ways, which facilities are necessary or convenient for the sale, transmission or distribution of energy or other included utility services to a customer or customers.

Public ways means all public ways or rights-of-way within the city which are owned or controlled by the city, either as an easement or in fee simple, and including, without limitation, streets, highways, sidewalks, alleys and bridges, but not including parks or lands which are not used nor intended for transportation or passage by the public.

Utility franchise means a franchise granted to any person or company transporting, delivering or selling utility services, including, without limitation, energy utilities, which franchise is granted to operate a utility in the city and/or to transact business in the city.
(Code 2002, § 74-141; Ord. No. 1158, § 18-60, 4-14-1998)

Sec. 74-142. Utility franchise required.

No person may transport, deliver or sell utilities or energy utilities to one or more customers through the use of facilities located in the public ways of the city, nor may it otherwise transact business in the city for the transportation and/or delivery of utilities unless and until the utility has been granted a franchise by the city commission.
(Code 2002, § 74-142; Ord. No. 1158, § 18-61, 4-14-1998)

Sec. 74-143. Standards for granting of franchise.

All franchises granted by the city shall be granted in the form of an ordinance. Such ordinance shall contain provisions which are reasonably designed to protect the health, safety and welfare of the inhabitants of the city, including, without limitation, the protection of the safety of persons, vehicles or property located or passing in the vicinity of the facilities, the protection of surrounding properties, including property values, appearance, screening and other such measures, and location within the rights-of-way so as not to interfere with other utilities, public use and vehicular use of the public ways. Franchises shall be granted only under the conditions set forth in and authorized by the constitution and laws of the state and the ordinances of the city. No franchise shall be granted without a public vote, unless the franchise is revocable at will by the city. No franchise shall be granted for a period in excess of 30 years.
(Code 2002, § 74-143; Ord. No. 1158, § 18-62, 4-14-1998)

Sec. 74-144. Application for franchise.

A utility company which wishes to obtain a franchise from the city shall submit an application to the city clerk. The city may provide forms for use by the applicant. All applications, whether or not on a form, shall be in writing and shall include a detailed description of the facilities intended to be erected, and the public ways, if limited, which will be utilized by the utility. All applications must be accompanied by a nonrefundable application fee as currently established or as hereafter adopted by resolution of the city commission from time to time.
(Code 2002, § 74-144; Ord. No. 1158, § 18-63, 4-14-1998)

Secs. 74-145—74-199. Reserved.

ARTICLE VI. ENCROACHMENTS

Sec. 74-200. 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:

Encroachment as used in this article means any of the following which is located on, over, in or under any roadway, sidewalk, alley or other public right-of-way: architectural projection includ-

ing belt course, planter, mansard, cosmetic wall covering, roof cornice and wall buttress; awning; canopy; cellar entrance; coal hole; fence; manhole; marquee; sidewalk elevator; step or stair; fire escape; standpipe or sprinkler connection; sign; subgrade spread footing; underground conduit, cables and/or wires (private); wall; loading dock, platform or facility; hoistway opening; sidewalk vault; street vault; elevated craneway or walkway; any device or object, or anything specifically permitted by the commission and designated by it as an encroachment subject to the provisions of the article. The term "encroachment" as used in this article, shall not include overhead electric and telephone lines, poles and appurtenances; underground electric, telephone, gas and steam lines, together with tunnels and conduits owned by a public utility, a public utility permitted by the city and for which the utility company has agreed to hold the city harmless, or monitoring wells or testing of soils or groundwater for environmental purposes which are permitted by the city commission and/or city engineer.
(Ord. No. 2298, § 1(74-200), 8-9-2011)

Sec. 74-201. Permits required.

It shall be unlawful for any person to erect, build, maintain or relocate any encroachment as defined in this article without first obtaining a permit from the city clerk or by commission approval as provided under section 74-205, paying the permit fee as required under section 74-206, and furnishing the necessary insurance certificate as defined under section 74-208, if applicable.
(Ord. No. 2298, § 1(74-201), 8-9-2011)

Sec. 74-202. Application for permit.

Applications for encroachment permits (either existing or proposed) shall be made on a form provided by the city clerk and shall include the following information:

(1) Name, address, and telephone number of applicant;

(2) Location and type of the existing or proposed encroachment, building to which attached or abutting lot which encroachment serves, or if not abutting a privately owned lot, the location of encroachment in street, alley or public way;

(3) Blueprints or ink drawings showing the plans and specifications of the proposed or actual encroachment, if requested by the city clerk;

(4) Such other information as the city clerk shall require in order to ensure compliance with this article and all other ordinances of the city and laws of the state.

(Ord. No. 2298, § 1(74-202), 8-9-2011)

Sec. 74-203. Encroachment permit classifications.

Upon receipt of an application for an encroachment permit, the city clerk shall determine whether or not such encroachment, because of its nature, shall or shall not require regular inspections due to public safety and/or potential liability issues the encroachment may present. Those encroachments not requiring routine inspections shall be graded Class I encroachments and those requiring routine inspections shall be graded Class II encroachments, and fees shall be set accordingly as defined in section 74-206.
(Ord. No. 2298, § 1(74-203), 8-9-2011)

Sec. 74-204. Existing encroachments.

All existing encroachment permit holders shall be required to complete an application for permit as defined in section 74-202, including those permitted by special written agreement.
(Ord. No. 2298, § 1(74-204), 8-9-2011)

Sec. 74-205. Approval of encroachments by city.

(a) It shall be the duty of the city clerk to review the proposed or actual encroachment to ensure it does not pose an adverse affect to public safety, inconvenience the public or interfere with public usage and where appropriate, shall order any necessary repairs, alterations or removal.

(b) When the encroachment meets all the requirements of this article and any other ordinance of the city and the laws of the state, the city clerk shall then issue an encroachment permit,

provided the applicant pays the required fee as defined in section 74-206, and furnishes the necessary certificate of insurance as defined in section 74-208, if applicable. In the event the city clerk does not believe granting the encroachment permit would be in the best interest of the city, the city clerk may deny the granting of a permit.

(c) If the applicant does not concur with the decision of the city clerk, either to make repairs, alterations or removal, or the city clerk's decision to deny the application, the application shall be transmitted to the city commission for approval or disapproval. The decision of city commission shall be final.
(Ord. No. 2298, § 1(74-205), 8-9-2011)

Sec. 74-206. Permit fees.

(a) Each applicant shall pay an application fee as provided in the fee structure established by the city commission.

(b) A separate permit and fee will be charged for each encroachment on any one parcel. Application fees are not prorated and are nonrefundable. All permits for encroachments now existing or issued prior to the effective date of the ordinance from which this article is derived shall expire on August 31, 2011. All encroachment permits shall require renewal on or before September 1 of each year.
(Ord. No. 2298, § 1(74-206), 8-9-2011)

Sec. 74-207. Late payment penalty.

Noncompliance of this article may result in additional fees as established by the city commission.
(Ord. No. 2298, § 1(74-207), 8-9-2011)

Sec. 74-208. Insurance requirement.

(a) Prior to the issuance of any encroachment permit, the licensed inspector shall determine if such encroachment may present possible claims for personal injury, bodily injury or property damage due to its nature, and as a result may require the applicant to provide proof of liability insurance in an appropriate amount by a company authorized and acceptable to do insurance business in the state, specifically naming the city, its agents, employees and elected officials, as additional insured and loss payee for any such claims.

(b) In the event such proof of liability insurance is required, it shall be updated and provided to the city annually at the time of renewal.
(Ord. No. 2298, § 1(74-208), 8-9-2011)

Sec. 74-209. Inspection.

The city clerk shall inspect, at such time as he deems necessary, each encroachment permit granted to determine whether it is in need of repair or removal, and the permit fee shall be deemed to cover the costs of this inspection whether inspection be made annually or at other intervals.
(Ord. No. 2298, § 1(74-209), 8-9-2011)

Sec. 74-210. Permit revocable at any time.

All rights and privileges acquired under the provisions of this article or any amendment thereto are mere licenses, revocable at any time by the city clerk or city commission under the terms and provisions of this article and all such permits shall contain this provision.
(Ord. No. 2298, § 1(74-210), 8-9-2011)

Sec. 74-211. Removal of encroachment upon failure to apply for permit, pay permit fee, or maintain liability insurance.

Upon failure of any person to make application for an encroachment permit, where required, and to pay the permit fee or maintain liability insurance, if applicable, the city clerk shall have the authority to remove said encroachment immediately. Any item confiscated pursuant to the provisions of this section shall be held by the city for a period of 30 days. During the 30-day holding period, the owner of said item may request the return of the item on a form provided by the city clerk. The city clerk shall check the inventory of confiscated items and if the item is found to be held by the city the applicant may pay a recovery fee as currently established or as hereafter adopted by resolution of the city commission from time to time for each item held at which time the city clerk shall return the item to the owner. After

30 days have passed, the city clerk may dispose of said item either by disposal in an appropriate landfill or by sale.
(Ord. No. 2298, § 1(74-211), 8-9-2011)

Sec. 74-212. Removal of unsafe encroachments.

Any encroachment which has become unsafe or presents a hazard to the general public by reason of deterioration, dilapidation, lack of repair or maintenance, interferes with any future city usage of the area or city project, or any other cause which results in a limitation by the general public in its use of the public right-of-way, is hereby declared to be a public nuisance and shall be abated in the manner provided for removal of dangerous structures.
(Ord. No. 2298, § 1(74-212), 8-9-2011)

Sec. 74-213. Temporary encroachments.

Applications and permits for temporary or intermittent encroachments shall be obtained in the same manner as applications and permits are obtained for permanent encroachments.
(Ord. No. 2298, § 1(74-213), 8-9-2011)

Sec. 74-214. Delegation of authority.

Wherever in this article an act or duty is required to be performed by the city clerk, said act or duty may be delegated by the city clerk to any employee of the city.
(Ord. No. 2298, § 1(74-214), 8-9-2011)

Secs. 74-215—74-270. Reserved.

ARTICLE VII. STREET OR ALLEY VACATION OR RENAMING

Sec. 74-271. Procedure for street changes.

Streets and alleys or parts thereof shall be opened, closed, vacated, extended, widened or the name of an existing street or alley changed in accordance with the procedure in this article.
(Code 1975, § 19-50; Code 2002, § 66-71)

Sec. 74-272. Petition for changes; fee.

Any person desiring any of the action set forth in section 74-271 shall file a written petition for such relief with the zoning administrator, together with a fee in the amount established by resolution to cover the cost of publication, recording and other administrative expenses attendant to the proceeding.
(Code 1975, § 19-51; Code 2002, § 66-72)

Sec. 74-273. Public hearing.

Upon receipt of the petition and accompanying fee, the zoning administrator shall submit the petition to the planning commission which shall proceed as follows:

(1) A public hearing on the petition shall be determined and published in a newspaper of general circulation in the city at least ten days prior to the hearing.

(2) Service of notice of the time and place of the public hearing shall be mailed by first class mail to all owners of property assessed for taxation which adjoins the affected street or alley and to such other persons as the planning commission, after review of the petition, shall deem affected in the event the petition is granted.

(3) Following the public hearing, the planning commission shall recommend to the city commission whether all or part of the petition should be granted.

(Code 1975, § 19-52; Code 2002, § 66-73)

Sec. 74-274. Determination to grant petition.

The city commission shall determine whether or not all or any part of the petition should be granted, and shall reserve any necessary easements within the right-of-way of any street, alley or other public land vacated pursuant to such petition for public utility purposes and other public purposes.
(Code 1975, § 19-53; Code 2002, § 66-74)

State law reference—Similar provisions, MCL 560.265.

Sec. 74-275. Record of petitions granted.

The city clerk within 30 days following the resolution of the city commission granting all or part of any such petition shall record a certified copy of such resolution with the office of the register of deeds for the county, giving the name of the plat affected and, thereafter, shall send a copy thereof to the treasurer of the state.
(Code 1975, § 19-54; Code 2002, § 66-75)

Chapters 75—77

RESERVED

Chapter 78

SUBDIVISIONS AND OTHER LAND DIVISIONS*

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ARTICLE I. IN GENERAL

Secs. 78-1—78-30. Reserved.

ARTICLE II. SUBDIVISIONS

DIVISION 1. GENERALLY

Sec. 78-31. 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:

Generally. All terms, as defined in the land division act (MCL 560.101 et seq.), shall control, unless indicated to the contrary in this section.

Alley and *service drive* mean a passage or way affording generally a secondary means of vehicular access to abutting properties and not intended for general traffic circulation.

Arterial street means those streets of considerable continuity which are used or primarily for fast or heavy traffic (Seaway Dr., M-46, Shoreline Dr.).

Collector street means those streets used to carry traffic from minor streets to arterial streets classified by the city (Hackley Ave., Barclay St., Lakeshore Dr. (south of Laketon Ave.), Marquette Ave., Wood St.).

Expressway means those streets designed for high speed, high volume traffic, with full or partially controlled access, some grade crossings but no driveway connections (U.S. 31).

Highways, major streets and *parkways* mean the highways, major streets and parkways designated as such on the major street plan.

Local street and *collector street* mean a street intended to provide access to neighborhoods or sub-neighborhoods.

Major street means those streets in the city that are classified as primary hard-surfaced roads (Getty St., Laketon Ave., Henry St. (south of Laketon Ave.), Sherman Blvd.).

Major street plan means the master plan of highways, major streets and parkways adopted by the planning commission.

Minor street means a street, which is intended primarily for access, for abutting properties (all streets except those named above).

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 this article by sections 108 and 109 of the land division act (MCL 560.108, 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 this act or the requirements of an applicable local ordinance.

Zoning ordinance means the city zoning ordinance.
(Code 1975, § 19-3; Code 2002, § 78-31)

Sec. 78-32. Purpose.

The purpose of this article is to provide for orderly growth and harmonious development of the community, to secure coordinated development in conformance with the general plan of the city, including public facilities, to achieve individual property lots of maximum utility and livability and to control building in floodplains and to set standards for lot sizes.
(Code 1975, § 19-2; Code 2002, § 78-32)

Sec. 78-33. Minimum requirements; effect of article on other ordinances, laws or regulations.

The provisions of this article shall be held to be the minimum requirements adopted for the promotion and preservation of public health, safety and general welfare of the city. The provisions of this article are not intended to repeal, abrogate,

annul or in any manner interfere with existing regulations or ordinances of the city, nor conflict with any statutes of the state or county, except that this article shall prevail in cases where its provisions impose a greater restriction than is provided by existing statutes, laws, regulations or ordinances.
(Code 1975, § 19-4; Code 2002, § 78-33)

Sec. 78-34. Penalty for violations.

Any person violating any of the provisions of this article shall be responsible for a municipal civil infraction.
(Code 1975, § 19-5; Code 2002, § 78-34)

Secs. 78-35—78-50. Reserved.

DIVISION 2. PROCEDURES

Subdivision I. In General

Sec. 78-51. Phases of preparation for platting.

The preparation of a subdivision for platting shall be carried out through three phases as follows: pre-preliminary plat investigation, preliminary plat and final plat, all in accordance with the procedure outlined in this article.
(Code 1975, § 19-17; Code 2002, § 78-51)

Sec. 78-52. Preapplication review.

The proprietor may request that a preapplication review meeting take place by submitting a written request to the chairperson of the county plat board and submitting copies of a concept plan for the preliminary plat to the city and to each officer or agency entitled to review the preliminary plat under MCL 560.113 through 560.118. A preapplication review meeting shall take place not later than 30 days after the written request and concept plan are received. The meeting shall be attended by the proprietor, representatives of each officer or agency entitled to review the preliminary plat under MCL 560.113, 560.114, and 560.118, and a representative of the city. Representatives of each agency entitled to review the preliminary plat under MCL 560.115 through 560.118 shall be informed of the meeting and may attend. The purpose of the meeting is to conduct an informal review of the proprietor's concept plan for the preliminary plat.
(Code 1975, § 19-18; Code 2002, § 78-52)

Secs. 78-53—78-70. Reserved.

*Subdivision II. Preliminary Plat**

Sec. 78-71. Procedure.

The procedure for preparation and submittal of a preliminary plat of land area to be subdivided shall be as set out in this subdivision.
(Code 1975, § 19-25; Code 2002, § 78-71)

Sec. 78-72. Approval required.

No person proposing to make or to have made a subdivision or resubdivision within the territorial limits subject to the provisions of this article shall enter into any contract for sale or shall offer for sale such subdivision or any part thereof, or proceed with any construction on the proposed subdivision, including grading, until he has obtained from the city commission the tentative approval of the preliminary plat of the proposed subdivision.
(Code 1975, § 19-26; Code 2002, § 78-72)

Sec. 78-73. Scale.

The horizontal scale of the preliminary plat of a subdivision shall be 100 feet or less to the inch and the vertical scale of street and sewer profiles shall be 20 feet or less to the inch.
(Code 1975, § 19-27; Code 2002, § 78-73)
State law reference—Minimum scale, MCL 560.111.

Sec. 78-74. Contents generally.

The preliminary plat of a subdivision shall clearly show the following features and information:

(1) The proposed name of the subdivision, which name shall not duplicate or closely approximate the name of any other subdivision in the county.

*__State law reference—__Preliminary plats, MCL 560.107 et seq.

(2) The tract designation according to the real estate records of the register of deeds of the county.

(3) The names and addresses of the owners of record, the subdivider and the engineer or surveyor.

(4) The names of adjacent subdivisions and the names of record owners of adjacent parcels of unplatted land.

(5) The boundary lines, accurate in scale, of the tract to be subdivided.

(6) The location, widths and the names of all existing or platted streets or other public ways within or adjacent to the tract, and other important features such as existing permanent buildings, large trees, watercourses, railroad lines, corporation lines, township lines, section lines and similar features.

(7) Existing sewers, water mains, culverts and other underground structures within the tract of land and immediately adjacent thereto, with pipe sizes and grades indicated.

(8) Contours with intervals of five feet or less, referenced to Muskegon City Datum or U.S. Geological Survey Datum, as and when required by the planning commission.

(9) The layout, proposed names and widths of proposed streets, alleys and easements; the location and approximate sizes of catchbasins, culverts and other drainage structures; the layout, numbers and approximate dimensions of proposed lots. Proposed street names shall not duplicate or closely approximate any existing street names in the county, except coterminous streets.

(10) The profile of each street, with tentative grades indicated.

(11) The cross section of each proposed street, showing the width of the pavement, the location and width of sidewalks and the location and size of utility mains.

(12) The plans and profiles of proposed sanitary sewers, with grades and sizes indicated, or methods of sewage disposal in lieu of such sewers.

(13) A plan of the proposed water distribution system, showing pipe sizes and the location of valves and fire hydrants.

(14) Zoning boundary lines, if any, proposed uses of property and proposed front yard setback lines.

(15) All parcels of land intended to be dedicated or temporarily reserved for public use, or to be reserved in the deeds for the common use of property owners in the subdivision, with the purpose, conditions or limitations of such reservations indicated.

(Code 1975, § 19-28; Code 2002, § 78-74)

Sec. 78-75. Vicinity sketch.

A vicinity sketch, at a scale of 400 feet or more to the inch, shall be shown on or shall accompany the preliminary plat of a subdivision. The vicinity sketch shall show all existing subdivision and street and tract lines of acreage and parcels of land, together with the names of record owners of such parcels, immediately adjoining the proposed subdivision and between it and the nearest existing highway or thoroughfare. It shall also show how the streets and alleys in the proposed subdivision may connect with the existing and proposed streets and alleys in neighboring subdivisions or unplatted property to produce the most advantageous development of the entire neighborhood.

(Code 1975, § 19-29; Code 2002, § 78-75)

Sec. 78-76. Filing; review and recommendations by planning director and city engineer.

(a) Five copies of the preliminary plat of the subdivision, together with written application, shall be submitted to the director of planning for his technical review and recommendation, which shall be forwarded to the planning commission. Submittal to the planning director shall be at least 15 days prior to a regular meeting of the planning commission.

(b) The preliminary plat shall be reviewed by the city engineer as to the adequacy of the design of the proposed utilities and street improvements or other matters under his jurisdiction and he shall recommend to the planning commission approval or rejection.
(Code 1975, § 19-30; Code 2002, § 78-76)

Sec. 78-77. Hearing and recommendation by planning commission.

(a) Upon receipt of the recommendation of the planning director and city engineer concerning the preliminary plat of a subdivision, the planning commission shall hold a public hearing. Notice of the time and place of such hearing shall be sent by mail to the subdivider and owners of land immediately adjoining or directly across a public street from the proposed subdivision, at least ten days prior to the hearing.

(b) The planning commission shall forward to the city commission its recommendation as to the tentative approval of the preliminary plat, which recommendation shall be in writing. The recommendation to the city commission shall outline any deficiencies in design of improvements or facilities in the proposed plat.
(Code 1975, § 19-31; Code 2002, § 78-77)

Sec. 78-78. Action by city commission.

(a) The city commission will not review any preliminary plat of a subdivision until it has received the review and recommendation of the planning commission and all authorities listed in sections 112 through 119 of the land division act (MCL 560.112—560.119).

(b) The city commission shall take action on the preliminary plat within 30 days of the receipt of the recommendation of the planning commission.

(c) If the preliminary plat meets all of the requirements and conditions laid down for tentative approval, the city commission shall give final approval of the preliminary plat.

(d) The city clerk shall promptly notify the proprietor of approval or rejection, in writing. If rejected, the reasons for rejection shall be given.

(e) Final approval of the preliminary plat shall be effective for one year, provided that the period may be extended by the city commission upon request of the proprietor.
(Code 1975, § 19-32; Code 2002, § 78-78)

State law reference—Approval of preliminary plat, MCL 560.112.

Secs. 78-79—78-95. Reserved.

*Subdivision III. Final Plat**

Sec. 78-96. Compliance with state law and this subdivision.

The final plat of a subdivision shall comply with the provisions of the land division act (MCL 560.101 et seq.) and this subdivision.
(Code 1975, § 19-39; Code 2002, § 78-96)

Sec. 78-97. Conformity with preliminary plat.

The final plat of a subdivision shall conform substantially to the preliminary plat as approved, and may constitute only that portion of the approved preliminary plat which the proprietor proposed to record and develop at the time.
(Code 1975, § 19-40; Code 2002, § 78-97)

Sec. 78-98. Filing; plan check fee.

Five Mylar copies and three prints of the final plat of a subdivision shall be filed with the city clerk, and, at the same time, there shall be deposited such sums of money as the city commission may require for a plan check.
(Code 1975, § 19-41; Code 2002, § 78-98)

Sec. 78-99. Review and recommendations by city engineer and planning director.

The final plat of a subdivision shall be reviewed by the city engineer and planning director as to compliance with the approved preliminary plat and plans for utilities and other improvements.

*__State law reference—__Final plats, MCL 560.131 et seq.

Recommendation shall be made by the city engineer and planning director for either approval or rejection of the final plat.
(Code 1975, § 19-42; Code 2002, § 78-99)

Sec. 78-100. Action by the city commission; subsequent approvals; distribution of prints and copies.

(a) The city commission shall receive all recommendations and take action on the final plat of a subdivision within 20 days of its filing; provided that the city commission will not review the final plat until all necessary improvements are made, or other arrangements made for the installation, by the city, of such improvements as established in division 4 of this article.

(b) Upon the approval of the final plat by the city commission, the subsequent approvals shall follow the procedure set forth in the land division act (MCL 560.101 et seq.).

(c) The three prints of the final plat shall be forwarded:

(1) One to the city clerk;

(2) One to the planning commission; and

(3) One to the building inspection department.

(d) The five Mylar copies shall be forwarded to the city or the county plat board.
(Code 1975, § 19-43; Code 2002, § 78-100)

State law references—Approval of final plats, MCL 560.167; actions on approval of plat, MCL 560.168.

Secs. 78-101—78-115. Reserved.

DIVISION 3. DESIGN LAYOUT STANDARDS

Subdivision I. In General

Sec. 78-116. Applicability of division.

The subdivision design layout standards set forth under this division are development guides for the assistance of the proprietor. All final plans must be reviewed and approved by the city commission.
(Code 1975, § 19-55; Code 2002, § 78-116)

Sec. 78-117. Suitability of land.

No land shall be subdivided for residential use which is held by the planning commission to be unsuitable for such use by reason of flooding or bad drainage, adverse earth or rock formation or topography, or any other feature likely to be harmful to the health, safety or welfare of the future residents in the proposed subdivision or of the community.
(Code 1975, § 19-56; Code 2002, § 78-117)

Sec. 78-118. Parks, school sites, etc.

(a) Where a proposed park or other recreational area, school site or other public ground shown on the adopted master plan of the city is located, in whole or in part, within a proposed subdivision, such proposed public ground or park shall be dedicated to the city or school district or reserved for acquisition by the city or school district within a period of five years by purchase or other means.

(b) Where held appropriate by the planning commission, open spaces suitably located and of adequate size for parks, playgrounds or other recreational purposes, for local or neighborhood use, or to preserve scenic or historic features, shall be provided for in the design of the proposed subdivision and shall be dedicated to the city or reserved for the common use of all property owners in the proposed subdivision by covenant in the deeds.
(Code 1975, § 19-57; Code 2002, § 78-118)

Sec. 78-119. Blocks.

Blocks within subdivisions shall conform to the following standards:

(1) Blocks shall be relatively long, in the interest of economy of street costs and to minimize the number of intersections. Blocks shall have sufficient width to provide for two tiers of lots of appropriate depth, except in special cases where it is desirable to locate the rear of lots on a major thoroughfare with fronts facing a parallel street.

(2) The length of blocks shall be such as, in the opinion of the planning commission, is

appropriate for the locality and the type of development contemplated, but shall not exceed 1,254 feet where the average size of lots does not exceed two acres in area.

(3) In any block over 900 feet in length, the planning commission may require a crosswalk or pedestrian way, not less than ten feet wide, and to be provided near the center and entirely across the block.

(4) The number of intersecting streets along highways, major streets and parkways shall be held to a minimum. Whenever practicable, blocks along such trafficways shall not be less than 1,200 feet in length.

(Code 1975, § 19-58; Code 2002, § 78-119)

Sec. 78-120. Lots.

Lots within a subdivision shall conform to the following standards:

(1) The size, shape and orientation of lots shall be appropriate for the location of the proposed subdivision and for the development contemplated.

(2) Lot areas and widths shall conform to at least the minimum requirements of the zoning ordinance for the district in which the subdivision is proposed.

(3) Excessive depths in relation to width shall be avoided. A proportion of two to one shall normally be considered as appropriate, except in cases of narrow lots.

(4) Lots for residence purposes shall be at least 50 feet wide at the building line, in order to permit compliance with the side yard requirements of the zoning ordinance and still be adequate for a building of practicable width.

(5) Corner lots for residential use shall be platted wider than interior lots in order to permit near conformance with the front yard setback on the side street required by the zoning ordinance.

(6) Every lot shall abut on a street or public way.

(7) Double frontage lots will not be permitted except that the planning commission may permit such in cases where conformance with this provision will make compliance with other provisions impossible.

(8) Residential lots fronting major streets and other important traffic ways shall have extra depth to permit setbacks for the buildings.

(9) Lots shall have a front-to-front relationship across all streets, where possible.

(Code 1975, § 19-59; Code 2002, § 78-120)

State law reference—Lots to have access to streets, MCL 560.186(1)(e).

Sec. 78-121. Natural features.

In the subdivision of land, the natural features and character of the land must be preserved wherever possible. Due regard must be shown for all natural features, such as large trees, natural groves, watercourses and similar community assets that will add attractiveness and value to the property, if preserved. The preservation of drainage and natural stream channels must be considered by the proprietor and the dedication and provision of adequate barriers, where appropriate, shall be required.

(Code 1975, § 19-60; Code 2002, § 78-121)

Sec. 78-122. Floodplains.

Any areas of land within a proposed subdivision which lie either wholly or in part within the floodplain of a river, stream, creek or lake, or any other areas which are subject to flooding or inundation by stormwater, shall require specific compliance with the land division act (MCL 560.101 et seq.) and its review by the water resources commission of the department of natural resources.

(Code 1975, § 19-61; Code 2002, § 78-122)

State law reference—Floodplain requirements, MCL 560.138.

Secs. 78-123—78-140. Reserved.

*Subdivision II. Streets**

Sec. 78-141. Conformity with major street and master plans.

(a) Whenever a tract to be subdivided embraces any part of a highway, major street or parkway, so designated on the major street plan,

***State law reference—**Streets in subdivisions, MCL 560.181 et seq.

such part of such public way shall be platted by the subdivider in the location and at the width indicated on the plan.

(b) Streets in a proposed subdivision shall conform to the various elements of the master plan and shall be considered in relation to the existing and planned major thoroughfares and collector streets.
(Code 1975, § 19-68; Code 2002, § 78-141)

Sec. 78-142. General layout requirements.

The street layout in a subdivision shall provide for continuation of collector streets in adjoining subdivisions, or of the proper projection of streets when adjoining property is not subdivided, planned or conformed to a plan for a neighborhood unit drawn up and adopted by the planning commission. The street layout shall include minor streets so laid out that their use by through traffic shall be discouraged.
(Code 1975, § 19-69; Code 2002, § 78-142)

Sec. 78-143. Half streets.

Half streets shall be prohibited in subdivisions, except where absolutely essential to the reasonable development of the subdivision in conformity with other requirements of this article and where the planning commission finds that it will be practicable to require the dedication of the other half when the adjacent property is developed. Wherever there exists, adjacent to the tract to be subdivided, a dedicated platted or recorded half street, the other half shall be platted.
(Code 1975, § 19-70; Code 2002, § 78-143)

Sec. 78-144. Right-of-way widths.

Street right-of-way widths in subdivisions shall conform to at least the following minimum standards:

(1) Major streets: in conformance with the major street plan of the city.

(2) Local streets and collector streets: 66 feet.

(3) Cul-de-sac streets less than 500 feet in length: 50 feet. Cul-de-sac turn-arounds shall be a minimum of 110 feet in diameter.

(4) Alleys and service drives: 20 feet.
(Code 1975, § 19-71; Code 2002, § 78-144)

Sec. 78-145. Grades.

(a) For adequate drainage, the minimum street grade in subdivisions shall be not less than five-tenths percent. The maximum street grade shall be five percent except that the planning commission may make an exception to this standard on the recommendation of the city engineer.

(b) All changes in street grades in excess of one percent shall be connected by a vertical curve of minimum length equal to 15 times the algebraic difference in the ratio of grade for highways, major streets and parkways, and one-half of this minimum for all other streets.
(Code 1975, § 19-72; Code 2002, § 78-145)

Sec. 78-146. Radii of curvature on centerline.

The radii of curvature of the centerline of subdivision streets shall be not less than the following:

(1) Highways, major streets and parkways: 300 feet.

(2) Local streets, minor streets and service drives: 100 feet.
(Code 1975, § 19-73; Code 2002, § 78-146)

Sec. 78-147. Tangent between reverse curves.

A tangent at least 100 feet in length shall be provided between reverse curves in subdivision streets.
(Code 1975, § 19-74; Code 2002, § 78-147)

Sec. 78-148. Intersections.

Subdivision streets shall be laid out so as to intersect as nearly as possible to 90 degrees. Curved streets intersecting with major or collector streets shall do so with a tangent section of the centerline 50 feet in length measured from the right-of-way of the intersection.
(Code 1975, § 19-75)

Sec. 78-149. Jogs.

Street jogs with centerline offsets of less than 125 feet shall be avoided in subdivisions.
(Code 1975, § 19-76; Code 2002, § 78-149)

Secs. 78-150—78-165. Reserved.

DIVISION 4. REQUIRED IMPROVEMENTS*

Sec. 78-166. Required approvals to be obtained prior to installation; compliance with article.

The approvals required under the provisions of this article shall be obtained prior to the installation of any subdivision or project improvements within the city or under the ultimate jurisdiction of the city, and such installations shall comply with all of the provisions and requirements of this article or any other related ordinance.
(Code 1975, § 19-88; Code 2002, § 78-166)

Sec. 78-167. Roadway surfacing and curbs.

Roadways in subdivisions shall be surfaced and curbs provided in accordance with standards adopted by the city commission upon recommendation of the city engineer.
(Code 1975, § 19-89; Code 2002, § 78-167)

Sec. 78-168. Sidewalks.

Sidewalks of widths and type of construction in accordance with standard specifications shall be constructed on at least one side of every subdivision street, where the average width of lots is 60 feet or less. Sidewalks shall also be constructed on one or both widths of lots, where, in the opinion of the city commission, such sidewalks are necessary to safeguard the safety of pedestrians.
(Code 1975, § 19-90; Code 2002, § 78-168)

Sec. 78-169. Underground utilities.

All telephone, electric, television and other similar services distributed by wire or cable shall be placed underground entirely throughout a subdivision, and such conduits or cables shall be placed within private easements provided to such service companies by the developer or within dedicated public ways. All such facilities placed in dedicated public ways shall be planned so as not to conflict with other underground utilities. All such facilities shall be constructed in accordance with standards of construction approved by the state public service commission.
(Code 1975, § 19-91; Code 2002, § 78-169)

Sec. 78-170. Water system.

Every subdivision shall be provided with a complete water distribution system, including a connection for each lot and appropriately spaced fire hydrants. The entire water system shall be designed to meet the approval of the city engineer.
(Code 1975, § 19-92; Code 2002, § 78-170)

Sec. 78-171. Sanitary sewer system.

A sanitary sewer system, including all appurtenances, shall be required in all subdivisions.
(Code 1975, § 19-93; Code 2002, § 78-171)

Sec. 78-172. Storm drainage system.

An adequate storm drainage system shall be required in all subdivisions.
(Code 1975, § 19-94; Code 2002, § 78-172)

Sec. 78-173. Protection of utilities from flood damage.

The planning commission shall require new or replacement water supply systems and/or sanitary sewer systems to be designed to minimize or eliminate infiltration of floodwaters into the system and discharges from the systems into floodwaters, and require on-site waste disposal systems to be located so as to avoid impairment of them or contamination from them during flooding.
(Code 1975, § 19-95; Code 2002, § 78-173)

Secs. 78-174—78-190. Reserved.

*__State law reference—__Improvements generally, MCL 560.188.

DIVISION 5. SUBDIVISION OPEN SPACE PLAN (PLANNED UNIT DEVELOPMENT)

Sec. 78-191. Application of division.

The requirements of this division apply in addition to all other requirements of this article, where a preliminary plat is filed for approval under the subdivision open space plan section of the zoning ordinance.
(Code 1975, § 19-106; Code 2002, § 78-191)

Sec. 78-192. Statement of principles.

Consideration by the planning commission and the city commission of proposed optional use of subdivision open space plan shall reflect the following basic principles:

(1) The subdivision open space section of the zoning ordinance provides an optional method of subdividing property, and approval of any subdivision open space plan is subject to the discretion of the city commission.

(2) Particular attention shall be given to the effect of a subdivision open space plan upon the immediate area, where the character of that area has been established by previous development. Major attention shall be given by the planning commission and the city commission to the benefits to be derived by the residents of the proposed subdivision and the city because of the subdivision open space plan, with minor consideration to be given to the proprietor.

(3) The following objectives shall govern the approval or disapproval of the proposed subdivision open space plan, to:

a. Provide a more desirable living environment by preserving the natural character of the terrain features.

b. Encourage developers to use a more creative approach in the development of residential areas.

c. Encourage a more efficient aesthetic and desirable use of the land while recognizing a reduction in development costs and by allowing the developer to bypass natural obstacles.

d. Encourage the provision of open space so benefits may accrue directly to residents of the subdivision and to further encourage the development of recreational facilities.

(Code 1975, § 19-107; Code 2002, § 78-192)

Sec. 78-193. Contents of application for approval—Description of land to be dedicated.

The application for approval of a subdivision open space plan shall contain, in addition to the information required by other sections of this article, a complete description of the land proposed to be dedicated to the city or to the common use of lot owners (called "open land" in this section), including the following as a minimum:

(1) Legal description of open land.

(2) Topographical survey of open land.

(3) Type of soil in open land.

(4) Description of natural features on open land (e.g., stands of trees or other vegetation, streams or other bodies of water, etc.).

(5) Other relevant factors.

(Code 1975, § 19-108; Code 2002, § 78-193)

Sec. 78-194. Same—Plan of development.

The application for approval of a subdivision open space plan shall contain the proposed plan of development of the open land and shall include the following as a minimum:

(1) The proposed manner in which the title to land and facilities is to be held by the owners of land in the subdivision.

(2) The proposed manner of collection of maintenance costs, financing costs or assessments so that nonpayment will constitute a lien on the property, thus avoiding municipal responsibility in the future.

(3) The proposed manner of regulating the use of the common facilities and areas so

as to eliminate possible nuisances to other property owners and cause for enforcement by the city.

(4) The proposed method of notifying the city when any change is contemplated in plans that would affect the original specifications approved by the city.

(5) The proposed method of setting up assessments to cover the contingencies, insurance against casualty and liability and payment of taxes relating to these properties.

(6) The proposed uses of open land and the proposed improvements which are to be constructed by the proprietor.

(Code 1975, § 19-109; Code 2002, § 78-194)

Sec. 78-195. Same—Statement of benefits.

The application for approval of a subdivision open space plan shall contain a statement of the benefits to be realized by the residents of the proposed subdivision and the city by approval of the proposed subdivision open space plan, with particular reference to the objectives stated in the zoning ordinance.

(Code 1975, § 19-110; Code 2002, § 78-195)

Sec. 78-196. Approval or disapproval.

(a) If the planning commission is satisfied that a proposed subdivision open space plan meets the letter and spirit of the zoning ordinance and should be approved, it shall recommend such approval to the city commission, with the conditions upon which such approval should be based. Thereafter, the city commission shall take action upon such application in accordance with section 78-99.

(b) If the planning commission is not satisfied that a proposed subdivision open space plan meets the letter and spirit of the zoning ordinance or finds that the approval of the subdivision open space plan will be detrimental to existing development in the general area and should not be approved, it shall communicate such disapproval to the city commission, with the reasons therefor. The proprietor shall be entitled to a hearing upon such proposal, before the city commission, upon written request therefor filed with the city clerk.

(Code 1975, § 19-111; Code 2002, § 78-196)

Sec. 78-197. Contract between city and proprietor.

If the city commission gives approval to a proposed subdivision open space plan, it shall instruct the city attorney to prepare a contract setting forth the conditions upon which such approval is based, which contract, after approval by the city commission, shall be entered into between the city and the proprietor prior to the approval of any final plat based upon the approved preliminary plat.

(Code 1975, § 19-112; Code 2002, § 78-197)

Chapters 79—81

RESERVED

Chapter 82

TAXATION

Article I. In General

Sec. 82-1. Industrial, commercial and residential facilities tax exemptions.
Secs. 82-2—82-30. Reserved.

Article II. Ad Valorem Property Taxation

Division 1. Generally

Secs. 82-31—82-45. Reserved.

Division 2. Residential Housing Projects and Payments In Lieu Of Taxes

Sec. 82-46. Definitions.
Sec. 82-47. General denial of exemption.
Sec. 82-48. Limited exemption stated.
Sec. 82-49. Ownership entities recognized.
Sec. 82-50. Housing projects eligible.
Sec. 82-51. Payment in lieu of taxes; amount; standards for determination.
Sec. 82-52. Term of exemption.
Sec. 82-53. Service charge constitutes a lien on property.
Sec. 82-54. Collection of service charge.
Sec. 82-55. Requirement to file information; default in payment; violations; loss of exemption.
Sec. 82-56. Service fees and special assessments.
Sec. 82-57. Contract requirement.
Sec. 82-58. Denial of application.
Sec. 82-59. Effect on existing projects.
Secs. 82-60—82-80. Reserved.

Article III. Income Tax

Sec. 82-81. Adopted; tax levied.
Sec. 82-82. Personal exemptions and limitations.

ARTICLE I. IN GENERAL

Sec. 82-1. Industrial, commercial and residential facilities tax exemptions.

(a) Finding and declaration of fact; purpose of section. The city processes applications and monitors compliance for several tax exemptions afforded by state law. These include the following:

(1) Applications and continued monitoring for the establishment of districts and the issuance of industrial facilities tax exemption certificates pursuant to Public Act No. 198 of 1974 (MCL 207.551 et seq.);

(2) Applications and continued monitoring for the establishment of districts and the issuance of commercial facilities tax exemption certificates pursuant to the commercial redevelopment act, Public Act No. 255 of 1978 (MCL 207.651 et seq.);

(3) Applications and continued monitoring for qualification of businesses pursuant to the enterprise zone act, Public Act No. 224 of 1985 (MCL 125.2101 et seq.);

(4) Applications and continued monitoring of grants of exemptions under Section 15a of Public Act No. 346 of 1946 (MCL 125.1415a), or its successor;

(5) Applications and continued monitoring of exemptions under the neighborhood enterprise zone act, Public Act No. 147 of 1992 (MCL 207.771 et seq.).

(b) The review of applications and subsequent monitoring thereof during the period of any exemption required under the above statutes involves expenditure of staff time, publication and mailing fees, investigations and review. It is the purpose of this section to establish fees to be paid by each applicant for each such application to reimburse the city for such expenditure. The fees are determined to reflect the actual costs of the city's responsibilities regarding such applications, or are specifically authorized by statute.

(c) Fees. All fees for processing applications, requests for creation of districts, applications for transfers, and any other actions requested pursuant to this section shall be determined by the city commission by resolution, and set forth in the city's master fee resolution.

(Code 1975, § 2-6.1; Code 2002, § 82-1; Ord. No. 1185, § 1, 3-9-1999; Ord. No. 1193, 8-10-1999)

State law reference—Application fee for industrial facilities authorized, MCL 207.555(3).

Secs. 82-2—82-30. Reserved.

ARTICLE II. AD VALOREM PROPERTY TAXATION*

DIVISION 1. GENERALLY

Secs. 82-31—82-45. Reserved.

DIVISION 2. RESIDENTIAL HOUSING PROJECTS AND PAYMENTS IN LIEU OF TAXES†

Sec. 82-46. 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:

Authority means the state housing development authority.

Contract rents mean all rents in the housing project expected either directly from a tenant or by subsidy, vendor payments or paid by a government or other assisting entity on behalf of a tenant to the owner or owner's designee or agent of a housing project. Contract rents include the rental amounts to be currently charged for units in the housing project, whether a unit is vacant or not, and whether or not the rent is actually paid. Contract rents also include the rentals to be paid for additional facilities by tenants, such as carports or garages, and further include miscellaneous income, such as income from vending machines or laundry equipment. The portion of additional facility rents and miscellaneous in-

*State law reference—General property tax act, MCL 211.1 et seq.

†State law reference—Housing project tax exemption and service charges, MCL 125.1415a.

come to be attributed to contract rents shall be determined by reference to the floor plan of the facility which includes and clearly exhibits the housing project (therefore the exempt portion of the facility), and the portion of contract rents shall be determined by the ratio of the housing project square footage to the entire square footage of the facility. The term "contract rents" does not include charges for utilities.

Elderly persons mean persons determined by authority guidelines, rules, and practices to have attained the age and have the status to constitute them as elderly persons.

Housing project means a residential facility consisting of rental units offered to the following persons; it does not mean the portion of any facility which is not so occupied by:

(1) Elderly persons as defined in this section.

(2) Low income persons and families as defined by the authority.

HUD means the United States Department of Housing and Urban Development.

Low income persons and families mean all low income persons and families included in the definitions found at Section 15a(7) of Public Act No. 346 of 1966 (MCL 125.1415a(7)).

Mortgage loan means a loan made by the authority or insured by HUD to the sponsor for the construction and/or permanent financing of a housing project.

Service charge means the same as payment in lieu of taxes.

Sponsor means a developer of a housing project. The term "sponsor" includes an applicant for exemption under this division.

Utilities mean public water, public sanitary sewer, gas or electric service. The term "utilities" does not include cable or other television services, telephone or communication utilities or solid waste services.
(Code 1975, § 2-6(c); Code 2002, § 82-46; Ord. No. 2072, 4-9-2002; Ord. No. 2303, § 1(82-46), 2-14-2012)

Sec. 82-47. General denial of exemption.

The exemption from ad valorem property taxes provided by Section 15a of Public Act No. 346 of 1966 (MCL 125.1415a) shall not apply to all or any class of housing projects within the city boundaries except as provided in this division.
(Code 1975, § 2-6(a); Code 2002, § 82-47)

State law reference—Authority to so provide, MCL 125.1415a(5).

Sec. 82-48. Limited exemption stated.

A limited exemption, only if authorized by Public Act No. 346 of 1966 (MCL 125.1401 et seq.), is hereby granted, limited however to the projects described and authorized by this division and further having a signed contract with the city pursuant to this division entered into by the city in its sole discretion. No other residential project, even if authorized by Public Act No. 346 of 1966 (MCL 125.1401 et seq.), shall be entitled to an exemption.
(Code 1975, § 2-6(b); Code 2002, § 82-48)

Sec. 82-49. Ownership entities recognized.

No housing project shall be eligible for an exemption under this division unless it is owned by a nonprofit housing corporation, consumer housing cooperative, or limited dividend housing corporation as described in Section 15a of Public Act No. 346 of 1966 (MCL 125.1415a). The exemption shall not be available to mobile home park corporations or mobile home park associations.
(Code 1975, § 2-6(d); Code 2002, § 82-49)

Sec. 82-50. Housing projects eligible.

The following housing projects shall be eligible for the exemption in the city:

(1) Housing projects receiving direct mortgage loans from or insured by HUD or the authority for at least 70 percent of the total construction or rehabilitation costs of the housing project.

(2) Housing projects where at least 70 percent of the total construction or rehabilitation costs of the housing project come from the proceeds of a grant or advance of funds from the authority.

(3) Housing projects in which at least 70 percent of the total construction or rehabilitation costs of the housing project are funded by the net proceeds from an authority-aided mortgage loan, but only where the authority aid consists of the allocation of tax credits from the authority to the applicant for the exemption.

(4) Housing projects which satisfy all of the following criteria:

a. The project had previously received a project-based section 8 contract which is scheduled to expire within one year,

b. The city determines that the HAP contract renewal is in the best interest of the city and the residents of project;

c. The project had previously received tax exemption and a pilot from the city;

d. Within 27 months after the contract with the city pursuant to the terms hereof, the project receives a MSHDA financing commitment, a HUD insured financing commitment or a reservation of low income housing tax credits; and

e. Renovations commence within 12 months after receipt of a MSHDA financing commitment, a HUD insured financing commitment or a reservation of low income housing tax credits.

(Code 1975, § 2-6(e); Code 2002, § 82-50; Ord. No. 2303, § 1(82-50), 2-14-2012)

Sec. 82-51. Payment in lieu of taxes; amount; standards for determination.

The payments in lieu of taxes to be made by housing projects exempt from ad valorem taxes under this division are hereby established by the city pursuant to Section 15a of Public Act No. 346 of 1966 (MCL 125.1415a), without regard to the amounts otherwise set forth in such section of this act. The service charge to be paid in lieu of taxes by any housing project exempt under this division shall be determined as follows:

(1) *Amount.* Except as provided in subsection (2)(h) of this section, the service charge shall be in an amount no less than four percent nor more than 20 percent of the contract rents charged for the total of all units in the exempt housing project, whether the units are occupied or not and whether or not the rents are paid. In no event shall the service charge exceed the ad valorem real property taxes which would be paid for the housing project if it were not exempt.

(2) *Standards for determining the amount of the payment in lieu of taxes.* In determining the amount of service charge (not less than the minimum) which will be paid the city for a housing project exempt under this division the following standards shall guide the city. All criteria which apply shall be considered to arrive at the service charge:

a. In the event the housing project or a substantial part thereof is located in a rehabilitated structure, for that portion of the project found in the rehabilitated structure the city shall establish a lower service charge.

b. In the event the housing project is located in an area of the city which is part of a tax increment district and removes taxable property from the tax roll, the city shall establish a higher service charge.

c. The city shall consider the number of exempt units as compared to nonexempt units which are attached or contiguous to the housing project, but which are developed simultaneously with it by the same developer. To the extent that nonexempt units, including units calling for market rents, are included in the development, the city shall consider lowering the rate of the service charge on the exempt units.

d. In the event the housing project is proximate to nonsubsidized and nonexempt housing which is not part of any project for which the developer of the exempt housing project is responsible, the city shall establish a higher service charge.

e. In the event the housing project is eligible for other property tax abatements or reductions of any kind, or municipal benefits not generally available to residential properties, the city shall establish a higher service charge.

f. In the event the housing project results in an increase in the need for public services such as water or sewer extensions, public transportation services, additional snow plowing, police and fire services, or increased school populations, the city shall establish a higher service charge.

g. In the event the city determines that the housing project will result in significantly increased traffic generation or street or highway safety problems, the city shall establish a higher service charge.

h. For a project which meets the criteria of section 82-50(4), the service charge may be continued in the amount the city had previously determined.

(3) *Property or unit becoming ineligible.* In the event any residential unit is found to be occupied by persons who are not eligible to occupy exempt units under this division, the service charge for that unit, prorated, shall equal the general property taxes which would be payable (prorata) for that unit. In the event the city determines that more than 50 percent of the units in the housing project are occupied by such ineligible persons, then the entire housing project shall be immediately liable for a service charge in an amount equal to the ad valorem property taxes which would otherwise be charged by tax bills normally issuing in the year of the city's determination.

(Code 1975, § 2-6(f); Code 2002, § 82-51; Ord. No. 2303, § 1(82-51), 2-14-2012)

State law reference—Service charge authorized, MCL 125.1415a(2).

Sec. 82-52. Term of exemption.

Except as provided in subsection (5) or (6) of this section, the exemption term shall begin on the tax day of the year in which a final certificate of compliance or occupancy is issued by the city, therefore affecting the taxes due in the following year, and shall terminate on the happening of any of the following:

(1) Refinancing of the authority-aided, or authority or HUD mortgage loan, except to convert from a construction to an end loan.

(2) Any violation or default under section 82-55.

(3) The day falling 25 years after the effective date of the contract for the exemption required by this division, or the period determined by the contract, whichever is shorter.

(4) For exemptions applicable to projects aimed at redeveloping existing multi-family residential housing projects, which receive Michigan State Housing Development Authority approval between October 1, 2002 and December 1, 2002, the day falling 35 years after the effective date of the contract for the exemption required by this division, or the period determined by the contract, whichever is shorter.

(5) For projects which satisfy the criteria of section 82-50(4), the tax exemption shall begin upon acquisition of the project by the sponsor and shall extend until the final maturity of the authority-aided or federally-aided mortgage, whichever is longer, but not to exceed 40 years from the closing. If the criteria of section 82-50(4) are not met within two years of the date of the contract between the city and the sponsor, the tax exemption and PILOT

shall terminate at the end of the two year period and the sponsor shall be responsible for any other remedies agreed to between the city and sponsor.

(6) For projects which originally were financed through a Michigan State Housing Development Authority financed or aided mortgage and low income housing tax credits and for which the Michigan State Housing Development Authority financed or aided mortgage is to be paid off between February 6, 2014 and December 30, 2014 but the restrictions applicable to low income housing tax credits remains in place, the tax exemption shall begin upon acquisition of the project by the sponsor and shall extend until the date specified in the contract for housing exemption, but not to exceed 40 years from the closing.

(Code 1975, § 2-6(g); Code 2002, § 82-52; Ord. No. 2092, § 82-52, 10-22-2002; Ord. No. 2303, § 1(82-52), 2-14-2012; Ord. No. 2317, § 1(82-52), 3-11-2014)

Sec. 82-53. Service charge constitutes a lien on property.

The service charge shall constitute a lien on the housing project property and improvements, effective at the same times and enforceable in the same manner as general property taxes.

(Code 1975, § 2-6(h); Code 2002, § 82-53)

Sec. 82-54. Collection of service charge.

The service charge as determined by this division shall be payable in the same manner as general property taxes, except that the annual payment shall be paid on or before July 1 of each year during which the exemption is in effect. The entire tax collection procedure provided by the general property tax act (MCL 211.1 et seq.) shall be effective and utilized with respect to such payment, including, but not limited to, the provisions providing for interest and penalties on late payments, return of delinquent taxes, tax liens, and the sale of lands for delinquent taxes. In the event of a delinquency in the payment in lieu of taxes, the city shall issue a tax bill for the premises and include the required payment as a delinquent tax.

(Code 1975, § 2-6(i); Code 2002, § 82-54)

Sec. 82-55. Requirement to file information; default in payment; violations; loss of exemption.

The sponsor or owner shall file annually with the city treasurer a statement of contract rents to be charged and/or received, the statement to be filed within 30 days after December 31 of each year. Failure to timely file such statement, the filing of an inaccurate statement, any misrepresentation in the amount of rents, or the failure to timely pay any service charge shall be considered violations of this division and the commission of any one violation shall result in the permanent, immediate loss of the exemption for the current year and thereafter. The city may require that information presented in the statement be certified by an independent auditor.

(Code 1975, § 2-6(j); Code 2002, § 82-55)

Sec. 82-56. Service fees and special assessments.

Except as otherwise provided by law, a housing project otherwise exempt under this section shall not be exempt from special assessments or service fees or charges levied or charged by the city.

(Code 1975, § 2-6(k); Code 2002, § 82-56)

Sec. 82-57. Contract requirement.

Except for housing projects previously determined to be exempt prior to the enactment of this division, each housing project which is exempt under this division must sign an agreement with the city by which the exemption set forth in this division is granted, and further providing for the payment in lieu of taxes, consenting to the provisions of this division and recognizing the conditions whereby exemption may be lost. The city may require any reasonable conditions in such contract, including, but not limited to, such matters as limitations on the years for which the exemption may be continued, requirements for completing the project within a time certain, requirements for completing nonexempt units or

facilities and time limits for completion, as well as the number of such units. Each contract shall have a complete and final floor plan attached (subject only to insubstantial amendment by as-built drawings), which shall govern the determination of the payment in lieu of taxes as appropriate under this division. No exemption may be granted unless and until the contract is completed, approved by the city commission and signed.
(Code 1975, § 2-6(l); Code 2002, § 82-57)

Sec. 82-58. Denial of application.

The city is not required by this section to grant an application which may otherwise qualify under this division. The city may deny an application in its sole discretion. In determining whether to deny a project, the city may use, but is not limited to, the following standards. The city would deny a project for exemption if the project applied for:

(1) Constitutes a development which diverts, subverts, alters or is contrary to the master plan of the city;

(2) Fails to contribute to the improvement of neighborhoods in the city;

(3) Concentrates exempt housing in one or more areas of the city;

(4) Adversely affects the property tax base of the city;

(5) Creates significant public burdens, such as traffic, public works or infrastructure, health, safety, school population or service capabilities;

(6) Results in the concentration of low income or elderly housing in a neighborhood or is contrary to the encouragement of economically diverse housing development;

(7) Is sponsored by a developer who fails to demonstrate acceptable financial, managerial or construction capabilities; or

(8) Results in a project or development which is harmful to the health, safety and welfare of the city.

(Code 1975, § 2-6(m); Code 2002, § 82-58)

Sec. 82-59. Effect on existing projects.

Housing projects which have been previously determined and treated as exempt pursuant to Public Act No. 346 of 1966 (MCL 125.1401 et seq.) under previous ordinances of the city shall continue their exempt status, and further shall continue the present payments to the city as presently determined. To the extent their present contracts do not conflict with this division, this division shall control their exemptions.
(Code 1975, § 2-6(n); Code 2002, § 82-59)

Secs. 82-60—82-80. Reserved.

ARTICLE III. INCOME TAX*

Sec. 82-81. Adopted; tax levied.

(a) The city hereby levies and provides for the assessment and collection of an excise tax on income as authorized by law.

(b) The provisions of Chapter 2 of Public Act No. 284 of 1964 (MCL 141.601), known as the "Uniform City Income Tax Act," is hereby incorporated, with the exception of sections 60, 61, and 87, in its entirety in this division. The rate of tax authorized by Section 11 of such Chapter 2 (MCL 141.611), being an annual tax of one percent on corporations and resident individuals and one-half percent on nonresident individuals for general revenue purposes, is hereby imposed in accordance with such section.

(c) The provisions of Chapter 3 of Public Act No. 284 of 1964, added by Public Act No. 42 of 1969 (MCL 141.701), is hereby incorporated in its entirety in this division. The collection of tax authorized by Section 60 of such Chapter 3 (MCL 141.760) shall be on a monthly basis for those employers where the amount withheld in a calendar month exceeds $100.00.

(d) The effective date for the levying, assessing and collecting of the tax shall be July 1, 1993.
(Code 1975, § 2-6.2(a); Code 2002, § 82-81; Ord. No. 2141, 11-9-2004)

*__State law reference—__City income tax act, MCL 141.501 et seq.

Sec. 82-82. Personal exemptions and limitations.

(a) *Deductions and personal and dependency exemptions.* An individual taxpayer in computing his taxable income is allowed a deduction of $600.00 for each personal and dependency exemption which the taxpayer has under the rules for determining exemptions and dependents as provided in the Federal Internal Revenue Code. The taxpayer may claim his spouse and dependents as exemptions, but if the taxpayer and the spouse are both subject to the tax imposed by this section, the number of exemptions claimed by each of them when added together shall not exceed the total number of exemptions allowed under this section.

(b) *Additional exemptions.* An additional exemption is allowed for each of the following for which the taxpayer qualifies:

(1) A taxpayer who is paraplegic, quadriplegic or hemiplegic or who is totally and permanently disabled as defined in section 216 of title II of the social security act, 42 USC 416.

(2) A taxpayer who is blind as defined in section 504 of the income tax act of 1967 (MCL 206.504).

(3) A taxpayer who is a deaf person as defined in section 2 of the deaf person's interpreters act (MCL 393.502).

(4) A taxpayer who is 65 years of age or older.

(c) *Total exemption.* In the event a person's adjusted gross income is less than $600.00, such person shall be entirely exempt from taxation under this section.

(Code 1975, § 2-6.2(b); Code 2002, § 82-82)

State law reference—Authority to so provide, MCL 141.631(2), (3).

Chapters 83—89

RESERVED

Chapter 90

TELECOMMUNICATIONS*

Article I. In General

Secs. 90-1—90-10. Reserved.

Article II. Metropolitan Extension Telecommunications Rights-of-Way Oversight

Sec. 90-11. Purpose.
Sec. 90-12. Conflict.
Sec. 90-13. Terms defined.
Sec. 90-14. Permit required.
Sec. 90-15. Issuance of permit.
Sec. 90-16. Construction/engineering permit.
Sec. 90-17. Conduit or utility poles.
Sec. 90-18. Route maps.
Sec. 90-19. Repair of damage.
Sec. 90-20. Establishment and payment of maintenance fee.
Sec. 90-21. Modification of existing fees.
Sec. 90-22. Savings clause.
Sec. 90-23. Use of funds.
Sec. 90-24. Annual report.
Sec. 90-25. Cable television operators.
Sec. 90-26. Existing rights.
Sec. 90-27. Compliance.
Sec. 90-28. Reservation of police powers.
Sec. 90-29. Authorized city officials.
Sec. 90-30. Municipal civil infraction.

*__State law references—__Michigan telecommunications act, MCL 484.2101 et seq.; metropolitan extension telecommunications rights-of-way oversight act, MCL 484.3101 et seq.; Michigan broadband development authority act, MCL 484.3201 et seq.; uniform video services local franchise act, MCL 484.3301 et seq.

ARTICLE I. IN GENERAL

Secs. 90-1—90-10. Reserved.

ARTICLE II. METROPOLITAN EXTENSION TELECOMMUNICATIONS RIGHTS-OF-WAY OVERSIGHT

Sec. 90-11. Purpose.

The purposes of this article are to regulate access to, and ongoing use of, public rights-of-way by telecommunications providers for their telecommunications facilities while protecting the public health, safety, and welfare and exercising reasonable control of the public rights-of-way in compliance with the metropolitan extension telecommunications rights-of-way oversight act, Public Act No. 48 of 2002 (MCL 484.3101 et seq.) ("act"), and other applicable law, and to ensure that the city qualifies for distributions under the Act by modifying the fees charged to providers and complying with the act.
(Ord. No. 2091, § 90-1, 10-22-2002)

Sec. 90-12. Conflict.

Nothing in this article shall be construed in such a manner as to conflict with the act or other applicable law.
(Ord. No. 2091, § 90-2, 10-22-2002)

Sec. 90-13. Terms defined.

(a) The terms used in this article shall have the following meanings:

Act means the Metropolitan extension telecommunications rights-of-way oversight act, Public Act No. 48 of 2002 (MCL 484.3101 et seq.), as amended from time to time.

City means the City of Muskegon.

City commission means the city commission of the City of Muskegon or its designee. This section does not authorize delegation of any decision or function that is required by law to be made by the city commission.

City manager means the city manager of the City of Muskegon or his designee.

Permit means a non-exclusive permit issued pursuant to the Act and this article to a telecommunications provider to use the public rights-of-way in the city for its telecommunications facilities.

(b) All other terms used in this article shall have the same meaning as defined or as provided in the act, including, without limitation, the following:

Authority means the Metropolitan Extension Telecommunications Rights-of-Way Oversight Authority created pursuant to section 3 of the act (MCL 484.3103).

MPSC means the Michigan Public Service Commission in the Department of Consumer and Industry Services, and shall have the same meaning as the term "commission" in the Act,

Public right-of-way means the area on, below, or above a public roadway, highway, street, alley, easement or waterway. The term "public right-of-way" does not include a federal, state, or private right-of-way.

Telecommunication facilities or *facilities* means the equipment or personal property, such as copper and fiber cables, lines, wires, switches, conduits, pipes, and sheaths, which are used to or can generate, receive, transmit, carry, amplify, or provide telecommunication services or signals. Telecommunication facilities or facilities do not include antennas, supporting structures for antennas, equipment shelters or houses, and any ancillary equipment and miscellaneous hardware used to provide federally-licensed commercial mobile service as defined in section 332(d) of part I of title III of the communications act of 1934, Chapter 652, 48 Stat. 1064, 47 USC 332 and further defined as commercial mobile radio service in 47 CFR 20.3, and service provided by any wireless, two-way communication device.

Telecommunications provider, provider and *telecommunications services* mean those terms as defined in section 102 of the Michigan telecommunications act, Public Act No. 179 of 1991 (MCL 484.2102). The term "telecommunication provider" does not include a person or an affiliate of that person when providing a federally-licensed commercial mobile radio service as defined in

section 332(d) of part I of the communications act of 1934, Chapter 652, 48 Stat. 1064, 47 USC 332 and further defined as commercial mobile radio service in 47 CFR 20.3, or service provided by any wireless, two-way communication device. For the purpose of the act and this article only, a provider also includes all of the following:

(1) A cable television operator that provides a telecommunications service.

(2) Except as otherwise provided by the act, a person who owns telecommunication facilities located within a public right-of-way.

(3) A person providing broadband internet transport access service.

(Ord. No. 2091, § 90-3, 10-22-2002)

Sec. 90-14. Permit required.

(a) *Permit required.* Except as otherwise provided in the act, a telecommunications provider using or seeking to use public rights-of-way in the city for its telecommunications facilities shall apply for and obtain a permit pursuant to this article.

(b) *Application.*

(1) Telecommunications providers shall apply for a permit on an application form approved by the MPSC in accordance with section 6(1) of the act (MCL 484.3106(1)).

(2) A telecommunications provider shall file:

a. One copy of the application with the city clerk;

b. One copy with the city manager; and

c. One copy with the city attorney.

(3) Upon receipt, the city clerk shall make three copies of the application and distribute a copy to the departments of public works, engineering, and finance. Applications shall be complete and include all information required by the act, including, without limitation, a route map showing the location of the provider's existing and proposed facilities in accordance with section 6(5) of the act (MCL 484.3106(5)).

(c) *Confidential information.* If a telecommunications provider claims that any portion of the route maps submitted by it as part of its application contain trade secret, proprietary, or confidential information, which is exempt from the freedom of information act, Public Act No. 442 of 1976 (MCL 15.231 et seq.), pursuant to section 6(5) of the act (MCL 484.3106(5)), the telecommunications provider shall prominently so indicate on the face of each map.

(d) *Application fee.* Except as otherwise provided by the act, the application shall be accompanied by a one-time nonrefundable application fee in the amount of $500.00.

(e) *Additional information.* The city manager may request an applicant to submit such additional information which the city manager deems reasonably necessary or relevant. The applicant shall comply with all such requests in compliance with reasonable deadlines for such additional information established by the city manager. If the city and the applicant cannot agree on the requirement of additional information requested by the city, the city or the applicant shall notify the MPSC as provided in section 6(2) of the act (MCL 484.3106(2)).

(f) *Previously issued permits.* Pursuant to section 5(1) of the act (MCL 484.3105(1)), authorizations or permits previously issued by the city under section 251 of the Michigan telecommunications act, Public Act No. 179 of 1991 (MCL 484.2251), and authorizations or permits issued by the city to telecommunications providers prior to the 1995 enactment of section 251 of the Michigan telecommunications act, but after 1985, shall satisfy the permit requirements of this article.

(g) *Existing providers.* Pursuant to section 5(3) of the act (MCL 484.3105(3)), within 180 days from November 1, 2002, the effective date of the act, a telecommunications provider with facilities located in a public right-of-way in the city as of such date, that has not previously obtained authorization or a permit under section 251 of the Michigan telecommunications act, Public Act No. 179 of 1991 (MCL 484.2251), shall submit to the city an application for a permit in accordance with the requirements of this article. Pursuant to

section 5(3) of the act (MCL 484.3105(3)), a telecommunications provider submitting an application under this subsection is not required to pay the $500.00 application fee required under subsection (d) of this section. A provider under this subsection shall be given up to an additional 180 days to submit the permit application if allowed by the authority, as provided in section 5(4) of the act (MCL 484.3105(4)).
(Ord. No. 2091, § 90-4, 10-22-2002)

Sec. 90-15. Issuance of permit.

(a) *Approval or denial.* The authority to approve or deny an application for a permit is hereby delegated to the city manager. Pursuant to section 15(3) of the act (MCL 484.3115(3)), the city manager shall approve or deny an application for a permit within 45 days from the date a telecommunications provider files an application for a permit under section 90-14(b) for access to a public right-of-way within the city. Pursuant to section 6(6) of the act (MCL 484.3106(6)), the city manager shall notify the MPSC when the city manager has granted or denied a permit, including information regarding the date on which the application was filed and the date on which permit was granted or denied. The city manager shall not unreasonably deny an application for a permit.

(b) *Form of permit.* If an application for permit is approved, the city manager shall issue the permit in the form approved by the MPSC, with or without additional or different permit terms, in accordance with sections 6(1), 6(2) and 15 of the act (MCL 484.3106(1), (2), 484.3115).

(c) *Conditions.* Pursuant to section 15(4) of the act (MCL 484.3115(4)), the city manager may impose conditions on the issuance of a permit, which conditions shall be limited to the telecommunications provider's access and usage of the public right-of-way.

(d) *Bond requirement.* Pursuant to section 15(3) of the act (MCL 484.3115(3)), and without limitation on subsection (c) of this section, the city manager may require that a bond be posted by the telecommunications provider as a condition of the permit. If a bond is required, it shall not exceed the reasonable cost to ensure that the public right-of-way is returned to its original condition during and after the telecommunications provider's access and use.
(Ord. No. 2091, § 90-5, 10-22-2002)

Sec. 90-16. Construction/engineering permit.

A telecommunications provider shall not commence construction upon, over, across, or under the public rights-of-way in the city without first obtaining a construction or engineering permit as required under this chapter, as amended, for construction within the public rights-of-way. No fee shall be charged for such a construction or engineering permit.
(Ord. No. 2091, § 90-6, 10-22-2002)

Sec. 90-17. Conduit or utility poles.

Pursuant to section 4(3) of the act (MCL 484.3104(3)), obtaining a permit or paying the fees required under the act or under this article does not give a telecommunications provider a right to use conduit or utility poles.
(Ord. No. 2091, § 90-7, 10-22-2002)

Sec. 90-18. Route maps.

Pursuant to section 6(7) of the act (MCL 484.3106(7)), a telecommunications provider shall, within 90 days after the substantial completion of construction of new telecommunications facilities in the city, submit route maps showing the location of the telecommunications facilities to both the MPSC and to the city. The route maps should be in paper and electronic format unless and until the MPSC determines otherwise, in accordance with section 6(8) of the act (MCL 484.3106(8)).
(Ord. No. 2091, § 90-8, 10-22-2002)

Sec. 90-19. Repair of damage.

Pursuant to section 15(5) of the act (MCL 484.3115(5)), a telecommunications provider undertaking an excavation or construction or installing telecommunications facilities within a public right-of-way or temporarily obstructing a public right-of-way in the city, as authorized by a permit, shall promptly repair all damage done to the street surface and all installations under, over,

below, or within the public right-of-way and shall promptly restore the public right-of-way to its preexisting condition.
(Ord. No. 2091, § 90-9, 10-22-2002)

Sec. 90-20. Establishment and payment of maintenance fee.

In addition to the nonrefundable application fee paid to the city set forth in section 90-14(d), a telecommunications provider with telecommunications facilities in the city's public rights-of-way shall pay an annual maintenance fee to the authority pursuant to section 8 of the act (MCL 484.3108).
(Ord. No. 2091, § 90-10, 10-22-2002)

Sec. 90-21. Modification of existing fees.

In compliance with the requirements of section 13(1) of the act (MCL 484.3113(1)), the city hereby modifies, to the extent necessary, any fees charged to telecommunications providers after November 1, 2002, the effective date of the act, relating to access and usage of the public rights-of-way, to an amount not exceeding the amounts of fees and charges required under the act, which shall be paid to the authority. In compliance with the requirements of section 13(4) of the act (MCL 484.3113(4)), the city also hereby approves modification of the fees of providers with telecommunication facilities in public rights-of-way within the city's boundaries, so that those providers pay only those fees required under section 8 of the act. The city shall provide each telecommunications provider affected by the fee with a copy of this article, in compliance with the requirement of section 13(4) of the act (MCL 484.3113(4)). To the extent any fees are charged telecommunications providers in excess of the amounts permitted under the act, or which are otherwise inconsistent with the act, such imposition is hereby declared to be contrary to the city's policy and intent, and, upon application by a provider or discovery by the city, shall be promptly refunded as having been charged in error.
(Ord. No. 2091, § 90-11, 10-22-2002)

Sec. 90-22. Savings clause.

Pursuant to section 13(5) of the act (MCL 484.3113(5)), if section 8 of the act is found to be invalid or unconstitutional, the modification of fees under section 90-21 shall be void from the date the modification was made.
(Ord. No. 2091, § 90-12, 10-22-2002)

Sec. 90-23. Use of funds.

Pursuant section 9(4) of the act (MCL 484.3109(4)), all amounts received by the city from the authority shall be used by the city solely for rights-of-way related purposes.
(Ord. No. 2091, § 90-13, 10-22-2002)

Sec. 90-24. Annual report.

Pursuant to section 10(5) of the act (MCL 484.3110(5)), the city manager shall file an annual report with the authority on the use and disposition of funds annually distributed by the authority.
(Ord. No. 2091, § 90-14, 10-22-2002)

Sec. 90-25. Cable television operators.

Pursuant to section 13(6) of the act (MCL 484.3113(6)), the city shall not hold a cable television operator in default or seek any remedy for its failure to satisfy an obligation, if any, to pay after November 1, 2002, the effective date of this act, a franchise fee or similar fee on that portion of gross revenues from charges the cable operator received for cable modem services provided through broadband internet transport access services.
(Ord. No. 2091, § 90-15, 10-22-2002)

Sec. 90-26. Existing rights.

Pursuant to section 4(2) of the act (MCL 484.3104(2)), except as expressly provided herein with respect to fees, this article shall not affect any existing rights that a telecommunications provider or the city may have under a permit issued by the city or under a contract between the city and a telecommunications provider related to the use of the public rights-of-way.
(Ord. No. 2091, § 90-16, 10-22-2002)

Sec. 90-27. Compliance.

The city hereby declares that its policy and intent in adopting this article is to fully comply with the requirements of the act, and the provi-

sions hereof should be construed in such a manner as to achieve that purpose. The city shall comply in all respects with the requirements of the act, including, but not limited to, the following:

(1) Exempting certain route maps from the freedom of information act, Public Act No. 442 of 1976 (MCL 15.231 et seq.), as provided in section 90-14(c);

(2) Allowing certain previously issued permits to satisfy the permit requirements hereof, in accordance with section 90-14(f);

(3) Allowing existing providers additional time in which to submit an application for a permit, and excusing such providers from the $500.00 application fee, in accordance with section 90-14(g);

(4) Approving or denying an application for a permit within 45 days from the date a telecommunications provider files an application for a permit for access to and usage of a public right-of-way within the city, in accordance with section 90-15(a);

(5) Notifying the MPSC when the city has granted or denied a permit, in accordance with section 90-15(a);

(6) Not unreasonably denying an application for a permit, in accordance with section 90-15(a);

(7) Issuing a permit in the form approved by the MPSC, with or without additional or different permit terms, as provided in section 90-15(b);

(8) Limiting the conditions imposed on the issuance of a permit to the telecommunications provider's access and usage of the public right-of-way, in accordance with section 90-15(c);

(9) Not requiring a bond of a telecommunications provider which exceeds the reasonable cost to ensure that the public right-of-way is returned to its original condition during and after the telecommunication provider's access and use, in accordance with section 90-15(d);

(10) Not charging any telecommunications providers any additional fees for construction or engineering permits, in accordance with section 90-16;

(11) Providing each telecommunications provider affected by the city's right-of-way fees with a copy of this article, in accordance with section 90-21;

(12) Submitting an annual report to the authority, in accordance with section 90-24; and

(13) Not holding a cable television operator in default for a failure to pay certain franchise fees, in accordance with section 90-25.

(Ord. No. 2091, § 90-17, 10-22-2002)

Sec. 90-28. Reservation of police powers.

Pursuant to section 15(2) of the act (MCL 484.3115(2)), this article shall not limit the city's right to review and approve a telecommunication provider's access to and ongoing use of a public right-of-way or limit the city's authority to ensure and protect the health, safety, and welfare of the public.

(Ord. No. 2091, § 90-18, 10-22-2002)

Sec. 90-29. Authorized city officials.

The city manager or his designee is hereby designated as the authorized city official to issue municipal civil infraction citations for violations under this article as provided by this Code.

(Ord. No. 2091, § 90-20, 10-22-2002)

Sec. 90-30. Municipal civil infraction.

A person who violates any provision of this article or the terms or conditions of a permit is responsible for a municipal civil infraction, and shall be subject to appropriate municipal civil infraction fines. Nothing in this section shall be construed to limit the remedies available to the city in the event of a violation by a person of this article or a permit.

(Ord. No. 2091, § 90-21, 10-22-2002)

Chapter 91

RESERVED

Chapter 92

TRAFFIC AND VEHICLES*

Article I. In General

Secs. 92-1—92-13. Reserved.

Article II. Michigan Vehicle Code

Sec. 92-14. Code adopted.
Sec. 92-15. References in code.
Sec. 92-16. Notice to be published.
Sec. 92-17. Penalties.
Secs. 92-18—92-30. Reserved.

Article III. Uniform Traffic Code

Sec. 92-31. Code and amendments and revisions adopted.
Sec. 92-32. References in code.
Sec. 92-33. Changes in code.
Secs. 92-34—92-50. Reserved.

Article IV. Junk Vehicles

Sec. 92-51. Title.
Sec. 92-52. Purpose.
Sec. 92-53. Definitions.
Sec. 92-54. General prohibition.
Sec. 92-55. Storage requirements and prohibitions.
Sec. 92-56. Notice of violation; removal; impounding; penalty.

***State law references—**Michigan Vehicle Code, MCL 257.1 et seq.; regulations by local authorities, MCL 257.605, 257.606, 257.610.

ARTICLE I. IN GENERAL

Secs. 92-1—92-13. Reserved.

ARTICLE II. MICHIGAN VEHICLE CODE

Sec. 92-14. Code adopted.

The Michigan vehicle code, Public Act No. 300 of 1949 (MCL 257.1 et seq.) and all future amendments and revisions, is adopted by reference, and is incorporated in the traffic code and ordinances of the city as authorized by statute.
(Ord. No. 2080, § 1, 6-25-2002)

Sec. 92-15. References in code.

The references in the Michigan vehicle code to "local authorities" means the City of Muskegon.
(Ord. No. 2080, § 2, 6-25-2002)

Sec. 92-16. Notice to be published.

The city clerk shall publish the ordinance from which this article is derived in the manner required by law and shall publish, at the same time, a supplementary notice stating the purpose of the Michigan vehicle code and of the fact that a complete copy of the code is available to the public at the office of the city clerk for inspection.
(Ord. No. 2080, § 3, 6-25-2002)

Sec. 92-17. Penalties.

(a) Unless otherwise authorized by statute, violations of the misdemeanor provisions of the said incorporated Michigan vehicle code shall be limited to fines not exceeding $500.00, or imprisonment for up to 93 days, or both. Penalty provisions of the Michigan vehicle code in excess of the said maximums are not enforceable in the city in the absence of statutory authority. If said authority is given, the penalties provided in the Michigan vehicle code shall apply to the extent authorized by statute.

(b) Any violation which the Michigan vehicle code states is a civil infraction shall be considered a municipal civil infraction.
(Ord. No. 2080, § 4, 6-25-2002)

State law reference—Authority to adopt the Michigan vehicle code by reference, MCL 117.4i(k).

Secs. 92-18—92-30. Reserved.

ARTICLE III. UNIFORM TRAFFIC CODE*

Sec. 92-31. Code and amendments and revisions adopted.

The Uniform Traffic Code for Cities, Townships and Villages, as promulgated by the director of the director of the department of state police pursuant to the administrative procedures act of 1969, Public Act No. 306 of 1969 (MCL 24.201 et seq.). and made effective October 30, 2002, is incorporated by reference.
(Code 1975, § 20-1; Code 2002, § 92-31)

State law reference—Authority to adopt Uniform Traffic Code by reference, MCL 257.951 et seq.

Sec. 92-32. References in code.

The references in the Uniform Traffic Code for Cities, Townships and Villages to "governmental unit" shall mean the City of Muskegon.
(Code 1975, § 20-2; Code 2002, § 92-32)

Sec. 92-33. Changes in code.

The following sections and subsections of the Uniform Traffic Code for Cities, Townships and Villages are hereby amended or deleted as set forth and additional sections and subsections are added as indicated. Subsequent section numbers used in this section shall refer to the like-numbered sections of the Uniform Traffic Code for Cities, Townships and Villages.

(1) *Section 5.102.* Trees and plants not to interfere with view of traffic at intersections.

a. All trees, shrubbery or growing plants located on the parkway at or near the corners of any street intersection shall be kept trimmed or so maintained as not to obscure, obstruct or in any manner interfere with the view of pedestrians or drivers or operators of vehicles approaching or entering such intersections, and should the owner or person respon-

*__State law reference—__Uniform Traffic Code, MCL 257.951 et seq.

sible therefor fail to so trim or maintain such trees, shrubbery or growing plants, it shall be the duty of the department of public works to trim or remove the same without notice.

b. A person who violates this section is responsible for a civil infraction.

(2) *Section 5.103.* After section 5.102, add section 5.103, as follows:

Section 5.103. Vehicles to be operated only in areas designated for vehicular travel.

a. No person shall drive or operate a motor vehicle in any area or place other than the public streets and roadway or other such areas so designated for vehicular travel, and no person shall drive or operate a motor vehicle along or upon any unpaved parkway, except where the same is used for a driveway to enter private or public property, nor shall any person drive or operate a motor vehicle in any public park, beach or other public area, except in those areas designated for vehicular travel therein.

b. In all cases of violations under this section either the registered owner or the operator of such vehicle may be proceeded against in the district court, and the registered owner of the vehicle at the time of the violation shall be presumed to be the violator as well as the actual operator thereof.

c. Any person who violates this section is guilty of a misdemeanor, and, upon conviction, shall be assessed a fine as currently established or as hereafter adopted by resolution of the city commission from time to time.

d. Any person convicted of a second violation of this section shall be guilty of a misdemeanor, and, upon conviction thereof, shall be assessed a fine as currently established or as hereafter adopted by resolution of the city commission from time to time.

e. Any person convicted of a third or subsequent violation of this section shall be guilty of a misdemeanor, and, upon conviction thereof, shall be assessed a fine as currently established or as hereafter adopted by resolution of the city commission from time to time.

(3) *Section 6.28.* Registration.

a. No bicycle shall be propelled or operated upon any of the public streets, sidewalks, avenues, lanes, alleys, parks, bridges or public places within the city, unless such bicycle is registered with the police department. Application for such registration shall be filed with the police department, stating the owner's name, residence address, the make and model of the bicycle, the serial number of the bicycle and such other information relative to the bicycle as the chief of police or his designated representative shall require. Such application shall be made upon blank forms furnished by the police department.

b. The chief of police or his designated representative shall file all applications for registration of bicycles in the police department and keep a complete and accurate record of the facts appearing therein together with a numerical list of the license plate numbers assigned to each bicycle.

c. The fee for the registration of a bicycle under this section shall be as currently established or as hereafter adopted by resolution of the city commission from time to time. All money derived from the registration of bicycles shall be paid by the police department into the general fund of the city.

d. In the event of transfer of ownership of a bicycle registered under this

section, the new owner shall, within ten days from such transfer, make application on a similar form for the transfer of registration to the new owner, and shall accompany such application with a transfer fee of as currently established or as hereafter adopted by resolution of the city commission from time to time.

e. A person who violates this section is responsible for a civil infraction.

(4) *Section 6.29.* After section 6.28, add section 6.29, as follows:

Section 6.29. License number and plate generally.

a. Upon receipt of the fee as currently established or as hereafter adopted by resolution of the city commission from time to time and a satisfactory application pursuant to such section, the chief of police or his designated representative shall assign a number to each bicycle so registered and delivery to the applicant a license plate bearing the number so assigned. Such license plate shall be firmly attached to the rear of the bicycle and shall be valid for that bicycle only and shall not be transferred from one bicycle to another. Upon assigning such number and issuance of such plate, the number of such bicycle shall be stamped upon the framework of the bicycle so registered.

b. All bicycle license plates shall remain the property of the city, and the chief of police or any of the policemen of the city are hereby authorized to confiscate and take possession and custody of any such plate attached to any such bicycle for which it was not issued, or when the person to whom the plate was issued has made or is making unlawful use thereof.

c. In the event of the loss of a plate issued under this section, a duplicate plate may be obtained by paying the cost thereof to the city.

d. A person who violates this section is responsible for a civil infraction.

(5) *Section 6.30.* After section 6.29, add section 6.30 as follows:

Section 6.30. Removal, alteration, etc., of license or frame number, license plate, seal, etc.

a. It shall be unlawful for any person to willfully or maliciously remove, destroy, mutilate or alter the number of any bicycle frame registered pursuant to the article. It shall be unlawful for any person to remove, destroy, mutilate or alter any bicycle license plate, seal or registration card during the time in which such license plate, seal or registration card is operative. Nothing in this section shall prohibit the police department from stamping numbers on the frames of bicycles on which no serial number can be found, or on which such number is illegible or insufficient for identification purposes.

b. The police department is herewith empowered and authorized to impound any unlicensed bicycle or any bicycle found with the license or frame number removed, destroyed, mutilated or altered until such time as the person in possession, or the owner of the bicycle, can prove ownership. In the event proper ownership is not proven within 60 days after the date of impoundment, the bicycle can be sold at public auction.

c. A person who violates this section is responsible for a civil infraction.

(6) *Section 6.31.* After section 6.30, add section 6.31, as follows:

Section 6.31. Riding prohibited on limited access or multilane roadway.

a. No person shall ride any bicycle on Seaway Drive, or any other limited

access roadway within the city, where parking has been prohibited. Any person operating along these routes shall be required to use the pedestrian walkway adjacent thereto.

b. A person who violates this section is responsible for a civil infraction.

(7) *Section 6.32*. After section 6.31, add section 6.32, as follows:

Section 6.32. Riding prohibited in specified areas. Sec. 6.32, concerning riding prohibited in specified areas has been repealed.

(8) *Section 6.33*. After section 6.32, add section 6.33, as follows:

Section 6.33. Operation in dangerous districts.

a. If the safety of the operator of a bicycle, the condition of the sidewalk or highway, the foot or vehicular traffic, including the safety of pedestrians, is such in any district as to require the operator of the bicycle to dismount and push the vehicle or to avoid such district in the exercise of ordinary caution and prudence, it shall be the duty of such operator of any bicycle to dismount and push the same through such dangerous district or to avoid the district entirely while it is unsafe for the operation of such bicycle.

b. A person who violates this section is responsible for a civil infraction.

(9) *Section 6.34*. After section 6.33, add section 6.34, as follows:

Section 6.34. Pedal bicycle with helper motor not to be ridden on sidewalks.

a. No person shall ride a pedal bicycle with helper motor on city sidewalks.

b. A person who violates this section is responsible for a civil infraction.

(10) *Section 6.35*. After section 6.34, add section 6.35, as follows:

Section 6.35. Racing and trick riding.

a. It shall be unlawful for any person riding a bicycle to race with any other person riding a bicycle, to ride without using both hands on handlebars, or to indulge in other trick riding upon any streets, sidewalks, avenues, lanes, alleys, parks, bridges or other public places within the city.

b. A person who violates this section is responsible for a civil infraction.

(11) *Section 6.36*. After section 6.35, add section 6.36, as follows:

Section 6.36. Riding abreast, curving to and fro.

a. It shall be unlawful to ride abreast on bicycles upon any highway or public street, or to ride curving to and fro thereon. It shall be unlawful for bicycles to be ridden abreast on the sidewalks of the city, except when passing.

b. A person who violates this section is responsible for a civil infraction.

State law reference—Riding abreast on highways, MCL 257.660(2).

(12) *Section 6.37*. After section 6.36, add section 6.37, as follows:

Section 6.37. Riding on private property.

a. No person riding a bicycle shall ride the same upon or across the private property of another person without the permission of the owner of such property or the person in rightful possession thereof.

b. A person who violates this section is responsible for a civil infraction.

(13) *Section 8.3*. Section 8.3 is amended to read as follows:

Section 8.3. Stopping, standing, or parking on streets signed for angle parking; violation as civil infraction.

a. Unless posted signs indicate to the contrary, upon those streets or in

those parking areas which have marks or signs for angle parking, a vehicle shall be parked at the angle to the curb or edge of the roadway or traveled portion of the roadway or parking area indicated by such marks or signs with the front of the vehicle nearest the curb or edge of roadway and the rear of the vehicle nearest the traveled portion of the roadway or parking area.

b. A person who violates this section is responsible for a civil infraction.

(14) *Section 9.3.* Section 9.3 is amended to read as follows:

Section 9.3. Penalties; civil infraction and misdemeanor.

a. *Civil infraction.* Any violation of the Uniform Traffic Code adopted or amended by the city which is designated as a civil infraction is not a crime and shall not be punishable by imprisonment or a penal fine. A civil infraction shall not be considered a lesser included offense of any criminal offense. Civil infraction fines shall be in any amount, if not specifically set forth, up to $500.00, or set forth in a schedule adopted by the district court pursuant to statute. The fines shall be exclusive of costs, expenses or fees.

b. *Misdemeanor.* Unless another penalty is expressly provided by the ordinances of the city, every person who is convicted of a misdemeanor violation of any provision of the Uniform Traffic Code shall be punished by a fine of not more than $500.00 or by imprisonment for not more than 90 days, or both.

(15) *Section 10.35.* Section 10.35 is amended to read as follows:

Section 10.35. Operation between 10:00 p.m. and 7:00 a.m.

A person shall not operate a snowmobile within the city during the hours from 10:00 p.m. until 7:00 a.m.

(Code 1975, § 20-3; Code 2002, § 92-33; Ord. No. 2151, 5-24-2005)

Secs. 92-34—92-50. Reserved.

ARTICLE IV. JUNK VEHICLES

Sec. 92-51. Title.

This article shall be known as the junk vehicle ordinance.

(Ord. No. 2038, § 12-53, 12-12-2000)

Sec. 92-52. Purpose.

This article is enacted to protect the health, safety and welfare of the city and its citizens, and, further, in particular, to prevent and prohibit the storage, accumulation and improper disposal of abandoned, wrecked, dismantled or inoperative vehicles, all of which interfere with the enjoyment of the property, adversely affect property values, create fire hazards, cause health problems, extend and aggravate urban blight, or encourage unsightly, environmentally, or aesthetically degrading uses of land in the city.

(Ord. No. 2038, § 12-54, 12-12-2000)

Sec. 92-53. 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:

Disposal site means a place for legally storing junk vehicles, including, without limitation, impounding lots, junkyards, public storage lots or garages, or other such premises.

Junk vehicle means any vehicle or motor vehicle, including motorized and nonmotorized, highway or nonhighway vehicles, trailers or mobile homes, which are not currently licensed and reg-

istered, even if operable, or, whether or not licensed and registered, not operable or usable for their original purpose, or not operable or usable for their original purpose without major repair, or partially/fully dismantled. The term "junk vehicle" includes wrecked, damaged, junked, dismantled, partially dismantled, inoperable, abandoned, unlicensed, registered or discarded vehicles.

Motor vehicle means any vehicle which is self-propelled and designed to travel along the ground and shall include, but not be limited to, automobiles, buses, motorbikes, motorcycles, motor scooters, trucks, tractors, go-carts, golf carts, and race cars.

Private property means any real property within the city that is privately owned and which is not public property as defined in this section.

Public property means any street, easement, alley or highway for its entire dedicated or publicly owned width, or any property owned or controlled or capable of control by a government entity, school district or public educational institution, including institutions of higher learning, vocational training, or an intermediate school district.

Seasonal vehicle means any operative vehicle normally licensed for only part of the year.
(Ord. No. 2038, § 12-55, 12-12-2000)

Sec. 92-54. General prohibition.

No person shall store any junk vehicle, except as where permitted and in accordance with this Code. The storage of such vehicles in violation of this article shall be declared a nuisance. All junk vehicles shall be removed and disposed of at a legally established disposal site.
(Ord. No. 2038, § 12-56, 12-12-2000)

Sec. 92-55. Storage requirements and prohibitions.

(a) No person shall park, store, leave, or permit the parking, storing or leaving of any junk vehicle upon any public or private property within the city. The presence of such vehicle, or parts thereof, on private or public property is hereby declared a public nuisance.

(b) This section shall not apply to the following vehicles, whether or not they are junk vehicles:

(1) Any vehicle enclosed within a legally erected storage building in which they fit completely and are fully enclosed on private property.

(2) Any operative vehicle on a sales lot of a licensed motor vehicle dealer.

(3) Any vehicle temporarily kept on the premises of a licensed auto repair shop for the purpose of repairing the vehicle; provided that the location of the vehicle does not violate the zoning ordinance.

(4) One seasonal vehicle; provided that it must be currently licensed, and, if it is not currently licensed, it must be stored in a legally erected building as described in subsection (b)(1) of this section.

(Ord. No. 2038, § 12-58, 12-12-2000)

Sec. 92-56. Notice of violation; removal; impounding; penalty.

(a) Whenever any junk vehicle is found, a written notice shall be delivered in person or by first class mail to the owner of the junk vehicle and the owner or occupant of the private property on which the vehicle is located. An additional notice shall be affixed to a conspicuous part of the vehicle. The notice shall describe the violation of this article and shall require the removal of the violation within seven days. If the violation is observed to exist after seven days, a municipal civil infraction ticket for such violation may be issued. The city may determine, with appropriate authority, such as a court order or the property owner or occupant's permission or failure to respond to the notice, to peaceably enter the property to correct the violation, including removal or impounding of the vehicle at a disposal site.

(b) If a vehicle is removed and impounded by the city at a location where there will be impounding fees or charges, it shall give appropriate or required notice to the registered owner of the vehicle and to the state; provided that the notice shall not designate the vehicle as abandoned. The notice shall indicate that the vehicle will be disposed of by sale if the owner fails to redeem the

vehicle by paying any charges or fees occasioned by the removal, impounding or storage of the vehicle.

(c) The direct cost of any enforcement action, including a 15 percent surcharge for overhead and indirect costs, shall be charged to the owner or occupant of the property, as well as any owner of the vehicle, and in addition shall be levied against the property and collected in the manner of real property taxes, and shall constitute a valid tax lien against the premises if unpaid.

(d) Any person who violates or fails to comply with the provisions of this article shall be responsible for a municipal civil infraction. Each act in violation of any of the provisions thereof shall be deemed a separate municipal civil infraction. In connection with and in addition to the municipal civil infraction, the city may request supplemental relief and/or other remedies as available to the city. Municipal civil infraction penalties shall be as set forth in the schedule of municipal civil infraction fines in section 46-204.
(Ord. No. 2038, § 12-59, 12-12-2000)

Chapter 93

RESERVED

Chapter 94

UTILITIES*

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ARTICLE I. IN GENERAL

Sec. 94-1. Penalty for violations of chapter.

Any person violating any provision of this chapter concerning water, sewer and sewage disposal shall be responsible for a municipal civil infraction. For each day that the violation continues an additional municipal civil infraction will occur. The responsibility for a municipal civil infraction for such violation shall be in addition to any other civil penalties set forth in this chapter.
(Code 1975, § 24-3; Code 2002, § 94-1)

Sec. 94-2. Water and sewer connection permit.

No person shall make, or cause to be made, any connection to any water pipe or sewer constructed or maintained by the city without first obtaining a permit therefor from the department of public works of the city; nor shall any person make, or cause to be made, any such connection in any manner or at any time or place except as specified in such permit.
(Code 1975, § 24-2; Code 2002, § 94-2)

Secs. 94-3—94-30. Reserved.

ARTICLE II. DEPARTMENT OF PUBLIC UTILITIES

Sec. 94-31. Established.

There is hereby established a department of public utilities, having jurisdiction of all utilities owned and operated by the city.
(Code 1975, § 24-14; Code 2002, § 94-31)

Sec. 94-32. Appointment and general responsibilities of director and assistant director.

The city manager shall appoint a qualified person as director of the department of public utilities, who shall be responsible for the planning, management and operation of the complete water and sewer systems of the city. The director of the department of public utilities may appoint, with the consent and approval of the city manager, an assistant director of utilities who shall be responsible to the director of the division of water supply and purification, the division of sewage treatment and the division of water and sewer maintenance.
(Code 1975, § 24-15; Code 2002, § 94-32)

Sec. 94-33. Establishment and supervision of divisions.

(a) The department of public utilities shall be divided into the following divisions, which shall be supervised by the director of the department of public utilities or by qualified persons appointed by the director with the consent and approval of the city manager:

(1) Division of water supply and purification.

(2) Division of sewage treatment.

(3) Division of water and sewer maintenance.

(4) Division of water and sewer billing.

(b) The supervisor of each of these divisions shall be designated as the superintendent of his division. Such superintendents shall perform their duties under the direct supervision and subject to the approval of the director of utilities.
(Code 1975, § 24-16; Code 2002, § 94-33)

Sec. 94-34. Powers and duties of division superintendents—Division of water supply and purification.

The superintendent of the division of water supply and purification of the department of public utilities shall be in charge of the operation and maintenance of the water pumping and filtration plant and appurtenances. The superintendent of the division of water supply and purification of the department of public utilities shall have full charge of the intake pipes, wells, pumping stations, chlorinating or other purification plants, and all other work pertaining to the supply of water.
(Code 1975, § 24-17; Code 2002, § 94-34)

Sec. 94-35. Same—Division of sewage treatment.

The superintendent of the division of sewage treatment of the department of public utilities shall be in charge of the operation and mainte-

nance of the sewage treatment plant, interceptors, sewage metering and pumping stations. Such superintendent shall also have supervision over industrial waste discharges to the sewage system.
(Code 1975, § 24-18; Code 2002, § 94-35)

Sec. 94-36. Same—Division of water and sewer maintenance.

The superintendent of the division of water and sewer maintenance of the department of public utilities shall be in charge of the installation, maintenance and operation of the water and sanitary sewer systems and appurtenances, except as provided in sections 94-34 and 94-35. The superintendent of the division of water and sewer maintenance of the department of public utilities shall have full charge of all water mains, fire and other hydrants, elevated tanks, service pipes and other connections and meters.
(Code 1975, § 24-19; Code 2002, § 94-36)

Sec. 94-37. Same—Division of water and sewer billing.

The superintendent of the division of water and sewer billing of the department of public utilities shall have full charge of the preparation, billing and distribution of water and sewer service charges and the necessary bookkeeping incident thereto. The superintendent of the division of water and sewer billing of the department of public utilities shall have prepared, in such form as he may from time to time prescribe, blank applications for the proper operation of his duties.
(Code 1975, § 24-20; Code 2002, § 94-37)

Sec. 94-38. Moonlighting by members and employees.

Members and employees of the department of public utilities shall devote their whole time and attention to the service of the department, except as provided in this section. During off-duty hours, members and employees of the department of public utilities may engage in outside business activities so long as the latter shall in no way impair or affect their efficiency or interfere with the performance of their official departmental duties. When engaged in such outside activities, members and employees of the department of public utilities shall file with the director of the department of public utilities a written notice of the character of work engaged in, the place where so engaged, and make themselves available and be prepared at all times to respond immediately to any call notifying them that their services are required by the department. It shall be the duty of the director of the department of public utilities to determine whether such outside activity of any member of the department is impairing or affecting his efficiency or interfering with his official duties, and, if so, such member shall be required to discontinue such activity. Members of the department of public utilities may engage in work for other city departments whenever authorized by the director of the department of public utilities.
(Code 1975, § 24-21; Code 2002, § 94-38)

Sec. 94-39. Appointment of additional employees.

The director of the department of public utilities may appoint, with the consent and approval of the city manager, such other employees, in addition to those provided for in this article, as may be required from time to time by the department.
(Code 1975, § 24-22; Code 2002, § 94-39)

Sec. 94-40. Limitation on expenditures; requisitions.

The director of public utilities shall supervise the water system and keep the water system in good order and repair. No repairs, extensions or additions, the cost of which shall exceed the sum of $500.00, shall be made unless the approval of the city manager shall first have been obtained therefor, and no supplies of any kind or cost shall be charged by the director or by any employee of the department of public utilities, except upon requisition properly countersigned and filed with the purchasing agent.
(Code 1975, § 24-23; Code 2002, § 94-40)

Secs. 94-41—94-60. Reserved.

ARTICLE III. WATER SYSTEM*

DIVISION 1. GENERALLY

Sec. 94-61. 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:

Consumer means the person owning the property in or upon which the water is consumed.

Department means the city's department of public utilities.

Director means the director of the department of public utilities.

Flat rate means the fixed charge for water and water service where no meter is used by the consumer.

Service line and *service pipe* mean any line or pipe leading from the property line to the building.

Stub line and *stub pipe* mean the pipe leading from the main to the property line.

System means the city's water system, also called works.
(Code 1975, § 24-35; Code 2002, § 94-61)

Sec. 94-62. Rules and regulations of city commission and city manager.

The city commission may make such rules and regulations governing the operation of the system and the collection of the service rates as it shall deem necessary. The city manager may make such further bylaws, not inconsistent with the rules and regulations of the city commission, as he may deem necessary for the management and protection of the system. Such rules, regulations and bylaws shall have the same force and effect as ordinances.
(Code 1975, § 24-36; Code 2002, § 94-62)

*__State law reference—__Local authority to provide and regulate sewer and water service, MCL 324.4301 et seq.

Sec. 94-63. Charges and costs for service pipes and mains installed by city.

(a) If any property owner fails to make proper connection with the water main before the paving of a street is commenced, the city shall run the stub line and a charge shall be made against the property for the amounts set forth in the schedule of fees and rates set forth in the resolution adopted by the city commission.

(b) Before water is turned on at any premises against which there may be a charge, all charges lawfully made against the premises with interest, if any, shall be paid in full. The city shall keep a record of all such accounts available and posted, and a copy of such record shall be furnished to the city director of finance. The city shall not turn water on, nor permit water to be turned on or used, at any premises in the city where accounts against the premises for water have not been fully paid.

(c) The city commission may determine, from time to time, whether to special assess a water main to benefit properties whether or not abutting the water main, or to charge connection fees as set forth in this section.

(d) Where the city performs or has performed any one of the following, without charging abutting or benefitted properties a special assessment, a connection fee shall be charged:

(1) Installation of a main water line, where no main water line has existed in the street where the new main is being installed;

(2) Installation of connections of stub lines to main water lines from a property which has never been previously connected to a main water line in the street where the main is located;

(3) A connection fee will be charged whenever a meter is upgraded to a larger size. Credit for any previous connection fee paid will be given on the replaced larger size meter. Where a property changes to a smaller size meter, no refund of connection fees shall be made;

(4) Where a connection is made to a property containing more than one residential unit or any nonresidential usage, there shall be charged in addition to the connection fee, the cost of labor and materials to provide the stub line from the city main water line to the property boundary.

The fee shall be determined by reference to the costs of installation, repair, restoration, replacement, improvements and reserves for such installation, repair, restoration, replacement and improvements, the costs of bonds issued to pay for such improvements, including administrative and legal costs, and any other reasonable costs attributable to such commission shall by resolution adopt a schedule of connection fees, from time to time. Connection fees and estimates of actual costs where applicable shall be paid in full seven days before installation begins.

(e) Fees shall be charged for the installation of a stub from the water main to the property boundary in accordance with the resolution of fees and rates adopted by the city commission. Such stub line installation fees shall be charged where the owner of the property or an authorized representative has requested an upgrade of service, or an upgrade of service has been installed. The city in such cases reserves the right to determine whether a stub replacement is warranted before agreeing to install the stub replacement. Stub line installation fees will not be charged where an existing stub line is being replaced because of city work on the main or the street.
(Code 1975, § 24-37; Code 2002, § 94-63)

Sec. 94-64. Application for service and discontinuance of service.

(a) No person shall be granted water service, nor shall water be turned on, until proper written application therefor shall have been made on blanks furnished by the city for this purpose, and no water shall be discontinued (except involuntary discontinuance for cause or nonpayment) until proper written application therefor has been made on blanks also furnished by the city. Verbal or telephone requests for turning on or turning off water will be accommodated by mailing or furnishing at the city hall forms to be completed by the owner. Filing of the completed application shall be necessary to place in effect the account status change and termination or initiation of service. All requests for water service shall be signed by the property owner.

(b) If any application for service shall require a stub line of a diameter of three inches or larger, water shall not be turned on until the owner, at his own cost and expense, shall have first furnished to the director of public works of the city the written results of tests conducted by qualified test operators certifying that the stub line and all the owner's connections thereto have been hydrostatically tested and disinfected in accordance with the then existing standard construction specifications of the city.
(Code 1975, § 24-38; Code 2002, § 94-64)

Sec. 94-65. Turning water on or off at fire hydrants.

No person other than the superintendent of water and sewer maintenance or employees of the system designated by him, or employees of the street department, on permission granted by the superintendent of water and sewer maintenance, or a member of the fire department, shall be permitted to turn water on or off at any fire hydrant.
(Code 1975, § 24-43; Code 2002, § 94-65)

Sec. 94-66. Maintenance of service lines, stub lines and fixtures.

Any person taking water from the works shall not permit service lines, stub lines or fixtures connected therewith to be in a state of disrepair or unprotected from frost. Any person who shall allow meters to freeze or be damaged by heat or hot water shall pay the cost of such repair each time such meter is repaired, and no water will be furnished until such payment is made.
(Code 1975, § 24-44; Code 2002, § 94-66)

Sec. 94-67. Restriction on use of water for lawn sprinkling, cooling and industrial purposes.

No person shall use water supplied by the system for lawn sprinkling purposes when so ordered by the director. The director may set

reasonable bans on water use for lawn sprinkling, air conditioning, cooling and industrial use when, in the opinion of the director, the use of this water will affect the health, safety and welfare of the citizens of the community. Such restriction shall also apply to any user of water or water service who is located outside of the corporate limits of the city.
(Code 1975, § 24-45; Code 2002, § 94-67)

Secs. 94-68—94-85. Reserved.

DIVISION 2. WATER USE CHARGES*

Sec. 94-86. Meters required; flat rates prohibited on new service; remote reading devices.

All new service added to the water distribution system shall be metered with a remote reading device, and under no conditions shall flat rates be granted. Flat rates now in effect shall be discontinued and meters shall be installed by the consumer when, in the opinion of the director, such discontinuance of the flat rates shall be deemed advisable. A remote reading device shall be installed on all existing meters and shall be attached to the outside of the dwelling.
(Code 1975, § 24-40; Code 2002, § 94-86)

Sec. 94-87. Separate meter and service pipe for each house.

No two residences shall be placed on one water meter, nor shall the service pipe be run from one house to another but shall be run directly to the main adjacent to the premises served.
(Code 1975, § 24-41; Code 2002, § 94-87)

Sec. 94-88. Testing of meters.

Procedures and requirements for testing of meters shall be established by regulations adopted by the city commission.
(Code 1975, § 24-42; Code 2002, § 94-88)

*__State law reference—__Liability of landlords for water charges, MCL 141.121.

Sec. 94-89. Basis of charges.

The rates for services furnished by the system shall be levied upon each lot or parcel of land, building or premises within the corporate limits of the city having any connection with the system, on the basis of the quantity of water used thereon or therein as such quantity is measured by the city water meter there in use.
(Code 1975, § 24-53; Code 2002, § 94-89)

Sec. 94-90. Rates established.

The city commission may classify all users of water, and establish rates for such users, including the establishment of rates for each fire hydrant or fire line publicly or privately owned and used only for such purposes, according to the quantity of water used and charge such rates to users of each class as it may deem advisable. Such classes and rates shall be fixed and determined by a schedule of rates and fees adopted by the city commission by resolution.
(Code 1975, § 24-54; Code 2002, § 94-90)

Sec. 94-91. Rates apply to each meter.

Whenever more than one meter is required for a property owner or consumer, the rates prescribed by this division shall apply to each meter.
(Code 1975, § 24-55; Code 2002, § 94-91)

Sec. 94-92. Additional charge for users outside city.

Any user of water or water service who is located outside of the corporate limits of the city, who has a connection with the water supply system of the city, shall pay for water or water service such additional rate to that charged to users within the city as the city commission may, from time to time, determine by contract or otherwise.
(Code 1975, § 24-56; Code 2002, § 94-92)

Sec. 94-93. Division of city into districts for billing purposes.

For the purpose of reading water meters and the collection of water bills, the city shall be divided into three approximately equal districts, which shall be delineated and become a part of

the records of the department of public utilities. Any necessary changes in the districts shall be made by the division of water and sewer billing, with the approval of the city manager, with a letter to the involved property owners.
(Code 1975, § 24-57; Code 2002, § 94-93)

Sec. 94-94. Adjustments of charges for meter inaccuracies.

Procedures and requirements for adjustments of water and sewer charges for meter inaccuracies shall be established by regulations adopted by the city commission.
(Code 1975, § 24-58; Code 2002, § 94-94)

Sec. 94-95. Determining charges in case of meter failure.

Procedures and requirements for determining charges in case of meter failure shall be established by regulations adopted by the city.
(Code 1975, § 24-59; Code 2002, § 94-95)

Sec. 94-96. When and where bills are due and payable.

All water bills for each water district in the city shall be due and payable at the city hall on the dates and on a schedule set forth in regulations adopted by city commission resolution. Billing cycles may be determined for different types of users in accordance with reasonable standards.
(Code 1975, § 24-60; Code 2002, § 94-96)

Sec. 94-97. Charges for late payments.

Charges for late payment shall be added to delinquent bills and shall be determined by resolution of the city commission.
(Code 1975, § 24-61; Code 2002, § 94-97)

Sec. 94-98. Notice of and discontinuance of service for delinquency.

Any water bill remaining unpaid for 15 days after the due date shall be deemed delinquent, and the property owner shall be notified thereof. If the bill is not paid within ten days after the date of the notice, the water may be turned off, or a reasonable effort will be made by the city to turn off the water and such shall be considered the same as a turnoff in regards to turn-on fees. The water will not again be turned on until a turn-on fee, as set by the city commission, and all other charges against the premises, shall have been paid.
(Code 1975, § 24-62; Code 2002, § 94-98)

Sec. 94-99. Charges as lien; credit not extended.

All water rates shall be chargeable to and payable by the owners of the property in or on which service is rendered, and such charges shall constitute a lien on the property served by such connection, and, if not paid within 90 days, may be collected in the same manner as general city taxes. Credit for water or water service beyond the regular billing period shall not be extended to any property owner or user.
(Code 1975, § 24-63; Code 2002, § 94-99)

State law reference—Liens for water charges, MCL 123.161 et seq.

Sec. 94-100. Payment by city.

The city shall pay, out of the appropriate general funds of the city, the reasonable cost and value of water furnished to the city by the system, on the basis of the rates established by this division and the amount of water used by the several departments of the city.
(Code 1975, § 24-64; Code 2002, § 94-100)

Sec. 94-101. No free service or use.

No free service or use of the system, or service or use of the system at less than cost, shall be furnished by the system to any person, firm or corporation, public or private, or to any public agency or instrumentality, including the city.
(Code 1975, § 24-66; Code 2002, § 94-101)

Secs. 94-102—94-130. Reserved.

ARTICLE IV. SEWERS AND SEWAGE DISPOSAL*

DIVISION 1. GENERALLY

Sec. 94-131. Rules and regulations; generally.

The city commission may make such rules and regulations governing the operation of the sewer-

*State law reference—Local authority to provide and regulate sewer and water service, MCL 324.4301 et seq.

age system and the collection of the service charges as it shall deem necessary. Such rules and regulations and bylaws shall have the same force and effect as ordinances.
(Code 1975, § 24-1(b); Code 2002, § 94-131)

Secs. 94-132—94-150. Reserved.

DIVISION 2. CONSTRUCTION, REPAIR AND RELATED MATTERS

Sec. 94-151. 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:

Building sewer means the line running from the property line to the structure or building located thereon.

Lateral means a stub line.

Sewer service line and *service line* mean the same as building sewer.

Stub line means the sewer pipe running from the main sewer and any public way to the property line.
(Code 1975, § 24-74; Code 2002, § 94-151)

Sec. 94-152. Compliance with state construction code.

All laterals shall be laid in compliance with the provisions of the state construction code.
(Code 1975, § 24-75; Code 2002, § 94-152)

Sec. 94-153. Designation on paving plan of laterals not constructed.

It shall be the duty of the city engineer to designate on the paving plan all laterals and sewers not constructed.
(Code 1975, § 24-76; Code 2002, § 94-153)

Sec. 94-154. Construction, alteration or repair prior to paving—Order by city commission.

The city commission may, by resolution, before laying any pavement, order constructed, raised, lowered, relaid or repaired any lateral whenever a change in grade or a new lateral is required.
(Code 1975, § 24-77; Code 2002, § 94-154)

Sec. 94-155. Same—Notice to owner or occupant of property in front of or contiguous to proposed improvement; resolution fixing time for hearing, etc.

(a) The city commission shall give to the owner, agent or occupant of any parcel of land in front of or contiguous to a lateral to be constructed, raised, lowered, relaid or repaired, notice of not less than 14 days of the time when the city commission will meet for the purpose of hearing such owner, agent or occupant relative to such work. The city commission shall, by resolution, fix the time for such hearing and the time when such work shall be done. Such resolution shall also provide that in the event the owner, agent or occupant of such parcel of land fails to make such proposed improvement, the work shall be done by the city and the expense thereof shall be assessed as a special assessment. The city manager shall keep and file a copy of such notice, with the proper return of service thereon, and file the copy of such notice with the city commission.

(b) For the purpose of serving the notice provided for in this section, the party to whom the lot or premises is assessed shall be deemed the owner thereof, and in case it is assessed "owner unknown," and the name of the owner cannot be ascertained, upon proof of that fact filed with the city commission, the city commission shall publish such notice in a newspaper published and in general circulation in the city, not less than three weeks in succession, and upon filing of the affidavit of such publication with the city commission, the same proceedings shall thereafter be had as if there had been personal service. When the owner is known, but resides outside of the city, service may be made by registered mail. Upon the filing

of proof of receipt of such notice by registered mail, the same proceedings shall be had as though personal service had been made.
(Code 1975, § 24-78; Code 2002, § 94-155)

Sec. 94-156. Same—Failure of owner or occupant to comply with notice.

Any owner, agent or occupant of any premises in front of or contiguous to a lateral to be constructed, raised, lowered, relaid or repaired, as the case may be, who refuses to cause such work to be done within the time specified in the notice served upon him personally under section 94-155, shall be deemed guilty of a misdemeanor and shall, upon conviction, be fined in a sum not to exceed $100.00 and the costs of prosecution.
(Code 1975, § 24-79; Code 2002, § 94-156)

Sec. 94-157. Same—Work by city.

(a) If the person, against whom an improvement is to be assessed pursuant to a resolution adopted under section 94-155, shall refuse or neglect to construct, repair, raise, lower or relay such lateral within the time specified in the notice given him, the city commission shall then, by resolution, instruct the city manager to cause such work to be done according to the resolution authorizing such work, and the cost and expense thereof shall be a lien upon the premises in front of or contiguous to such lateral. The cost and expense of such work shall be assessed, levied and collected in the same manner and be included in the amount raised for sewer purposes as other taxes.

(b) The city manager shall keep, or cause to be kept, an itemized account of the total cost of work done under this section, verify the amount and file it with the city commission. The amount so verified shall be the amount assessed and collected against such premises, and the cost shall be paid out of the contingent fund, and upon receipt of such sum from the taxpayer it shall be credited to the contingent fund.
(Code 1975, § 24-80; Code 2002, § 94-157)

Sec. 94-158. Building sewers and connections.

A separate and independent building sewer shall be provided for every building. Exceptions will be allowed only by special permission granted by the city. All costs and expenses incurred by the installation, connection, repair and maintenance of the building sewer shall be borne by the owner.
(Code 1975, § 24-81; Code 2002, § 94-158)

Secs. 94-159—94-175. Reserved.

DIVISION 3. CONNECTIONS

Sec. 94-176. Connection by city at time of original construction; costs.

At the time of original construction of a public sewer, the city shall install that portion of the building sewer from the public sewer to the lot or easement line of all unserved properties. The cost of this portion of the building sewer shall be paid by the owner of the properties.
(Code 1975, § 24-160; Code 2002, § 94-176)

Sec. 94-177. Permit required for connection subsequent to time of original construction.

Those customers making connections subsequent to the time of original construction of the public sewer shall apply for and receive a sewer connection permit. Application for such permit and the payment therefore shall be made at the water and sewer billing office. The cost of that portion of the building sewer from the public sewer to the lot or easement line, serving residential properties, shall be established from time to time by resolution of the city commission. The cost of all other connections shall be those costs incurred by the city for the installation of such connections. All work within the public right-of-way shall be performed by the city's forces and the expense thereof shall be paid by the property owner. As established in this section, this payment shall be part of the fee for the permit.
(Code 1975, § 24-161; Code 2002, § 94-177)

Sec. 94-178. Maintenance, repair or replacement.

Those customers making connections to the public sewer shall install, at their expense, that portion of the building sewer from such lot of easement line to their premises. The customers

shall maintain, at their expense, the building sewer. The city shall provide minor maintenance, at the sewer utilities expense, of the public sewer. Major maintenance and repair and/or replacement of the public sewer may be assessed as a special assessment against the benefited properties.
(Code 1975, § 24-162; Code 2002, § 94-178)

Sec. 94-179. City not responsible for breaking of mains, etc.

The city shall, in no event, be held responsible for claims made against it by reason of the breaking of any mains or service laterals, or by reason of any other interruption of the service caused by the breaking of machinery or stoppage for necessary repairs. No person shall be entitled to damages nor have any portion of a payment refunded for any interruption.
(Code 1975, § 24-163; Code 2002, § 94-179)

Sec. 94-180. Inspection of premises receiving sewer service.

The premises receiving sanitary sewer service shall, at all reasonable hours, be subject to inspection by duly authorized personnel of the city.
(Code 1975, § 24-164; Code 2002, § 94-180)

Sec. 94-181. Change or amendment of rules.

These rules may be changed or amended.
(Code 1975, § 24-165; Code 2002, § 94-181)

Sec. 94-182. Connection, deposits to sanitary sewer.

No person shall connect a roof drainage system, foundation drainage system, sump pump, parking lot or other stormwater, surface water, groundwater, or noncontact cooling water collection mechanism to, or deposit or allow to be deposited such effluent in, a sanitary sewer. If such connections or deposits are found, it shall be the responsibility of the property owner or occupant to disconnect any such drainage system and prevent such deposit, under the supervision and subject to the inspection of the city and to provide other means, approved by the city, for the disposal of such water or effluent.
(Code 1975, § 24-166; Code 2002, § 94-182)

Secs. 94-183—94-200. Reserved.

DIVISION 4. SEWER USE REQUIREMENTS

Subdivision I. In General

Sec. 94-201. 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 means the Federal water pollution control act, as amended (Pub. L. 92-500, 86 Stat. 816 et seq., 33 USC 1251 et seq.). Specific reference to sections within the act will be according to Pub. L. 92-500 notation.

Administrator means the administrator of the environmental protection agency or any employee of the agency to whom the administrator may by order delegate the authority to carry out his functions, or any person who shall by operation of law be authorized to carry out such functions.

Analytical methodology means the Guidelines Establishing Test Procedures for the Analysis of Pollutants, 40 CFR 136, as amended, or procedure described in section 94-224(b).

BOD (biochemical oxygen demand) means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures 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 outside the inner face of the building wall.

Cesspool, septic tank and *privy* mean, for the purposes of this division, an individual system for the disposal of sanitary sewage other than to a public sewer.

Class of users means the division of sanitary sewer dischargers into classes by similar process or discharge flow characteristics as follows:

(1) The term "domestic user" means a user that discharges only segregated domestic wastes or wastes from sanitary conveniences.

(2) The term "major user" means any nondomestic user that discharges more than 25,000 gallons per average workday to the public sewer or the POTW.

(3) The term "nondomestic user" means any user other than domestic.

COD means the total demand or quantity of oxygen required by the sewage as specified in the current edition of Standard Methods for the Examination of Water and Wastewater expressed in milligrams per liter.

Collection system means all of the common sanitary sewers and lift stations of a municipality which are primarily installed to receive wastewater directly from point sources, for transmission to the POTW.

Compatible pollutant means any pollutant that is not an incompatible pollutant.

Construction means any placement, assembly, or installation of facilities or equipment, including contractual obligations to purchase such facilities or equipment, at the premises where such equipment will be used, including preparation work at such premises.

Contractee means a party to a service agreement with the DPW board.

County board means the board of commissioners of the county.

County director means the director of the wastewater management system of the county or the authorized deputy, agent or representative, as appointed by the county board of public works.

Daily average means the sum of the concentrations of a constituent for the measurement period divided by the number of days in such period.

DEQ means the department of environmental quality of the state or its successor.

Director/superintendent means the person designated by the municipality or its authorized agency to exercise control over its municipal sewers, collection and transmission system.

DPW board means the board of public works of the county.

Effluent limitation means any restriction promulgated by federal, state or local government on quantities, rates and concentrations of chemical, physical, biological or other constituents which are discharged from point sources into navigable waters.

Effluent standard means any restriction established pursuant to this article on quantities, rates and concentrations of chemical, physical, biological or other constituents which are discharged to the public sewer or the POTW.

Existing source means any source which is not a new source.

FCPS means federal categorical pretreatment standard.

Garbage means solid wastes from domestic and commercial preparation, cooking and dispensing of food, and from the handling, storage and sale of produce.

Incompatible pollutant means any pollutant in amounts which cause interference.

Industrial wastes means the liquid or gaseous wastes resulting from industrial or manufacturing processes, trade or business or from the development, recovery or processing of resources or containers as distinct from segregated domestic strength wastes and wastes from sanitary conveniences.

Infiltration means any waters entering the system from the ground through such means as, but not limited to, defective pipes, pipe joints, connection or manhole walls, but shall not include, and is distinguished from, inflow.

Infiltration/inflow (I/I) means the total quantity of water from both infiltration and inflow.

Inflow means any water entering the system through such sources as, but not limited to, building downspouts, footing or yard drains, cooling

water discharges, seepage lines from springs and swampy areas and storm drain cross connections.

Inspector means any person authorized by the municipality to inspect and approve the installation of building sewers and their connection to the public sewer system.

Interference means inhibition or disruption of the public sewer or the POTW's sewer system or the POTW's treatment processes or operation which causes or significantly contributes to a violation of any requirement of the POTW's NPDES permits. The term "interference" also includes prevention of sewage sludge use or disposal by the POTW in accordance with published promulgated regulations under section 405 of the act or any regulations promulgated pursuant to the solid waste disposal act (42 USC 3251 et seq.), the clean air act (42 USC 7401 et seq.), the toxic substances control act (15 USC 2601 et seq.), or more stringent state promulgated rules (including those contained in any state sludge management plan prepared pursuant to title IV of such solid waste disposal act) applicable to the method of disposal or use employed by the POTW. Pollutants in the effluent of a user shall not be considered to cause interference where the user is in compliance with specific prohibitions, standards, effluent standards or effluent limitations developed by the federal government, the state, local government or the POTW. Where the user is in compliance with such specific prohibitions, standards or limitations, and pollutants in the sewage from the user nevertheless caused or significantly contributed to a violation of any requirement of the POTW's NPDES permits, and are likely to cause such a violation in the future, the POTW must take appropriate action under 40 CFR 403.5(c).

Manufacturer means any establishment engaged in the mechanical, physical or chemical transformation of materials or substances into new products, including, but not limited to, the blending of materials such as pesticidal products, resins, or liquors.

Mg/l means milligrams per liter.

Municipality means a city, village, township or other public body (excluding the county) created under state law, having jurisdiction over disposal of sewage, industrial waste or other waste.

Muskegon County Wastewater Management System (MCWWMS) means the Muskegon County Wastewater Management System Number One, which includes the facilities commonly referred to as the "Whitehall-Montague" site.

Natural outlet means any outlet into a watercourse, pond, ditch, lake or other body of surface water or groundwater.

New source means any source, the construction of which is commenced after the publication of proposed regulations prescribing a categorical pretreatment standard under section 307(c) of the act which will be applicable to such source, if such standard is thereafter promulgated within 120 days of proposal in the federal register. Where the standard is promulgated later than 120 days after proposal, a new source means any source, the construction of which is commenced after the date of promulgation of the standard.

Normal strength sewage means a sanitary wastewater flow containing an average daily BOD of not more than 250 mg/l or an average daily SS concentration of not more than 250 mg/l, and phosphorus of not more than ten mg/l.

NPDES permit means a permit issued pursuant to the National Pollution Discharge Elimination System for the discharge of wastewater into the waters of the state.

Organic chemicals means compounds composed of carbon and hydrogen or their derivatives which are manmade or byproducts of manmade or natural substances which include, but are not limited to, synthetic fibers, plastics, rubber, medicinals, solvents, surface-active agents, pesticides and other agricultural chemicals and lubricating oil additives or other petroleum derivatives.

pH means the negative logarithm of the concentration of hydrogen ions in grams per liter of solution.

POTW means the treatment works, as defined by section 212 of the act, which are owned by the county. The term "POTW" also means the DPW board or its authorized representative.

Pretreatment means the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in sewage to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into the public sewer or the POTW. The reduction or alteration can be obtained by physical, chemical or biological processes, process changes or by other means, except as prohibited by 40 CFR 403.6(d) and (e), as amended.

Process wastes means liquid or water-carried wastes which are inherent to or resulting from any manufacturing operation, including that which comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, byproduct or waste product, or results from cleaning operations.

Replacement means expenditures for obtaining and installing equipment, accessories or appurtenances which are necessary to maintain the capacity and performance during the service life of the treatment works for which such works were designed and constructed.

Sanitary sewage means the liquid, gaseous or water-carried waste discharged from sanitary conveniences.

Sewage means a combination of water-carried liquid and gaseous wastes from any source, including domestic and nondomestic, as well as groundwaters, surface waters and stormwaters as may be present.

Sewer means a pipe or conduit that carries wastewater or drainage water. See the following definitions modifying the term "sewer":

(1) *Building sewer* means the extension from the building drain to a lateral sewer, private sewer, public sewer or other place of disposal.

(2) *Combined sewer* means a sewer intended to receive both wastewater and stormwater or surface water.

(3) *Common sewer* means a sewer in which all owners of abutting properties have equal rights.

(4) *County sewer* means a public sewer controlled by the county.

(5) *Intercepting sewer* means a sewer that receives dry weather flow from a number of transverse sewers or outlets and frequently additional predetermined quantities of stormwater (if from a combined system), and conducts such water to a point for treatment or disposal.

(6) *Lateral sewer* means a sewer which is designed to receive a building sewer.

(7) *Private sewer* means that section of a sewer owned by a nondomestic user which connects that user to the public sewer and which typically extends from such point of connection upstream to the user's lateral sewers or to a lift station or other outlet owned by the user.

(8) *Public sewer* means a common sewer controlled by a governmental agency or public utility.

(9) *Sanitary sewer* means a sewer that carries liquid and water-carried wastes from residences, commercial buildings, industrial plants and institutions, together with minor quantities of groundwaters, stormwaters and surface waters that are not admitted intentionally.

(10) *Storm sewer* means a sewer that carries stormwater and surface water, street wash and other wash waters, or drainage, but excludes domestic wastewater and industrial wastewater. Also called "storm drain."

(11) *Trunk sewer* means a sewer which connects the lateral sewer to the intercepting sewer and to which building sewers may be connected.

Slug and *shockload* mean any discharge of sewage or industrial waste which, in concentration of any given constituent or in quantity of flow, causes interference.

Source means any building, structure, facility, vehicle or installation from which there is or may be the discharge to the public sewer or the POTW.

SS (suspended solids) means solids that either float on the surface of, or in suspension in, sewage and which can be removed by the procedures specified in the current edition of Standard Methods for the Examination of Water and Wastewater.

State director means the executive secretary of the water resources commission of the state.

Storm drain and *storm sewer* mean a sewer intended to carry only stormwaters, surface runoff, street wash waters, and drainage.

30-day average concentration means, for other than fecal or total coliform bacteria, the sum of the concentrations of the individual samples divided by the number of samples taken during a calendar month. The 30-day average concentration for fecal or total coliform bacteria is the geometric mean of the samples collected in a calendar month.

Toxic and *toxic pollutant* mean chemicals described in section 94-222(6)p.

Upset means an exceptional incident in which there is unintentional and temporary noncompliance with categorical pretreatment standards or the county discharge limits, because of factors beyond the reasonable control of the industrial user. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, lack of preventive maintenance or careless or improper operation.

U.S. EPA means the United States Environmental Protection Agency or its successor.

User means a source (including a Section 307 source) and the municipality whose collection system discharges into the POTW.

Waste component means any constituent of sewage other than water, including, but not limited to, BOD, SS, other soluble and insoluble matter and phosphate concentrates.

WRC means the water resources commission of the state or its successor.

Working day means the hours during a calendar day in which a user discharges effluents subject to this article.
(Code 1975, § 24-97; Code 2002, § 94-201)

Sec. 94-202. Purpose.

It is the declared purpose of this division to establish standards to:

(1) Prevent the pollution of the public waters.

(2) Preserve and maintain the sewage collection and treatment facilities of Muskegon County Wastewater Management System Number One (the "system"), municipalities and users.

(3) Preserve the public health, safety and welfare.

(4) Comply with all applicable state and federal laws, regulations and standards pertaining to water quality.

(5) Provide for the prohibition of the discharge of incompatible pollutants to the system.

(6) Provide for the control of pollutants discharged to the system.

(7) Provide for the enforcement of standards relating to the acceptability of wastewaters to be discharged to the system.

(Code 1975, § 24-93; Code 2002, § 94-202)

Sec. 94-203. Mandatory connection to sanitary sewer; denial of right to connect.

Every owner of property abutting, adjacent to or along the line of a sanitary sewer now constructed or hereafter constructed shall connect thereto all plumbing facilities for the disposal of sewage and waste. Provided, however, that the city shall have the right to refuse any person the right to connect to the sewage disposal system if, in the judgment of the city commission, it is for the best interest of the city to do so.
(Code 1975, § 24-94; Code 2002, § 94-203)

Sec. 94-204. Privies and cesspools prohibited where sanitary sewer service furnished.

No person shall keep or maintain or allow to be kept or maintained any privy or cesspool on any premises under his control in the city where sanitary sewer service is accessible to the premises.
(Code 1975, § 24-95; Code 2002, § 94-204)

Sec. 94-205. Connection of surface drainage pipes to sewers.

No owner of any property abutting, adjacent to or along the line of a sanitary sewer shall connect, directly or indirectly, any pipes from roofs, eavetroughs or other places to permit surface drainage into such sewer, and all such pipes shall be connected to a storm sewer or combined sewer, if such a sewer is constructed abutting, adjacent to or along the line of such property. No person shall discharge, or cause to be discharged, any stormwater, surface water, groundwater, roof runoff, subsurface drainage, uncontaminated cooling water, or unpolluted industrial process waters to any sanitary sewer.
(Code 1975, § 24-96; Code 2002, § 94-205)

Secs. 94-206—94-220. Reserved.

Subdivision II. Discharge Restrictions

Sec. 94-221. Intent of regulations.

The regulations contained in this subdivision are generally intended to:

(1) Prohibit the discharge to public sewer facilities of sewage which causes interference or could have detrimental effects on the physical structures or operating personnel of the system, or on the general public; and

(2) Restrict the discharge to public sewers of technically unpolluted water.

(Code 1975, § 24-98; Code 2002, § 94-221)

Sec. 94-222. Prohibited discharges.

No person shall discharge or cause to be discharged into any public sewer or to the POTW any of the following:

(1) Sewage in an amount which creates or may create a fire or explosion hazard in the POTW or the collection system.

(2) Sewage in an amount which causes or may cause corrosive structural damage to the collection system or the POTW.

(3) Solid or viscous sewage in amounts which could cause or do cause either obstruction to flow or interference in the collection system or the POTW.

(4) Any pollutant, including oxygen-demanding pollutants, released in a discharge at a flow rate and/or pollution concentration which a user knows or has reason to know will cause interference in the collection system and the POTW.

(5) Sewage which may cause or does cause:

a. Impairment of the strength or durability of structures in the collection system or the POTW.

b. Restriction of hydraulic capacity of structures in the collection system or the POTW.

c. Unsafe conditions to personnel in the inspection or maintenance of structures of the collection system or the POTW or unsafe conditions to the general public, with respect to the collection system.

(6) Discharges which exceed the following criteria by an amount which may cause or does cause interference:

a. Five-day biochemical oxygen demand (BOD) in excess of a daily average of 250 mg/l.

b. Chemical oxygen demand (COD) in excess of a daily average of 450 mg/l.

c. Chlorine demand of greater than 20 mg/l.

d. Total suspended matter in excess of a daily average of 250 mg/l.

e. Residue (total on evaporation) in excess of a daily average of 750 mg/l.

f. Solvent extractables (grease, fat, oil or other Freon soluble materials) in excess of a daily average of 50 mg/l.

g. Grease, oil or other substances that will become solid or viscous at temperatures between 32 degrees and 120 degrees Fahrenheit in concentrations that will increase the viscosity of the sewage to greater than 1.1 specific viscosity.

h. pH 9.5 to 6

i. Sewage flow or batch discharge containing concentrations in excess of:

	Daily Average Concentration	*30-Day Average Concentration*
Iron	10 mg/l as Fe	10 mg/l as Fe
Copper	4.5 mg/l as Cu	1.8 mg/l as Cu
Nickel	4.1 mg/l as Ni	1.8 mg/l as Ni
Chromium	7.0 mg/l as total Cr	2.5 mg/l as total Cr
Cyanide, T	0.8 mg/l as CN	0.23 mg/l as CN
Zinc	4.2 mg/l as Zn	1.8 mg/l as Zn
Cadmium	1.2 mg/l as Cd	0.5 mg/l as Cd
Lead	0.6 mg/l as Pb	0.3 mg/l as Pb
Aluminum	5.0 mg/l as Al	—
Silver	1.2 mg/l as Ag	0.5 mg/l as Ag
Phenols	150 mg/l as C_6H_5OH by 4 AAP method or 200 mg/l total by approved GC methodology	
Total chrome, copper, nickel and zinc	10.5 mg/l	5.0 mg/l
Nuclear	As per state and national regulations	

i. Temperature below 32 degrees Fahrenheit (0 degrees Celsius) or above 150 degrees Fahrenheit (65.6 degrees Celsius).

j. Material in sufficient amounts which may cause or does cause excessive coloration or light absorbency, including, but not limited to, dye wastes and vegetable tanning solutions.

k. An insoluble substance retained by a standard No. 8 sieve having any dimension greater than one-half inch (1.27cm).

l. Insoluble substances having a specific gravity greater than 2.65.

m. Improperly shredded garbage.

n. Sludge which results from a treatment process; unless the county director has determined that it is amenable to treatment by the POTW without application of unusual means or expense. Septic tank sludge will be accepted from licensed operators when delivered to designated disposal sites.

o. Any stormwater, surface water, groundwater, roof runoff, footing drainage or noncontact cooling waters.

p. The following toxic pollutants:

1. Those pollutants listed pursuant to section 307(a)(1) of the act;

2. Those pollutants listed on the current critical materials register prepared pursuant to section 3211 of the natural resources and environmental protection act (MCL 324.3211); and

3. Those pollutants specifically identified by the city as a toxic pollutant by amendment to this article.

(Code 1975, § 24-99; Code 2002, § 94-222)

Sec. 94-223. Future conditions.

Future conditions imposed on the county by jurisdictional government agencies may require subsequent amendment of this article by the city. Where federal or state promulgated pretreatment

standards require limits on parameters not covered in this article or limits more stringent than those specified in the article, the state or federal limits shall have precedence and take effect with respect to the applicable user on the later of:

(1) Their promulgation date; or

(2) The date specified for compliance with such standards (see subdivision VII of this division).

(Code 1975, § 24-100; Code 2002, § 94-223)

Sec. 94-224. Wastewater analyses.

(a) All the preceding specific conditions and quantities shall apply at the point where sewage is discharged or caused to be discharged into a public sewer or the POTW (whichever is reached first) and required pretreatment shall be effected before such point is reached.

(b) All measurements, tests and analyses of the characteristics of sewage to which reference is made in this article shall be determined in accordance with the current edition of Standard Methods for the Examination of Water and Wastewater, published by the American Public Health Association, most current American Society for Testing Materials (ASTM) and EPA-approved procedures contained in 40 CFR 136, or any validated methods from a recognized authority in cases where the above referenced procedures are not available or do not apply to the characteristic involved.

(c) Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the collection system and the POTW and to determine potential interference. The county will determine the method of sampling to be used in accordance with applicable federal regulations.

(Code 1975, § 24-101; Code 2002, § 94-224)

Sec. 94-225. Restrictions.

(a) If any sewage (or water described in section 94-222(6)o.) is discharged, or is proposed for discharge to the public sewers or the POTW which exceeds the limitations enumerated in sections 94-222 and 94-223, the city may, by order, take the following actions:

(1) Prohibit the discharge to the public sewer;

(2) Temporarily permit the discharge to the public sewer subject to any reasonable conditions that the city may recommend based on its review of such factors as quantity of the discharge in relation to flows and velocities in the sewers, materials of construction of sewers, nature of the treatment process, capacity of the treatment works, degree of treatability of the discharge, and any other pertinent factors;

(3) Require pretreatment, in accordance with subdivision VIII of division 4 of this article;

(4) Require control over the quality, quantities and rates of discharge to the public sewer; or

(5) In all cases, the city may require payment to cover any additional costs it may incur in connection with inspecting, sampling, testing and determining the treatability of the sewage, not covered by existing charges and any industrial surveillance fee.

(b) When the pretreatment of sewage or flow equalization is required under subsection (a)(3) of this section, the design of the equipment shall be subject to the review by the county and the city and subject to the requirements of all applicable codes, ordinances and laws. Where sewage pretreatment or flow equalization facilities are provided, they shall be continuously maintained for satisfactory and effective operation by the user at its expense, in order to meet applicable pretreatment requirements.

(Code 1975, § 24-102; Code 2002, § 94-225)

Secs. 94-226—94-240. Reserved.

Subdivision III. Authority of Inspectors and Protection of Owners

Sec. 94-241. Authority generally.

(a) Authorized representatives of the county or the city exhibiting proper credentials and identification shall be permitted at all reasonable times to enter all user's properties and the property of

municipalities for the purposes of inspection, observation, measurement, sampling and testing in connection with the administration of and in accordance with the provisions of these regulations. The representatives 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 public sewer.

(b) Authorized representatives of the county or the city exhibiting proper credentials and identification shall be permitted to enter all private properties through which the county or the city holds a duly negotiated easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair and maintenance of any portion of the public sewer or POTW lying within such easement. All entry and subsequent work, if any, on such easement, shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.
(Code 1975, § 24-103; Code 2002, § 94-241)

Sec. 94-242. Protection.

While on the property of the user specified in section 94-241, the authorized representatives of the county or the city shall observe all reasonable safety rules applicable to the premises established by the user and the user shall be held harmless for injury or death to the county or city employees and the county or city shall further indemnify the user against loss or damage to its property by county or city employees and against liability claims and demands for personal injury or property damage asserted against the user and growing out of such activity except to the extent caused by negligent failure of the user to maintain safe conditions.
(Code 1975, § 24-104; Code 2002, § 94-242)

Sec. 94-243. Other inspections.

Inspection by state or federal representatives pursuant to law shall not relieve a user from inspection by county or city representatives and inspection by the county or city representatives shall not relieve any user from compliance with lawful inspection by state and federal representatives.
(Code 1975, § 24-105; Code 2002, § 94-243)

Secs. 94-244—94-260. Reserved.

Subdivision IV. Monitoring and Sampling

Sec. 94-261. Sampling devices.

The county director or the city may require the user to install a suitable control structure and necessary measuring and sampling devices to facilitate the observation, sampling and measurement of the quantity, composition and concentrations of discharges to the public sewer. Such structure and devices shall be constructed and installed at the user's expense in accordance with plans submitted to the county director or to the city, and shall be maintained by the user so as to be safe and accessible during all reasonable times.
(Code 1975, § 24-106; Code 2002, § 94-261)

Sec. 94-262. Removal of samples and data.

The county director or his authorized representative or the city shall have the right to take and remove samples of sewage discharged into the public sewer and make copies of other data and materials concerning the samples inspected during an entry upon the user's property. At the written request of such user, split samples will be provided.
(Code 1975, § 24-107; Code 2002, § 94-262)

Sec. 94-263. Authority to require submission of samples.

The county director or the city may require any user to submit one or more representative samples of the sewage discharged or which it proposes to discharge into the public sewer.
(Code 1975, § 24-108; Code 2002, § 94-263)

Sec. 94-264. Failure to permit access or removal of samples and other data.

If a user shall refuse to permit access to an authorized county or city representative or permit such representative to obtain, take and remove

samples and make copies of other data pursuant to section 94-262, the county or city shall have the right to:

(1) Order the termination of the discharge of sewage to the public sewer.

(2) Order the user to permit access within a time certain.

(3) Issue a citation for a violation of this article.

(Code 1975, § 24-109; Code 2002, § 94-264)

Sec. 94-265. New installation or pretreatment facilities.

(a) *Notices.* The user or its authorized agent shall notify the county director and the city in writing after the completion of a new installation of pretreatment facilities of the time it intends to commence operation thereof. Where applicable, the user shall notify the county director and the city of the agreed upon time and the person who will conduct the tests required to be performed. Where applicable, the pretreatment facilities shall not be placed in regular operation until such tests have been conducted.

(b) *Tests by users.* A representative of the county or the city shall be permitted to witness the tests upon prior written request. The cost of tests shall be paid by the user of the installation.

(Code 1975, § 24-110; Code 2002, § 94-265)

Secs. 94-266—94-280. Reserved.

Subdivision V. Reporting

Sec. 94-281. Industrial surveillance report required.

The county director or the city, by written order, may require any nondomestic user of the public sewer to submit periodic reports on forms provided by the county or the city which shall include known information on the quality and quantity of sewage introduced into the public sewer, together with an inventory of known intermediate end product and byproduct chemicals present or likely to be present in sewage discharged or to be discharged to the public sewers. Such report shall include the volume, loadings and concentration of constituents, and be related to effluent standards as shall be required by the county director or the city. The county director or the city may also require additional information from such users as to materials or substances which may cause interference.

(1) *Mandatory report.* The county director or the city shall notify forthwith each major user known to discharge organic chemicals and metals into the public sewer that it is required to file industrial surveillance reports.

(2) *Initial report.* Each nondomestic user which has been notified of its obligation to file industrial surveillance reports shall file an initial report within 60 days from the date such notice is served upon such user.

(3) *Monthly reports.* Each nondomestic user so notified by the county director or the city may be required to file monthly reports within 15 days from the last day of the preceding month.

(4) *Quarterly reports.* Each user required to submit quarterly reports shall submit such reports on January 31, April 30, July 31, and October 31 of each year for the quarter ending on the last day of the preceding month, following the adoption of these regulations.

(5) *Annual reports.* Annual reports shall be submitted on or before April 1 of each year, for the preceding calendar year, commencing in 1981.

(6) *Signature on reports.* The reports referred to in this division shall be signed by an authorized representative designated by the nondomestic user. An authorized representative may be:

a. If a corporation, a principal executive officer of at least the level of vice-president;

b. If a partnership or proprietor, a general partner or the sole proprietor; or

c. In any case, a person responsible for the overall operation of the facility from which the discharge originates.

(Code 1975, § 24-111; Code 2002, § 94-281)

Sec. 94-282. Waivers.

After filing the initial report required pursuant to these regulations, the county director or the city may waive other periodic reports; provided, however, that if the character, nature or general composition of the discharge from the nondomestic user is substantially altered or changed from that contained in the original report, such user shall notify the county director or the city of such change prior to such discharge or as soon as reasonably possible after becoming aware that such alteration or change has occurred or is likely to occur and file a revised report, containing all of the information set forth in section 94-281.

(Code 1975, § 24-112; Code 2002, § 94-282)

Sec. 94-283. Emergency or accidental discharges.

All nondomestic users shall report to the county director and the city, as soon as reasonably possible, any discharges of sewage which are known to exceed the limits established by these regulations.

(1) *Notice.* Such notice shall be given in advance whenever reasonably possible and contain available information regarding the intended or accidental discharge, volume, duration, constituents, loading and concentrations and such other information as may be necessary to determine whether such discharge is compatible, incompatible, is prohibited, or may cause interference.

(2) *Emergency contact points.* The following are the emergency contact points which may be used to convey such information:

Pollution Emergency Alerting System (PEAS)	1-800-292-4702
County director	853-2291
County "C" station	722-6575
MDEQ (PEAS)	1-800-292-4706

(Code 1975, § 24-113; Code 2002, § 94-283)

Sec. 94-284. Reports by the county director regarding users affected by FCPS.

The county director shall notify all nondomestic users that might be subject to FCPS of such fact and of any applicable requirements under sections 204(b) and 405 of the act and sections 3001, 3004 and 4004 of the solid waste disposal act.

(Code 1975, § 24-114; Code 2002, § 94-284)

Sec. 94-285. Reports by users regarding FCPS.

Within 180 days after the promulgation of a FCPS, existing nondomestic users subject to such FCPS which currently discharge or are scheduled to discharge into the public sewer or the POTW shall submit reports required by 40 CFR 403.12(b), as amended. Within 90 days following the date for final compliance with applicable FCPS or, in the case of a new source, following commencement of the introduction of sewage into the POTW, any nondomestic user subject to FCPS shall submit the reports required by 40 CFR 403.12(d), as amended. In addition, any nondomestic user subject to a FCPS, after the compliance date of such FCPS, or, in the case of a new source, after commencement of the discharge into the public sewer or POTW, shall submit the periodic reports required by 40 CFR 403.12(e), as amended.

(Code 1975, § 24-115; Code 2002, § 94-285)

Sec. 94-286. Reports by DPW board regarding FCPS.

The DPW board shall submit the reports required by 40 CFR 403.12(h), (i) and (j), as amended.

(Code 1975, § 24-116; Code 2002, § 94-286)

Sec. 94-287. Records regarding FCPS.

(a) *Maintenance of records regarding FCPS.* Any nondomestic user and the DPW board, subject to the reporting requirements in sections

94-285 and 94-286, shall maintain records of all information in accordance with and resulting from any monitoring required by 40 CFR 403.12, as amended. Such records shall be retained by such user or the DPW board, as the case may be, for at least three years.

(b) *Falsification of records regarding FCPS.* Any person who knowingly makes any false statement, representation or certification on any application, record, report, plan or other document filed with the county director, or the city, or who falsifies or knowingly renders inaccurate any monitoring device or method required under these regulations, shall be deemed to have violated these regulations.
(Code 1975, § 24-117; Code 2002, § 94-287)

Secs. 94-288—94-305. Reserved.

Subdivision VI. Administrative Organization

Sec. 94-306. Enforcement agency.

The city is charged with the duty of investigating, preventing and abating violations of these regulations and enforcing the provisions of this article. The responsibility for the enforcement of this article shall be upon the county in accordance with the terms of an intergovernmental contract transferring such enforcement functions to the county.
(Code 1975, § 24-118; Code 2002, § 94-306)

Sec. 94-307. Powers of the county.

The county, pursuant to the contract referred to in section 94-306, is hereby empowered to:

(1) Supervise the implementation of this article.

(2) Institute actions against all users violating this article and institute necessary legal proceedings to prosecute violations of this article and compel the prevention and abatement of violations of this article or nuisances arising therefrom.

(3) Review the plans for pretreatment equipment submitted by users.

(4) Make inspections and tests of existing and newly installed, constructed, reconstructed, or altered pretreatment equipment to determine compliance with the provisions of this article.

(5) Investigate complaints of violations of this article and make inspections and observations of discharges. Record such investigations, complaints, inspections and observations.

(6) Issue orders requiring compliance with these regulations.

(7) Propose the imposition of civil penalties for violations of this article.

(8) Determine surcharges to be levied pursuant to this article.

(9) Make recommendations to the city for amendments to this article.

(10) Encourage voluntary cooperation by persons or affected groups in water pollution control.

(11) Collect and disseminate information on water pollution control.

(12) Work with planning and zoning agencies for the purpose of coordinating activities under provisions of this article and foster the best possible management of the water resources of the city.

(13) Cooperate with federal, interstate, state, county, district, municipal and other agencies concerned with water pollution with regard to studies, abatement programs, public complaints and other matters to the end that the natural resources of the city shall be best conserved and improved.

(14) Subject to applicable law and in accordance with such intergovernmental contract, accept, receive and give receipt for monies granted or made available by federal or state law for water pollution activities, surveys, investigations, research, or programs.

(15) Recommend the institution of proceedings in a court of competent jurisdiction to compel compliance with the provisions of

this article or any determination or order which may be promulgated or issued pursuant to this article.

(Code 1975, § 24-119; Code 2002, § 94-307)

Secs. 94-308—94-325. Reserved.

Subdivision VII. Orders

Sec. 94-326. General.

Whenever the city has determined that any user has violated this article the city may issue an order to take action deemed appropriate under the circumstances.

(Code 1975, § 24-120; Code 2002, § 94-326)

Sec. 94-327. Types of orders.

The following orders may be issued by the city:

(1) *Immediate cease and desist.* An order to cease and desist from discharging any sewage or an illegal discharge with immediate effect in the case of actual or threatened discharge of pollutants to the public sewer which presents or may present imminent or substantial endangerment to the health or welfare of persons, to the environment or causes interference with the operation of the public sewers or POTW. Such order shall be in effect until a hearing is conducted pursuant to subdivision XIII of this division. Such order shall contain a date and time for such hearing, as soon as reasonably possible, but not to exceed ten days from the date of such order.

(2) *Order to cease discharge within a time certain.* The city may issue an order to show cause why an order to cease discharge of an incompatible pollutant by a certain time and date, in cases other than those defined in subsection (1) of this section, should not be issued. The proposed time for remedial action shall be specified in the order to show cause. Such order may also contain such conditions deemed appropriate by the city.

(3) *Order to effect pretreatment.* The city may issue an order to show cause why a user should not be required to pretreat in accordance with subdivision VIII of this division. A user shall not, however, be ordered to pretreat where a compatible pollutant is discharged which the public sewer has the capability to carry or treat adequately. (See comment to 40 CFR 403.5c in 44 Federal Register 62266).

(4) *Order to perform affirmative actions.* The city may also issue an order to users subject to this subdivision to require such user to perform any action required of it under this subdivision, including, but not limited to, the following:

a. Submit samples.

b. Install sampling or monitoring equipment.

c. Submit reports.

d. Permit access for inspection, sampling, tests, monitoring and investigations.

(Code 1975, § 24-121; Code 2002, § 94-327)

Sec. 94-328. Contents of orders.

Any order issued by the city shall contain the facts and reasons and grounds for its issuance, and the remedial action ordered as well as the time within which such action shall be taken. No such order shall be deemed insufficient, however, for inconsequential errors and omissions in the facts and reasons and grounds for the order. If any user deems the content of the order to contain insufficient information, it may request from the city additional information.

(Code 1975, § 24-121.1; Code 2002, § 94-328)

Sec. 94-329. Factors beyond reasonable control.

If any noncompliance with any order is due to factors beyond the reasonable control of the user then such noncompliance shall not be a violation of such order and such order shall be modified to take account of such factors.

(Code 1975, § 24-121.2; Code 2002, § 94-329)

Secs. 94-330—94-345. Reserved.

Subdivision VIII. Pretreatment

Sec. 94-346. General standards.

(a) In the event a user discharges or proposes to discharge sewage to the public sewers which is prohibited by this article, the city may take any or all of the following steps:

(1) Issue an order pursuant to subdivision VII of this division.

(2) Impose surcharges as specified in subdivision X of this division.

(b) The obligations of a user under sections 94-347 and 94-348, and any order concerning such obligations, shall be subject to the terms of section 94-349.
(Code 1975, § 24-121.3; Code 2002, § 94-346)

Sec. 94-347. Pretreatment plan.

Any user subject to a final order to pretreat shall prepare a plan to effect and achieve the pretreatment of its sewage so that the sewage shall comply with its final order. The plan shall be prepared in accordance with good engineering practice and shall state whether construction is necessary as well as identify the measures which may be implemented without necessitating construction. The plan shall contain a schedule of compliance for the completion of each of the various phases necessary to implement full pretreatment, which schedule shall be approved by an order of the city.
(Code 1975, § 24-121.4; Code 2002, § 94-347)

Sec. 94-348. Compliance.

(a) *Schedule of compliance.* The schedule of compliance shall consist of one or more remedial measures, including enforceable timetables for a sequence of actions or operations leading to compliance with an effluent standard, or other limitation prohibition or standard.

(b) *Steps or phases.* The following steps or phases shall be included in the schedule of compliance, where applicable and appropriate:

(1) Retention of a qualified engineer and/or consultant.

(2) Obtain any engineering or scientific investigations or surveys deemed necessary.

(3) Preparation and submission of a preliminary plan to achieve pretreatment.

(4) Preparation of plans and specifications, working drawings or other engineering or architectural documents which may be necessary to effect pretreatment.

(5) A time shall be established to let any contract necessary for any construction.

(6) Completion times shall be established for any construction necessary.

(7) A time limit shall be established to complete full pretreatment pursuant to the final order.

(8) If a phase or unit of construction or implementation may be effected independently of another phase or unit, separate timetables shall be established for such phase or unit.

(c) *Amendment.* The order shall be subject to amendment, change or revocation, provided notice of such action shall be served upon the user in the same manner as in the original order and subject to the same procedure for review and appeal.

(d) *Modification.* In the event a nondomestic user subject to an order anticipates that it will be unable to comply with the schedule of compliance, or any portion thereof, for the completion of a specific step or phase, such nondomestic user shall notify the city as soon as it determines it is unable to comply. Such nondomestic user shall state the reasons therefor and submit a request for an extension of time or modification or amendment of such order together with supporting documents or data. If the user's inability to comply is due to factors beyond the reasonable control of the user, then the failure to comply shall not be a violation of the order and the schedule of compliance shall be adjusted forward in time to account for such factors.
(Code 1975, § 24-121.5; Code 2002, § 94-348)

Sec. 94-349. Federal Categorical Pretreatment Standards (FCPS).

(a) *Inclusion in standard.* If a FCPS is promulgated for a subcategory under which a user believes itself to be included, the user or the city may request, within 30 days after the promulgation date, of the appropriate state or federal official a written certification to the effect that the user does or does not fall within that particular subcategory. Such request shall be made and reviewed in accordance with the procedures set forth in 40 CFR 403.6(a), as amended.

(b) *Compliance date.* A user to which a promulgated FCPS applies shall achieve compliance with such standard within the time period provided for in 40 CFR 403.6(b), as amended, and 40 CFR 403.7, whichever is later.

(c) *Revision of FCPS for consistent removal.*

(1) *Revision generally.* The city may, on its own, and will, if requested by a user, revise discharge limits for specific pollutants covered in a FCPS consistent with 40 CFR 403.7, as amended, and consistent with these regulations. Such revision shall not apply if the requirements of 40 CFR 403.7 for such revision cannot be met or the discharge pursuant to such revision would cause interference.

(2) *Conditional revision.* Whether or not the city has a pretreatment program approved in accordance with 40 CFR 403.8, 403.9 and 403.11, as amended, the city may, on its own, and will, if requested by a user, conditionally revise the discharge limits for specific pollutants consistent with 40 CFR 403.7, as amended, and consistent with this article. Such revision shall not apply if the requirements of 40 CFR 403.7 for such revision cannot be met or the discharge pursuant to such revision would cause interference.

(3) *Provisional revision.* With respect to pollutants which are not currently being discharged and whether or not the city has a pretreatment program approved in accordance with 40 CFR 403.8, 403.9 and 403.11, as amended, the city may, on its own, and will, if requested by a user, provisionally revise the applicable FCPS prior to initial discharge of the pollutant consistent with 40 CFR 403.7, as amended, and consistent with this article. Such revision shall not apply if the requirements of 40 CFR 403.7 for such revision cannot be met or the discharge pursuant to such revision would cause interference.

(4) *Information and costs.* In connection with any revision described in subsection (c) of this section, the city, in accordance with section 94-348, shall prepare and submit such data, reports, certifications, pretreatment programs and other information and shall establish such compliance schedules with users as are required by 40 CFR 403, as amended, to support the revisions described in subsection (c) of this section. Any user with respect to whom such revisions are made shall accept compliance schedules established in accordance with section 94-348 by the city and shall submit to the city such data, reports and other information required to be submitted by the user to the city or accepted by the user by 40 CFR 403, as amended, to support such revisions. If the request for such revision was initiated by the user or a category of users then such user or users shall reimburse the city for the reasonable costs incurred and expenditures made by the city in connection with the provisions of this subsection (c)(4) (exclusive of the pretreatment program). Such costs and expenditures shall not include amounts expended by the city in connection with such data, reports, certifications and other information which are required by subdivisions III, IV and V of this division, the county's NPDES permits, or under any applicable law or regulation whether or not such revision is made. The city may request a deposit from such user to cover the estimated costs. Nothing shall prevent a user from voluntarily providing additional information, reimbursements and support to the city in connection with any revision.

(d) *Variance.* Any user, interested person or the United States Environmental Protection Agency ("requestor") may request a variance (based upon fundamentally different factors) from the limits specified in a FCPS by submitting a written request to the state director. Such requests are to be submitted within the time and shall include the information required by 40 CFR 403.13, as amended. If a variance is granted then the terms of such variance shall apply to the affected user.

(e) *Notice to municipality.* In the event a revision is made or applied for or a variance request is made, the city, in the case of a revision, and the requestor, in the case of a variance, shall notify the city that the revision has been made or applied for or that a variance request has been made and the proposed effective date thereof, where applicable.

(f) *Public participation.* In compliance with the public participation requirements of 40 CFR 25, in the enforcement of national pretreatment standards as specified in 40 CFR 403.8, the county director or the city shall provide public notification, in the largest daily newspaper published in the municipality in which the POTW is located, of the industrial users which during the previous 12 months were significantly violating applicable pretreatment standards or other pretreatment requirements. For the purpose of this subsection, a significant violation is a violation which remains uncorrected 45 days after notification of noncompliance:

(1) Which is a part of a pattern of noncompliance over a 12-month period;

(2) Which involves a failure to report accurately noncompliance; or

(3) Which resulted in the POTW exercising its emergency authority under 40 CFR 403.8(F)(1)(IV)(B).

(Code 1975, § 24-121.6; Code 2002, § 94-349)

Secs. 94-350—94-365. Reserved.

Subdivision IX. Accident Prevention

Sec. 94-366. Containment facilities.

Each nondomestic user that uses or stores liquid material on its facilities shall provide a storage or use area on its facilities which is capable of containing the liquid material so that, in the event of an accident, liquid material cannot escape therefrom by gravity through private sewers or otherwise into any public sewer in an amount which would result in a prohibited discharge. The city may issue an order to such a user to comply with this section and to first submit plans for compliance to the city.

(Code 1975, § 24-121.7; Code 2002, § 94-366)

Sec. 94-367. Order to file.

Each nondomestic user so ordered shall submit its plan for compliance within the time specified in such order.

(Code 1975, § 24-121.8; Code 2002, § 94-367)

Sec. 94-368. Approval of plan.

The timetable for implementation shall be subject to the approval of the city.

(Code 1975, § 24-121.9; Code 2002, § 94-368)

Sec. 94-369. Construction.

The containment measures shall be operational within such reasonable period of time as the city shall order.

(Code 1975, § 24-121.10; Code 2002, § 94-369)

Sec. 94-370. Interim measures.

The city may order the nondomestic user to take reasonable and feasible interim measures for emergency containment if circumstances so require.

(Code 1975, § 24-121.11; Code 2002, § 94-370)

Sec. 94-371. Water Resources Commission rules.

In no event shall a nondomestic user be required by city order issued under section 94-366 to provide facilities which are more extensive or inconsistent with facilities such user has provided or will provide in compliance with the WRC rules where applicable.

(Code 1975, § 24-121.12; Code 2002, § 94-371)

Secs. 94-372—94-390. Reserved.

Subdivision X. Surcharges

Sec. 94-391. Surcharges.

Users exceeding:

(1) The limitations established by section 94-222(1) through (5); or

(2) The specific criteria limitations identified in section 94-222(6), or the limits contained in an applicable pretreatment order issued pursuant to this article, to an extent which would require additional cost of treatment by the POTW in order to prevent:

a. Interference (present or future);

b. A substantial detrimental effect upon the public health or welfare, a substantial detrimental effect upon the environment, or a substantial detrimental effect upon the physical structure of the public sewer or the POTW;

shall be subject to the imposition of one or more surcharges as provided by this subdivision.

(Code 1975, § 24-121.13; Code 2002, § 94-391)

Sec. 94-392. Applicability.

Any such user shall be liable for the imposition of a surcharge to reimburse the county or city for any incremental costs or expenses (direct or indirect) it may incur in handling or treating such wastes (or which may be imposed upon the county or the city) as a result of exceeding such limits.
(Code 1975, § 24-121.14; Code 2002, § 94-392)

Sec. 94-393. Determination.

The city or county shall calculate the amount of the surcharge to be assessed against such user.
(Code 1975, § 24-121.15; Code 2002, § 94-393)

Sec. 94-394. Criteria.

The amount of the surcharge may be based upon and include the following:

(1) The volume of the discharge;

(2) The length of time such discharge occurred;

(3) The composition of such discharge;

(4) The nature, extent and degree of success the city may achieve in minimizing or mitigating the effect of such discharge;

(5) The toxicity, degradability, treatability and dispersal characteristics of such discharges;

(6) Schedule A set forth in this section; and

(7) Such other factors as the city or county deems appropriate under the circumstances.

SCHEDULE A

Surcharge—BOD. Surcharge provisions for five-day biochemical oxygen demand are hereby established. A user within the city may discharge wastewaters containing BOD concentrations in excess of 250 mg/l but not to exceed 400 mg/l into the system under the following provisions:

(1) The number of pounds of BOD in excess of 250 mg/l will be calculated by the following equation: $BOD = Q \times 8.345 (Y-250)$. In this equation, Q is the total million gallons of wastewater discharged during the billing period by the user and Y is the average BOD concentration of the wastewater of the user during the billing period.

(2) The surcharge to the user or such party shall be set at a rate calculated to offset the potential or actual extent of interference to the collection system or the POTW.

Surcharge—Suspended solids. Surcharge provisions for suspended solids (SS) are hereby established. The user may discharge wastewaters containing suspended solids concentrations in excess of 250 mg/l but not to exceed 750 mg/l into the public sewer under the following provisions:

(1) The number of pounds of suspended solids in excess of 250 mg/l will be calculated by the following equation: $SS = Q \times 8.345 (M-250)$. In this equation, Q is the total million gallons of wastewater discharged during the billing period by the user or such party and M is the average SS concentration of the wastewater of the user or such party during the billing period.

(2) The surcharge to the user or such party shall be set at a rate calculated to offset the potential or actual extent of interference to the collection system or the POTW.

(Code 1975, § 24-121.16; Code 2002, § 94-394)

Secs. 94-395—94-410. Reserved.

Subdivision XI. Transition and Exemption

Sec. 94-411. Authorized current discharges.

Nondomestic users with respect to whom there exists authorization to discharge sewage within parameters specified for that particular user (whether by service agreement, permit, letter authorization or otherwise) which authorization existed prior to the effective date of the ordinance from which this article is derived shall continue to have such authority until the earlier date that:

(1) Such authority is renewed or confirmed by the city; or

(2) Such authority is modified or revoked by order of the city pursuant to and consistent with this article.

(Code 1975, § 24-121.17; Code 2002, § 94-411)

Sec. 94-412. Exemptions.

(a) To the extent there is no conflict with an applicable state or federal statute or promulgated rule the city may issue an exemption order to a user with respect to:

(1) Effluent standards, effluent limitation, effluent criteria contained in this article.

(2) Any other requirement of these regulations applicable to the user.

(b) In granting an exemption order the city may:

(1) Establish a new or modified standard, limitation, criteria or requirement in the exemption order.

(2) Not authorize a discharge which will result in interference.

(3) As the sole or partial function of the order, determine that a discharge which exceeds one or more of the numerical limitations and criteria in section 94-222(6) does not cause interference.

(Code 1975, § 24-121.19; Code 2002, § 94-412)

Sec. 94-413. Conditions precedent to grant or denial.

The city shall not grant a variance or exemption unless such variance or exemption shall have first been granted by the county in accordance with any applicable county ordinances or regulations. Denial by the city of any application for variance or exemption shall be in writing, stating the reasons therefor, and served not more than five days following such denial upon the applicant and the county.

(Code 1975, § 24-121.20; Code 2002, § 94-413)

Secs. 94-414—94-430. Reserved.

Subdivision XII. Enforcement and Procedure

Sec. 94-431. Citation.

The city shall issue a citation with or without an order against any user deemed to be in violation of this article and determine the penalty, if any, to be imposed.

(Code 1975, § 24-121.21; Code 2002, § 94-431)

Sec. 94-432. Service.

The citation shall be served upon each user either by personal delivery or by certified mail addressed to such user.

(Code 1975, § 24-121.22; Code 2002, § 94-432)

Sec. 94-433. Content of citation.

The citation shall specify the following:

(1) Date and time of issuance.

(2) Date, time and place of violation, the nature of the violation, the substances discharged, where ascertainable, and the volume of such discharge, where applicable.

(3) Reference to the pertinent section of the article under which the violation is charged.

(4) Reference to the pertinent section of the article establishing penalties for the violation.

(5) The amount of the penalty, if any.

(6) The right of the alleged violator to present to the city, written explanations, information, or other materials in answer to the citation, including any defenses.

(7) The right to request an informal and formal hearing on the violation within the time limits specified in subdivision XIII of this division.

(Code 1975, § 24-121.23; Code 2002, § 94-433)

Secs. 94-434—94-450. Reserved.

Subdivision XIII. Administrative Appeals

Sec. 94-451. Scope.

This subdivision governs appeals from all administrative citations, orders, surcharges, penalties, exemptions and variances.

(Code 2002, § 94-451)

Sec. 94-452. Informal hearings.

(a) *Right to hearing.* An informal hearing may be requested by any user, deeming itself aggrieved by any citation, order, surcharge, penalty or action on exemptions and variances before the city by requesting an informal hearing within ten days after the citation, order, penalty or other action has been served upon such user.

(b) *Time.* The informal hearing shall be promptly scheduled at the earliest practicable date, but which shall not exceed five days after receipt of the request unless extended by mutual written agreement.

(c) *Nature.* The hearing shall be conducted on an informal basis without recording or transcribing of the hearing.

(Code 1975, § 24-121.24; Code 2002, § 94-452)

Sec. 94-453. Formal hearings.

(a) *Right to hearing.* Any user deeming itself aggrieved by any citation, order, surcharge, penalty or other action shall have the right to a formal hearing on the city's action by filing a written demand for such hearing within a period of 20 days from the date service thereof is effected upon such user, unless extended by written mutual agreement.

(b) *Content of request for hearing.* Such written request signed by such user or on behalf of such user by a duly authorized officer, agent or attorney to the city shall:

(1) State the name and address of the user or contractee requesting the hearing.

(2) Have attached a copy of the citation, order, surcharge, penalty or action.

(3) State with particularity the defenses and issues to be raised by such person at the hearing; provided, however, additional defenses and issues may be raised at the hearing.

(c) *Schedule for hearing.* A hearing shall be promptly scheduled at the earliest practicable time and date, but not to exceed 15 days from the date of receipt of the request unless otherwise extended by written agreement.

(Code 1975, § 24-121.25; Code 2002, § 94-453)

Sec. 94-454. Finality of action.

If an informal or formal hearing is not demanded within the periods specified in sections 94-452 and 94-453, such action shall be deemed final. In the event either or both such hearings are demanded, the action shall be suspended until a final determination has been made, except for immediate cease and desist orders issued pursuant to section 94-327(1).

(Code 1975, § 24-121.26; Code 2002, § 94-454)

Secs. 94-455—94-470. Reserved.

Subdivision XIV. Procedure for Conduct of Hearing

Sec. 94-471. Compliance with procedures.

Hearings on any notice, order, citation, surcharge or other action of the city shall be conducted under the procedure set forth in this subdivision.

(Code 2002, § 94-471)

Sec. 94-472. Hearing board.

(a) *Designation of appeal board.* The city commission hereby designates the DPW board as the hearing board to schedule, hear and decide administrative appeals arising under this article.

(b) *Powers.* A majority of the DPW board is hereby vested with the power, jurisdiction and authority to:

(1) Schedule, hear and decide appeals from any administrative determination made by the city.

(2) Schedule, hear and decide applications for extensions of time for compliance or for exemptions or variances in the manner set forth in this division.

(c) *Proceedings.* The hearing board shall keep minutes of its proceedings and comply with the open meetings act (MCL 15.261 et seq.) and shall electronically record or authorize stenographic recording of the proceedings.

(d) *Conduct of proceedings.* The hearing board shall have the right to adopt reasonable rules and regulations governing the conduct of its hearings. Any person may appear and testify at a hearing and be represented by an authorized agent or attorney.
(Code 1975, § 24-121.27; Code 2002, § 94-472)

Sec. 94-473. General procedures.

(a) *Hearing examiners.* The hearing board may appoint one or more hearing examiners or designate one or more of its members to serve as hearing examiners to conduct the hearings. The examiner hearing the case shall exercise all powers relating to the conduct of hearings until it is submitted by him to the hearing board for decision.

(b) *Record.* A record of the entire proceedings shall be made by tape recording, or by any other means of permanent recording determined to be appropriate by the hearing board.

(c) *Reporting.* The proceedings at the hearing shall also be reported by a stenographic reporter if requested by any party thereto. A transcript of the proceedings shall be made available to all parties upon request and upon payment by the requesting party.

(d) *Continuances.* The hearing board may grant continuances for good cause shown; however, when a hearing examiner has been assigned to such hearing, no continuances may be granted except by him for good cause shown so long as the matter remains before such examiner.

(e) *Oaths; certification.* In any proceedings under this division, the hearing board, any board member, or the hearing examiner has the power to administer oaths and affirmations and to certify to official acts.

(f) *Reasonable dispatch.* The hearing board and its representatives shall proceed with reasonable dispatch to conclude any matter before it. Due regard shall be shown for the convenience and necessity of any parties or their representatives.
(Code 1975, § 24-121.28; Code 2002, § 94-473)

Sec. 94-474. Form of notice of hearing.

The notice to appellant shall be substantially in the following form, but may include other information:

> "You are hereby notified that a hearing will be held before (the Board or name of hearing examiner) at _____ on the _____ day of _____, _____, at the hour upon the hearing requested by you. You may be present at the hearing. You may be, but need not be, represented by counsel. You may present any relevant evidence and will be given full opportunity to cross examine all witnesses testifying against you. You may request the attendance of public witnesses and the production of books, documents or other things by filing a request therefor with (Board or name of hearing examiner)."

(Code 1975, § 24-121.29; Code 2002, § 94-474)

Sec. 94-475. Conduct of hearing.

(a) *Rules.* Hearings need not be conducted according to the technical rules relating to evidence and witnesses.

(b) *Oral evidence.* Oral evidence shall be taken only on oath or affirmation.

(c) *Hearsay evidence.* Hearsay evidence may be used for the purpose of supplementing or explaining any direct evidence, but shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions in courts of competent jurisdiction in this state.

(d) *Admissibility of evidence.* Any relevant evidence shall be admitted if it is the type of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in civil actions in courts of competent jurisdiction in this state.

(e) *Exclusion of evidence.* Irrelevant and unduly repetitious evidence shall be excluded.

(f) *Rights of parties.* Each party shall have these rights, among others, to:

(1) Call and examine witnesses on any matter relevant to the issues of the hearing;

(2) Introduce documentary and physical evidence;

(3) Cross examine opposing witnesses on any matter relevant to the issues of the hearing;

(4) Impeach any witness regardless of which party first called him to testify;

(5) Rebut the evidence against him;

(6) Represent himself or to be represented by anyone of his choice who is lawfully permitted to do so.

(g) *Official notice.*

(1) *What may be noticed.* In reaching a decision, official notice may be taken, either before or after submission of the case for decision, of any fact which may be judicially noticed by the courts of this state.

(2) *Parties to be notified.* Parties present at the hearing shall be informed of the matters to be noticed, and these matters shall be noted in the record, referred to therein, or appended thereto.

(3) *Opportunity to refute.* Parties present at the hearing shall be given a reasonable opportunity, on request, to refute the officially noticed matters by evidence or by written or oral presentation of authority, the manner of such refutation to be determined by the hearing board or hearing examiner.

(4) *Inspection of the premises.* The hearing board or the hearing examiner may inspect any building or premises involved in the appeal during the course of the hearing, provided that:

a. Notice of such inspection shall be given to the parties before the inspection is made;

b. The parties are given an opportunity to be present during the inspection; and

c. The hearing board or the hearing examiner shall state for the record upon completion of the inspection the material facts observed and the conclusions drawn therefrom. Each party then shall have a right to rebut or explain the matters so stated by the hearing board or hearing examiner.

(Code 1975, § 24-121.30; Code 2002, § 94-475)

Sec. 94-476. Method and form of decision.

(a) *Hearing before hearing board.* Where a contested case is heard before the hearing board, no member thereof who did not hear the evidence or has not read the entire record of the proceedings shall vote on or take part in the decision.

(b) *Hearing before examiner.* If a contested case is heard by a hearing examiner alone, the hearing examiner shall within a reasonable time (not to exceed 30 days from the date the hearing is closed) submit a written report to the hearing board. Such report shall contain a brief summary of the evidence considered and state the examiner's findings, conclusions and recommendations

subject to subdivision XVI of this division on confidentiality. The report also shall contain a proposed decision in such form that it may be adopted by the hearing board as its decision in the case. All examiner's reports filed with the hearing board shall be matters of public record. A copy of each such report and proposed decision shall be mailed to each party on the date they are filed with the hearing board.

(c) *Consideration of report by hearing board; notice.* The hearing board shall fix a time, date and place to consider the hearing examiner's report and proposed decision, within 15 days from the filing thereof. Notice thereof shall be mailed to each interested party not less than five days prior to the date fixed, unless it is otherwise stipulated by all of the parties.

(d) *Exceptions to report.* Not later than two days before the date set to consider the report, any party may file written exceptions to any part or all of the examiner's report and may attach thereto a proposed decision together with written argument in support of such decision. By leave of the hearing board, any party may present oral argument to the hearing board.

(e) *Disposition by the hearing board.* The hearing board may adopt or reject the proposed decision in its entirety, or may modify the proposed decision.

(f) *Proposed decision not adopted.* If the proposed decision is not adopted by the hearing board as provided in subsection (e) of this section, the hearing board may decide the case upon the entire record before it, with or without taking additional evidence; or may refer the case to the same or another hearing examiner to take additional evidence. If the case is reassigned to a hearing examiner, the hearing examiner shall prepare a report and proposed decision as provided in subsection (b) of this section after any additional evidence is submitted. Consideration of such proposed decision by the hearing board shall comply with the provisions of this section.

(g) *Form of decision.* The decision of the hearing board shall be in writing and shall contain findings of fact, a determination of the issues presented, and the requirements to be complied with. A copy of the decision shall be delivered personally or sent by certified mail, postage prepaid, return receipt requested, to the appellant.

(h) *Effective date of decision.* The effective date of the decision shall be as stated therein or pursuant to a stay order from a court of competent jurisdiction.
(Code 1975, § 24-121.31; Code 2002, § 94-476)

Sec. 94-477. Judicial review.

Appeals from the determinations of the hearing board may be made to the circuit court for the county as provided by law. Such appeals shall be governed procedurally by the administrative procedures act of 1969 (MCL 24.201 et seq.). All findings of fact, if supported by the evidence, made by the hearing board shall be conclusive upon the court.
(Code 1975, § 24-121.32; Code 2002, § 94-477)

Secs. 94-478—94-495. Reserved.

Subdivision XV. Penalties and Remedies

Sec. 94-496. Criminal penalties.

Any user, or person (other than an employee of a user while acting as an employee) knowingly violating any provision of this article or a final order shall be guilty of a misdemeanor.
(Code 1975, § 24-121.33; Code 2002, § 94-496)

Sec. 94-497. Continuing offense.

Each and every day of any such violation shall constitute a separate and new offense and shall be punishable as such as provided in this subdivision.
(Code 1975, § 24-121.34; Code 2002, § 94-497)

Sec. 94-498. Surcharges.

In addition to prosecution and the imposition of civil penalties for violating this article, a user or contractee violating the regulations established by or pursuant to this article shall be subject to one or more surcharges in accordance with subdivision X of this division.
(Code 1975, § 24-121.35; Code 2002, § 94-498)

Sec. 94-499. Civil penalties.

Any user violating this article may also be subject to a penalty to be initially determined and assessed by the city not to exceed $500.00 per day, subject to appeal to the hearing board and circuit court. The hearing board may also adopt and publish a schedule of monetary civil penalties for various types of violations of this article. No such penalty shall be imposed where the violation was not caused by such user.
(Code 1975, § 24-121.36; Code 2002, § 94-499)

Sec. 94-500. Violation constitutes a public nuisance.

Violations of this article are hereby declared to constitute a public nuisance.
(Code 1975, § 24-121.37; Code 2002, § 94-500)

Sec. 94-501. Civil injunctive relief.

The city is hereby empowered to institute legal proceedings for the abatement of any nuisance including injunctive actions or other remedies, including damages.
(Code 1975, § 24-121.38; Code 2002, § 94-501)

Sec. 94-502. Prima facie presumption.

There shall be a prima facie presumption that the owner or occupant, if not owner-occupied, of the premises upon or from which a violation of this article is determined to exist, that such owner or occupant had knowledge of the unauthorized discharge or other violation. Such presumption shall be rebuttable by competent evidence showing the absence of such knowledge if actual or constructive knowledge is a necessary element of the proof of such violation.
(Code 1975, § 24-121.39; Code 2002, § 94-502)

Secs. 94-503—94-520. Reserved.

Subdivision XVI. Confidentiality

Sec. 94-521. Confidential information.

All information and data submitted to the city by the user or obtained by the city through inspections and monitoring shall be protected by and held by the city as confidential if it relates to trade secrets or is information which, if disclosed, would tend to injure the competitive position of the user. The following data is not entitled to confidential treatment:

(1) Data which directly expresses effluent characteristics at or after a point of discharge to the public sewer or the POTW.

(2) Data which has previously been disclosed to the public generally.

(Code 1975, § 24-121.40; Code 2002, § 94-521)

Sec. 94-522. Request for confidentiality.

With respect to information and data submitted to the city by the user, the user must submit a cover sheet, or indicate on individual sheets, that such information is to be held as confidential information, in order for the information and data to be entitled to confidential treatment.
(Code 1975, § 24-121.41; Code 2002, § 94-522)

Sec. 94-523. Request for release of confidentiality.

If any person or governmental agency requests from the city information or data which is to be treated confidentially or is marked "confidential" pursuant to sections 94-521 and 94-522, the city shall notify the user before any release of such information and data. The user may agree to or object to the release of all or part of the requested information and data. If the user objects and the requesting person or agency continues its request then the information and data at issue shall not be released by the city without an order of a court of competent jurisdiction.
(Code 1975, § 24-121.42; Code 2002, § 94-523)

Secs. 94-524—94-540. Reserved.

Subdivision XVII. Upsets and Net/Gross

Sec. 94-541. Upset liability.

In the event of an upset, the user shall not be liable for the fines, imprisonment or civil penalties provided for in this article. An upset shall mean a noncompliance with this article which is

unintentional and temporary and is caused by factors beyond the reasonable control of the user.
(Code 1975, § 24-121.43; Code 2002, § 94-541)

Sec. 94-542. Upsets and FCPS.

To the extent an upset involves a FCPS, the provisions of 40 CFR 403.16, as amended, shall be met in order for the fines, imprisonment and civil penalties of this article not to apply and in order for the upset to constitute an affirmative defense as provided in 40 CFR 403.16, as amended.
(Code 1975, § 24-121.44; Code 2002, § 94-542)

Sec. 94-543. Net/gross and FCPS.

A user may apply to the United States Environmental Protection Agency for an adjustment in a FCPS to reflect the presence of pollutants in the user's intake water in accordance with 40 CFR 403.15, as amended. If such an adjustment is made, the adjusted FCPS shall apply, provided the adjustment does not result in interference.
(Code 1975, § 24-121.45; Code 2002, § 94-543)

Secs. 94-544—94-560. Reserved.

DIVISION 5. RATES AND CHARGES

Sec. 94-561. Definition.

In this division, the term "system" shall be as defined in division 4 of this article.
(Code 1975, § 24-122; Code 2002, § 94-561)

Sec. 94-562. Rates and charges generally.

All premises connected directly or indirectly to the sanitary sewers of the city shall be charged rates for connection, service, readiness to serve, and miscellaneous fees in connection with service, and shall make payments to the city in the amounts and upon schedules computed and determined by the city commission in a fee and rate schedule adopted by resolution. Charges shall be based upon the actual flow, measured by water service where available, or as established by the city commission based upon reasonable standards.
(Code 1975, § 24-125; Code 2002, § 94-562)

Sec. 94-563. User charge for sewer service.

(a) Rates and charges for the use of the wastewater system of the city are established by this section and made against each lot, parcel, of land or premises which may have direct or indirect connections to the system or which may otherwise discharge wastewater either directly or indirectly into the system.

(b) The rates and charges hereby established shall be based upon a methodology which complies with applicable federal and state statutes and regulations. The amount of the rates and charges shall be sufficient to provide for debt service and for the expenses of operation, maintenance and replacement of the system as necessary to preserve the system in good repair and working order. The amount of the rates and charges shall be reviewed annually and revised when necessary to ensure system expenses are met and that all users pay their proportionate share of operation, maintenance and equipment replacement expenses.

(c) The amount of such rates and charges and the intervals at which users of the wastewater system are billed shall be determined by resolution of the city commission.

(d) The rates and charges for operation, maintenance and replacement established in this section shall be uniform within the area serviced by the city. No free service shall be allowed for any user of the wastewater system.

(e) All customers of the wastewater system shall receive an annual notification, either printed on the bill or enclosed in a separate letter, which will show the breakdown of the wastewater disposal bill into its components for:

(1) Operation, maintenance and replacement; and

(2) Debt service.

(f) Definitions. As used in this section:

Operation and maintenance means all costs, direct and indirect, inclusive of all expenditures attributable to administration, replacement and treatment and collection of sewage or wastes, necessary to ensure adequate treatment and col-

lection of sewage or wastes on a continuing basis in conformance with the NPDES permit, and other applicable regulations.

Replacement means expenditures and costs for obtaining and installing equipment, accessories or appurtenances which are necessary during the service life of the system to maintain the capacity and performance for which the system was designed and constructed.
(Code 1975, § 24-123; Code 2002, § 94-563)

Sec. 94-564. Sewer connection fee.

(a) Where an abutting or benefitted property has not been specifically assessed for any of the following services or installations, a connection fee shall be charged for new or upgraded service:

(1) Installation of a main sewer line, on a street abutting the property from which it will be served;

(2) Installation of connections of stub lines to main sewer lines.

(b) The amount of sewer connection fees shall be determined by the city commission based upon all costs involved with the sewer system and shall be set forth in a schedule of rates and fees adopted by resolution of the city commission. Connection fees and estimates of actual costs where applicable for sewer service shall be paid in full seven days before installation begins.
(Code 1975, § 24-123.1; Code 2002, § 94-564)

Sec. 94-565. Stub line installation fees.

(a) Stub line installation fees shall be charged to all property receiving sewer service in accordance with the schedule of rates and fees adopted by resolution of the city commission.

(b) Stub line installation fees shall be charged where there has been installation of a stub, as above defined, from the sewer main to the property boundary in accordance with the resolution of fees and rates adopted by the city commission. Such stub line installation fees shall be charged where the owner of the property or an authorized representative has requested an upgrade of service, or an upgrade of service has been installed. The city in such cases reserves the right to determine whether a stub replacement is warranted before agreeing to install such stub replacement. Stub line installation fees will not be charged where an existing stub line is being replaced because of city work on the main or the streets.
(Code 1975, § 24-123.2; Code 2002, § 94-565)

Sec. 94-566. Customer classification.

The city commission shall classify all customers of the system according to a user class and each user class will pay for its proportionate uses of the sewage works in terms of volume and pollutant loading. Sewer user charges are levied to defray the cost of operation, maintenance, and debt retirement of the sewage works also for the treatment and control of the sewage. The classes of users of the sewage works, for the purpose of determining the user charge, shall be as follows:

(1) *Class I—Residential.* Class I shall include those customers which discharge only segregated domestic wastes or wastes from sanitary conveniences and who are defined as residential users.

(2) *Class II—Commercial.* Class II shall include those customers which discharge only segregated domestic wastes or wastes from sanitary conveniences and who are defined as commercial users, and shall also include institutional and governmental users.

(3) *Class III—Industrial.* Class III shall include those customers which discharge industrial sewage and who are defined as industrial users. An industrial user, for the purpose of the industrial cost recovery system, shall be a user as defined in this article, except that user which discharges less than 25,000 gallons per day of sanitary waste, if the discharge does not contain pollutants which interfere, or are incompatible, with the treatment process, or contaminate or reduce the utility of sludge.

(Code 1975, § 24-124; Code 2002, § 94-566)

Sec. 94-567. Industrial users to pay share of operation, maintenance, replacement and depreciation costs plus amount for recovery of portion of federal grants.

Each industrial user, as designated in section 94-566, shall pay their share of the operation,

maintenance, replacement and depreciation costs for treatment of the industrial sewage, plus an amount that may be paid by industrial users for the recovery of the portion of federal grants allocable to the treatment of industrial sewage.
(Code 1975, § 24-124.1; Code 2002, § 94-567)

Sec. 94-568. Industrial users discharging process wastewater not exceeding normal strength sewage to make quarterly payments to city based on actual volume and strength of flow.

Each industrial sewer customer that discharges to the system process wastewater which does not exceed the limits of normal strength sewage shall be charged and shall make quarterly payments to the city in amounts based on the actual volume and strength of the flow from such premises.
(Code 1975, § 24-124.2; Code 2002, § 94-568)

Sec. 94-569. Pretreatment or payment of surcharge required where industrial user exceeds limits of normal strength sewage.

Each industrial user that proposes to discharge to the system process wastewater which exceeds the limits of normal strength sewage will be required to either:

(1) Provide satisfactory pretreatment to reduce the strength of the wastewater to normal strength sewage; or

(2) Pay a surcharge determined by the relative concentration of BOD, suspended solids, or other pollutant as compared to normal strength sewage.

(Code 1975, § 24-124.3; Code 2002, § 94-569)

Sec. 94-570. Permit required to discharge wastewater exceeding normal strength sewage.

Prior to discharging to the system process wastewater which exceeds the limits of normal strength sewage, a permit must be obtained from the city.
(Code 1975, § 24-124.4; Code 2002, § 94-570)

Sec. 94-571. Reserved.

Sec. 94-572. Additional charge for industrial waste.

In cases where the character of sewage from a manufacturing or industrial plant, building or premises is such that an unreasonable additional burden is imposed upon the system, greater than that imposed by the average sewage delivered to the system plant, the additional cost of treatment created thereby shall be an additional charge over the regular rates set forth in this article, 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.
(Code 1975, § 24-126; Code 2002, § 94-572)

Sec. 94-573. Additional charge for service outside city.

Any user of any sewer or sewer service located outside of the corporate limits of the city who has a connection with the sewage disposal system of the city shall pay for such service such additional rate to that charged to users within the corporation limits of the city as the city commission may, from time to time, determine by contract or otherwise.
(Code 1975, § 24-127; Code 2002, § 94-573)

Sec. 94-574. Charges for late payment; protest.

Bills not paid by the due date shall be subject to a penalty charge of ten percent and a statement to that effect shall be contained in each bill. No bill shall be eligible for review or adjustment unless protested within 30 days after date of billing.
(Code 1975, § 24-128; Code 2002, § 94-574)

Sec. 94-575. Limitation on review of bill.

No sewer bill shall be eligible for review or adjustment unless paid under protest during the month it is due or payable.
(Code 1975, § 24-129; Code 2002, § 94-575)

Sec. 94-576. Payment for services rendered city.

The city shall pay, out of the appropriate general funds of the city, the reasonable cost and value of the services rendered to the city by the system, on the basis of the schedule of rates prescribed in this division and amounts of water used by the several departments of the city.
(Code 1975, § 24-130; Code 2002, § 94-576)

Sec. 94-577. Charges constitute lien.

Charges prescribed by this division shall constitute a lien on the property served by the sewer connection, and if not paid within 90 days may be collected in the same manner as general city taxes.
(Code 1975, § 24-131; Code 2002, § 94-577)
State law reference—Lien, MCL 123.161 et seq.

Secs. 94-578—94-600. Reserved.

ARTICLE V. CROSS CONNECTIONS WITH PUBLIC WATER SUPPLY SYSTEM

Sec. 94-601. 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:

Backflow means water of questionable quality, wastes or other contaminants entering the city water supply system due to a reversal of flow.

Cross connection means a connection or arrangement of piping or appurtenances through which a backflow could occur.

Safe air gap means the minimum distance of a water inlet or opening above the maximum high water level or overflow rim in a fixture, device or container to which city water is furnished which shall be at least two times the inside diameter of the water inlet pipe; but shall not be less than one inch and need not be more than 12 inches.

Secondary water supply means a water supply system maintained in addition to, or instead of, the city water supply, including, but not limited to, water systems or wells from ground or surface sources, whether or not approved by the public health department of the county or state, or water from the city water supply which in any way has been additionally treated or processed in a manner by which it may be exposed to any contaminant, or stored in a facility not approved by the city.

Submerged inlet means a water pipe or extension thereto from the city water supply terminating in a tank, vessel, fixture or appliance which may contain water of questionable quality, waste or other contaminant and which is unprotected against backflow.

Water utility means the city department of public utilities.
(Code 1975, § 24-141; Code 2002, § 94-601)

Sec. 94-602. Compliance with existing laws.

A connection with the city water supply system constructed outside of the public right-of-way shall comply with the provisions of this Code.
(Code 1975, § 24-142; Code 2002, § 94-602)

Sec. 94-603. Cross connections prohibited.

Cross connection of the city water supply system and any other water supply system or source, including, but not limited to, the following, is prohibited:

(1) Between the city water supply system and a secondary water supply.

(2) By a submerged inlet.

(3) Between a lawn sprinkling system and the city water supply system.

(4) Between the city water supply and piping which may contain sanitary waste or a chemical contaminant.

(5) Between the city water supply system and piping immersed in a tank or vessel which may contain a contaminant.

(Code 1975, § 24-143; Code 2002, § 94-603)

Sec. 94-604. Local cross connection control program.

The city shall develop a comprehensive control program for the elimination and prevention of all

cross connections. The plan for the program shall be submitted to the state department of public health for review and approval. When the plan is approved, the city shall implement the program for removal of all existing cross connections and prevention of all future cross connections.
(Code 1975, § 24-144; Code 2002, § 94-604)

Sec. 94-605. Corrections and protective devices.

Any user of city water shall obtain written approval from the department of public utilities of any proposed corrective action or protective device before using or installing it. The expenses of elimination of cross connections shall be that of the owner of the property on which such cross connections exist. The total time allowed for completion of the necessary corrections shall be contingent upon the degree of hazard involved and include the time required to obtain and install equipment. If the cross connection has not been removed within the time as herein specified, the department of public utilities shall physically separate the city water supply from the on-site piping system in such a manner that the two systems cannot again be connected by any unauthorized person. The expenses incurred by the city in such separation of water supplies shall be those of the property owner.
(Code 1975, § 24-145; Code 2002, § 94-605)

Sec. 94-606. Piping identification.

When a secondary water source is used in addition to the city water supply, exposed city water and secondary water piping shall be identified by distinguishing colors or tags as specified hereafter in the city cross connection control program and so maintained that each pipe may be traced readily in its entirety. If piping is so installed that it is impossible to trace it in its entirety, it will be necessary to protect the city water supply at the service connection in a manner acceptable to the department of public utilities.
(Code 1975, § 24-146; Code 2002, § 94-606)

Sec. 94-607. Private water storage tanks.

A private water storage tank supplied from the city water supply system shall be deemed a secondary water supply unless it is designed and approved for potable water usage.
(Code 1975, § 24-147; Code 2002, § 94-607)

Sec. 94-608. Inspection.

It shall be the duty of the city manager or his authorized agent to cause inspections to be made of all properties served by the city water supply system where cross connections with the city water supply are deemed possible. The frequency of inspections and reinspections based on potential health hazards involved shall be established by the department of public utilities and as approved by the state department of public health.
(Code 1975, § 24-148; Code 2002, § 94-608)

Sec. 94-609. Right to enter for purpose of inspection.

The city manager or his authorized agent shall have the right to enter at any reasonable time any property served by a connection to the city water supply for the purpose of inspecting the piping system or systems thereof for cross connections. On request, the owner of any property so served shall furnish to the inspector any pertinent information regarding the piping system on such property. The refusal of access, when requested, shall be deemed evidence of the presence of cross connections.
(Code 1975, § 24-149; Code 2002, § 94-609)

Sec. 94-610. Discontinuance of water service.

The department of public utilities is hereby authorized and directed to discontinue water service after eight hours' notice to any property wherein any connection in violation of this article exists, and to take such other precautionary measures deemed necessary to eliminate any danger of contamination of the city water system. The expense of discontinuance shall be that of the property owner. Water service to such property

shall not be restored until the cross connections have been eliminated in compliance with the provisions of this article.
(Code 1975, § 24-150; Code 2002, § 94-610)

Chapters 95—97

RESERVED

Chapter 98

VEGETATION*

Article I. In General

Sec. 98-1. Violations.
Sec. 98-2. Damaging, pulling, etc., flowers, plants, trees, etc.
Sec. 98-3. Attaching wires to trees.
Sec. 98-4. Tree trimming and removal—Generally.
Sec. 98-5. Same—Forestry policy.
Secs. 98-6—98-30. Reserved.

Article II. Noxious Weeds and Vegetation

Sec. 98-31. Definitions.
Sec. 98-32. Legislative determination; purpose of article.
Sec. 98-33. Declared nuisance.
Sec. 98-34. Designation and general duties of commissioner of noxious weeds and vegetation.
Sec. 98-35. Notice to destroy and remove; publication.
Sec. 98-36. Duty of property owner to destroy and remove.
Sec. 98-37. City exempt from action of trespass for entering private land to destroy and remove.
Sec. 98-38. Penalty for failure to destroy and remove.

*__State law references—__Care of trees and shrubs, MCL 247.241 et seq.; municipal forests, MCL 324.52701 et seq.; destruction of trees and shrubs, MCL 750.382.

ARTICLE I. IN GENERAL

Sec. 98-1. Violations.

Any person violating this chapter shall be responsible for a municipal civil infraction.
(Code 1975, §§ 18-28, 22-3; Code 2002, § 98-1)

Sec. 98-2. Damaging, pulling, etc., flowers, plants, trees, etc.

It shall be unlawful for any person to pull, pick, trample on, injure, destroy or carry away any flower, grass, plant, herb, shrub or tree in any park, square, street or other public ground or, without the owner's permission, in any private lawn, garden, yard or other place, in the city.
(Code 1975, § 22-1; Code 2002, § 98-2)

State law reference—Malicious destruction of trees and shrubs, MCL 750.383.

Sec. 98-3. Attaching wires to trees.

No person shall fasten any telegraph wire, telephone wire, guy wire or any other wire to any tree in the city, without first obtaining the consent of the owner of such tree.
(Code 1975, § 22-2; Code 2002, § 98-3)

Sec. 98-4. Tree trimming and removal—Generally.

No person shall trim, cut, remove, alter, damage, mark or make use of any tree or plant growth on city property, on a public right-of-way, terrace, boulevard, sidewalk or public easement, without authorization and permission of the city. No person shall have trees or plant growth on private property which interferes with the use of, or causes site restrictions on, public ways or public property.
(Code 1975, § 18-26; Code 2002, § 98-4)

Sec. 98-5. Same—Forestry policy.

The city commission may adopt a forestry policy and codify such forestry policy in regulations which shall determine the methods to be used and policies to be followed in trimming, cutting, removing, altering, planning and locating trees and plant growth on public property, public rights-of-way, terraces, boulevards, sidewalks or public easements. The regulations shall also provide for public abatement of trees and plant growth on private property which interferes with the use of or causes site restrictions on public ways or public property. The regulations may be amended, from time to time, to provide for permits, fees and oversight for persons receiving authorization and permission of the city to trim, cut, remove, alter or make use of trees and plant growth in public ways and on public property.
(Code 1975, § 18-27; Code 2002, § 98-5)

Secs. 98-6—98-30. Reserved.

ARTICLE II. NOXIOUS WEEDS AND VEGETATION*

Sec. 98-31. 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:

Noxious weeds includes Canada thistle (Cirsium arvense), dodders (any species of Cuscuta), mustards (charlock, black mustard, and Indian mustard, species of Brassica or Sinapis), wild carrot (Daucus carota), bindweed (Convolvulus arvensis), perennial sowthistle (Sonchus arvensis), hoary alyssum (Berteroa incana), giant hogweed (Heracleum mantegazzianum), ragweed (Ambrosia elatior l.), and poison ivy (Rhus toxicodendron), poison sumac (Toxicodendron vernix), or other plant which, in the opinion of the city commission, comes under the provisions of this article is regarded as a common nuisance. Regular sumac must be trimmed and maintained.

Noxious weeds and vegetation includes grass more than six inches in height, dead bushes, dead trees and stumps and bushes and trees infested with dangerous insects or infectious diseases, un-bagged leaves on a property with a principal structure, after the leaf season has concluded. Leaf season shall be defined as beginning September 1 and ending April 30. Designated natural areas, native dune vegetation and bona fide maintained wildflower plantings and leaf composting

*State law reference—Control and eradication of noxious weeds, MCL 247.61 et seq.

in a container or contained area of less than 16 square feet in size may not be considered noxious.
(Code 1975, § 22-14; Code 2002, § 98-31; Ord. No. 2021, § 22-14, 5-9-2000; Ord. No. 2194, 6-13-2006)

Sec. 98-32. Legislative determination; purpose of article.

It is hereby determined that noxious weeds and vegetation growing, lying or located on private land in the city affect and are detrimental to the health, comfort, convenience, safety, welfare and prosperity of the residents of the city. The necessity, in the public interest, for the provisions and prohibitions contained in this article is declared a matter of legislation determination and public policy and it is declared that such provisions and prohibitions are enacted in pursuance of and for the purpose of securing and promoting the health, comfort, convenience, safety, welfare and prosperity of the city and its inhabitants.
(Code 1975, § 22-15; Code 2002, § 98-32; Ord. No. 2021, § 22-15, 5-9-2000)

Sec. 98-33. Declared nuisance.

All noxious weeds and vegetation growing, lying, or located on any land within the city are hereby declared to be a public nuisance.
(Code 1975, § 22-16; Code 2002, § 98-33; Ord. No. 2021, § 22-16, 5-9-2000)

Sec. 98-34. Designation and general duties of commissioner of noxious weeds and vegetation.

The city manager shall appoint a commissioner of noxious weeds and vegetation, who shall superintend the control and eradication of noxious weeds and vegetation. Assignment of staff to monitor noxious weeds on public and private property may also be delegated to appropriate departments in the city.
(Code 1975, § 22-17; Code 2002, § 98-34; Ord. No. 2021, § 22-17, 5-9-2000)

State law reference—Authority to appoint commissioner of noxious weeds, MCL 247.61.

Sec. 98-35. Notice to destroy and remove; publication.

(a) The city shall publish in a newspaper of general circulation in the city during the month of March that noxious weeds and vegetation not cut or removed during the growing season, namely April 15 through October 15 of the given year, may be cut or removed by the city and the owner of the property charged with the cost thereof. The publication shall contain the following information:

(1) That noxious weeds, grass more than six inches in height, dead bushes, dead trees and stumps and bushes and trees infested with dangerous insects or infectious diseases must be cut and removed from property during the growing season, namely April 15 through October 15 of the given year. Un-bagged leaves on a property with a principal structure, after leaf season has concluded, must be removed.

(2) That if the owner, agent or occupant refuses to destroy the noxious weeds, the city or its contractor may enter upon the land and destroy them and remove them.

(3) That any expense incurred in the destruction shall be paid by the owner of the land and the city shall have a lien against the land for the expense, to be enforced as provided by this article or in the manner of enforcement of tax liens.

(4) That any owner who refuses to destroy such material and remove it may be subject to a municipal civil infraction.

(5) That the city or its contractor may cut or remove the weeds as many times as is necessary and charge the cost to the property owner. Uncovered costs may be placed as a lien on the property and/or subject to collection proceedings.

(b) Such notice shall state that, for failing to comply with the notice, the city, through its commissioner of noxious weeds and vegetation, shall have the right to enter upon such lands and destroy and remove such noxious weeds or vegetation and the city shall have a lien upon such lands for the expense and cost so incurred, which shall be levied and collected against the property in the same manner as general taxes.

(c) Additional notice shall be provided as outlined and adopted by the city commission policy.
(Code 1975, § 22-18.1; Code 2002, § 98-35; Ord. No. 2021, § 22-18, 5-9-2000; Ord. No. 2194, 6-13-2006)

Sec. 98-36. Duty of property owner to destroy and remove.

It shall be the duty of every owner or his authorized agent, of any lands in the city, to cut down or cause to be cut down, pulled out, destroyed and removed all noxious weeds and vegetation growing, lying or located on such lands, so as to prevent the same from perpetuating themselves or spreading infectious diseases, or becoming a detriment to public health, during the growing season as often as may be necessary to prevent them from blooming or reaching a seed-bearing stage or from spreading infectious diseases. If such owner, or his authorized agent, shall fail to do so, after notice as provided in section 98-35, he shall be in violation of this section.
(Code 1975, § 22-19; Code 2002, § 98-36; Ord. No. 2021, § 22-19, 5-9-2000)

Sec. 98-37. City exempt from action of trespass for entering private land to destroy and remove.

The city or its contractor shall not be liable in any action of trespass for entering upon private lands for the purpose of cutting down, destroying, or removing noxious weeds or vegetation.
(Code 1975, § 22-21; Code 2002, § 98-37; Ord. No. 2021, § 22-21, 5-9-2000)

Sec. 98-38. Penalty for failure to destroy and remove.

Any owner of any private lands or his authorized agent, who shall fail or refuse to destroy and remove any noxious weeds or vegetation provided in this article, shall be responsible for a municipal civil infraction.
(Code 1975, § 22-20; Code 2002, § 98-38)

Chapters 99—105

RESERVED

Chapter 106

WATERWAYS*

Article I. In General

Secs. 106-1—106-30. Reserved.

Article II. Muskegon Lake

Sec. 106-31. Special anchorage area.
Sec. 106-32. No wake speed zone for Muskegon Channel.

*__State law reference—__Watercraft and marine safety, MCL 324.80101 et seq.

ARTICLE I. IN GENERAL

Secs. 106-1—106-30. Reserved.

ARTICLE II. MUSKEGON LAKE

Sec. 106-31. Special anchorage area.

(a) The city, upon approval of the U.S. Army Corps of Engineers, shall assume the responsibility for the licensing and regulation of the placement of privately owned mooring buoys in the special anchorage area of Muskegon Lake.

(b) The special anchorage area shall be divided into individual mooring areas in accordance with a plat on file in the office of the city clerk. Each individual mooring area shall be designated by number as shown on such plat.

(c) All persons desiring to place or maintain a private boat mooring buoy in the special anchorage area shall first obtain a permit at the office of the city manager, city hall. Permits shall be valid for the calendar year in which they are issued. Applications may be filed on or after the first business day of each year. Permits shall be issued for individual mooring areas by designated number. Those persons having private mooring buoys in place within the special anchorage area at the time of adoption of this section may apply for a specific individual mooring area by number which most closely corresponds with the existing location of their mooring buoy. Insofar as practical, the city will assign individual mooring areas so as to cause a minimum relocation of such buoys.

(d) The city will accept applications from those presently having a permanent private mooring buoy in place and those adjacent property owners who wish to establish a permanent mooring. Mooring areas that remain vacant or unassigned will be available to new applicants.

(e) Upon application, renewal permits will be issued to previous holders where change of ownership or location is not involved. Mooring areas that have not been used during the previous year shall be vacated and made available to new applicants, except where moor damage or repair to a boat required vacation of the mooring for the year.

(f) An initial fee in the amount established by resolution shall accompany the first application for a mooring area. Annual renewal permits may be obtained for the fee established by resolution. Upon receipt of a permit, the applicant shall be responsible for the following:

(1) The applicant shall construct and/or relocate his mooring in such a manner that it shall maintain its position in the assigned mooring area. The buoy shall be placed at the center of the assigned mooring area.

(2) The buoy shall be permanently marked with the mooring area number in lettering at least three inches high so as to be clearly visible.

(3) The permit holder shall be solely responsible for the buoy's maintenance and location.

(Code 1975, § 13-1; Code 2002, § 106-31)

Sec. 106-32. No wake speed zone for Muskegon Channel.

(a) This section is adopted in accordance with Regulation No. 61—Muskegon County, of the state department of natural resources, being WC-61-99-001 Muskegon Channel: Slow—No Wake Speed.

(b) On the waters of the channel which begin at the North Pier inner light and the Muskegon Lake light horn and end at the North Pier outer light, all within section 28, town 10 north, range 17 west, in the city, it is unlawful for the operator of a vessel to exceed a slow, no wake speed.

(c) The boundaries of the area described in subsection (b) of this section shall be marked with signs and with buoys. All buoys must be placed as provided in a permit issued by the state department of natural resources and be in conformance with the state uniform waterway marking system.

(d) Pursuant to the authority found in MCL 324.80171, any person violating this article shall be guilty of a misdemeanor.

(Code 2002, § 106-32; Ord. No. 1195, 8-10-1999)

CODE COMPARATIVE TABLE

1975 CODE

This table gives the location within this Code of those sections of the 1975 Code, as supplemented, which are included herein. Sections of the 1975 Code, as supplemented not listed herein have been omitted as repealed, superseded, obsolete or not of a general and permanent nature.

1975 Code Section	Section this Code	1975 Code Section	Section this Code
1-1	1-1	2-108	2-148
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CODE COMPARATIVE TABLE

2005 CODE

This table gives the location within this Code of those sections of the 2002 Code, as supplemented, which are included herein. Sections of the 2002 Code, as supplemented not listed herein have been omitted as repealed, superseded, obsolete or not of a general and permanent nature. For the location of ordinances, see the table immediately following this table.

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*Note—The adoption, amendment, repeal, omissions, effective date, explanation of numbering system and other matters pertaining to the use, construction and interpretation of this Code are contained in the adopting ordinance and preface which are to be found in the preliminary pages of this volume.

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