CITY OF SAUGATUCK, MICHIGAN

CODE OF ORDINANCES

2021 S-12 Supplement contains:

Local legislation current through Ord. 210726-B, passed 7-26-2020

Published by:

AMERICAN LEGAL PUBLISHING CORPORATION

525 Vine Street * Suite 310 * Cincinnati, Ohio 45202

1-800-445-5588 www.amlegal.com

CHARTER

Voted Upon March 12, 1984

CITY OF SAUGATUCK, MICHIGAN

ALLEGAN COUNTY

In the matter of the incorporation of the General Law Village of Saugatuck as a Home Rule City.

Incorporated in accordance with the provisions of Public Act 191 of 1968, being M.C.L.A. §§ 123.1001 et seq., as amended, and Public Act 279 of 1909, being M.C.L.A. §§ 117.1 et seq., as amended, without change of existing boundaries, and described as follows:

T3N, R16W, Section 8; Also all that part of Section 16 which lies north and east of the Kalamazoo Lake and the Kalamazoo River; and also a parcel of land in Section 10 described as beginning 701.91 feet north of the southwest corner of the north 5/8 of the west 1/2 of the northwest 1/4 of Section 10 on the west Section line, thence north to the northwest corner of Section 10, thence due east on the Section line to the westerly right-of-way of the Blue Star Highway (formerly known as old US 31), thence southeasterly along the westerly right-of-way of the Blue Star Highway to a point due east of the beginning, thence west to the beginning.

The question of the incorporation of the city was submitted to the electors in the territory proposed to be incorporated at a special election held March 12, 1984, with the following result: Whole number of votes cast, 352, of which number 181 votes were cast for and 171 were cast against the proposal.

Charter effective July 1, 1984.

Record of proceedings filed in the office of the Secretary of State, March 21, 1984.

TABLE OF CONTENTS

Section

Chapter I. Name and Boundaries

Chapter II. General Municipal Powers

Chapter III. Elections

Chapter IV. Elective Officers of the City; City Council

PREAMBLE

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

CHAPTER I. NAME AND BOUNDARIES

SECTION 1.1 NAME AND BOUNDARIES.

(a) The Municipal Corporation now existing and known as the Village of Saugatuck shall continue as a body corporate and shall henceforth be known as and include the territory constituting the City of Saugatuck, Allegan County, State of Michigan, on the effective date of this charter, together with all territories that may be annexed thereto and less any detachments therefrom that may be made in a manner prescribed by law.

(b) The clerk shall maintain and keep available in his office for public inspection the official description and map of the current boundaries of the city.

SECTION 1.2 WARDS.

The city shall consist of and constitute one single ward.

CHAPTER II. GENERAL MUNICIPAL POWERS

SECTION 2.1 GENERAL POWERS.

The City of Saugatuck and its officers shall be vested with any and all powers and immunities, expressed and implied, which cities and their officers are, or hereafter may be, permitted to exercise or to provide for in their charters under the Constitution and Laws of the State of Michigan, including all the powers and immunities which are granted to cities and officers of cities as fully and completely as though those powers and immunities were specifically enumerated in and provided for in this charter. In no case shall any enumeration of particular powers or immunities in this charter be held to be exclusive.

SECTION 2.2 INTERGOVERNMENTAL COOPERATION.

The city may join with any municipal corporation or with any other unit or agency of government, whether local, state, or federal, or with any number or combination thereof, by contract or otherwise, as may be permitted by law, in the ownership, operation, or performance, jointly or by one or more on behalf of all, of any property, facility or service which each would have the power to own, operate, or perform separately.

SECTION 2.3 EXERCISE OF POWERS.

Where no procedure is set forth in this charter for the exercise of any power granted to or possessed by the city and its officers, resort may be had to any procedure set forth in any statute of the State of Michigan which was passed for the government of cities, or in any other statute of the State of Michigan. If alternate procedures are to be found in different statutes, then the council shall select that procedure which it deems to be most expeditious and to the best advantage of the city and its inhabitants. Where no procedure for the exercise of any power of the city is set forth, either in this charter or in any statute of the State of Michigan, the council shall prescribe by ordinance a reasonable procedure for the exercise thereof.

CHAPTER III. ELECTIONS

SECTION 3.1 QUALIFICATIONS OF ELECTORS.

The residents of the city having the qualifications of electors in the State of Michigan shall be eligible to vote in the city.

SECTION 3.2 ELECTION PROCEDURE.

The general election laws shall apply to and control all procedures relating to city elections, including qualification of electors, establishment of precincts, verification of petitions, registration of voters, and voting hours. The clerk shall give public notice of each city election in the same manner as is required by law for the giving of public notice of general elections in the state.

SECTION 3.3 PRECINCTS.

The election precincts of the city shall remain as they existed on the effective date of this charter unless altered by the city election commission in accordance with statutes.

SECTION 3.4 ELECTION COMMISSION.

An election commission is hereby created, consisting of the clerk and one other appointive city officer whom the council shall designate, and one other qualified registered elector whom the council shall designate, and such appointed persons shall serve at the pleasure of the council. The clerk shall be chairman. The commission shall have charge of all activities and duties required of it by state law and this charter relating to the conduct of elections in the city. The compensation of election personnel shall be determined in advance by the election commission, in accordance with the city budget.

SECTION 3.5 REGULAR ELECTIONS.

A regular city election shall be held on the first Tuesday following the first Monday in November each year or on the same date as state and federal elections are held, should such date be changed.

SECTION 3.6 SPECIAL ELECTIONS.

Special city elections shall be held when called by resolution of the county at least sixty (60) days in advance of such election, or when required by law. Any resolution calling a special city election shall set forth the purpose of such election.

SECTION 3.7 ELECTIVE OFFICERS AND TERMS OF OFFICE.

At each regular city election, there shall be elected councilpersons in the number as hereinafter provided. At the first election under this charter there shall be elected seven (7) councilpersons. The four (4) candidates receiving the highest number of votes shall serve for terms of two (2) years. The next three (3) candidates receiving the next highest number of votes shall serve for terms of one (1) year. In the next year following the adoption of this charter, the three (3) candidates receiving the highest vote shall serve for a term of two (2) years. At succeeding yearly elections there shall be elected alternately four (4) and three (3) councilpersons as stated above. The term of office of the councilpersons shall commence on the second Monday in November next following the date of the regular city election at which they were elected, at seven thirty o'clock (7:30) p.m., local time.

(Amendment approved by the city electorate on November 8, 2011)

SECTION 3.8 NOMINATIONS PROCEDURE.

The candidates for elective office shall be nominated from the city at large by petitions, blanks for which shall be furnished by the clerk. The candidate may use his own petition blanks, providing they

conform substantially with state statutes. Each such petition shall be signed by not less than twenty (20) nor more than forty (40) registered electors of the city, and shall be filed at the clerk's office before four o'clock (4:00) p.m., local time, on or before the first Tuesday after the first Monday in August, (the August primary date), prior to the date of such election.

Each elector signing shall add his residential street and number and the date of signature. No electors shall sign petitions for more candidates for any office than the number to be elected to such office, and should he do so, the signatures bearing the most recent date shall be invalidated, and if he should sign more than one on the same date, neither shall be validated. No petition shall be left for signatures in any public place unless accompanied by the circulator of the petition. When a petition is filed by persons other than the person whose name appears thereon as a candidate, it may be accepted only when accompanied by the written consent of the candidate.

SECTION 3.9 APPROVAL OF PETITIONS.

The clerk shall accept only nomination petitions which conform substantially with the forms provided by him and which contain the required number of valid signatures for candidates having those qualifications required for the respective elective city offices as set forth in this charter. The clerk shall forthwith after the filing of the petitions notify in writing any candidates whose petition is then known not to meet the requirements of this section, but the failure to so notify any candidate shall in no way prevent a final determination that the petition does not meet such requirements.

Withdrawal of a candidate's name from consideration on the ballot must be made in writing and in conformance with the time allowed by statute.

SECTION 3.10 FORM OF BALLOT.

The ballots for all elections under this charter shall conform to the printing and numbering of ballots as required by statute, except that no party designation or emblem shall appear on any city ballot.

SECTION 3.11 CANVASS OF VOTES.

The Board of Canvassers designated by statute as being permitted to cities for canvass of votes on candidates and issues shall canvass the votes of all city elections in accordance with statute.

SECTION 3.12 TIE VOTE.

If in any city election there shall be no choice between candidates by reason of two (2) or more candidates having received an equal number of votes, then the determination of the election of such candidate by lot will be as provided by state statute.

SECTION 3.13 RECOUNT.

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.

SECTION 3.14 RECALL.

Any elective official may be removed from office by the electors of the city in the manner provided by the general laws of the state. A vacancy created by the recall of any elective official shall be filled in the manner prescribed by state law.

CHAPTER IV. THE ELECTIVE OFFICERS OF THE CITY COUNCIL

SECTION 4.1 ELECTIVE OFFICERS.

The legislative power of the city, except as reserved by this charter, shall be vested in a council consisting of seven (7) councilmen elected at large on a nonpartisan basis. The council shall have the power and authority to adopt such ordinances and resolutions as it shall deem proper in the exercise of its powers.

SECTION 4.2 QUALIFICATIONS.

Each elective city official must be a duly-registered elector in the city, and shall have been a resident of the city for six (6) months immediately prior to the election at which he is a candidate for office.

SECTION 4.3 TERM OF OFFICE.

The councilmen shall hold office for his elected term from the second Monday following the city election at which he was elected.

SECTION 4.4 NOTICE OF ELECTION.

Notice of the election of any officer of the city shall be given him by the clerk, in writing, within seven (7) days after the canvass of the vote by which he was elected. If within ten (10) days from the date of notice, such officer shall not take, subscribe, and file with the clerk his oath of office, such neglect shall be deemed a refusal to serve and the office shall thereupon be deemed vacant, unless the council shall, for good cause, extend the time in which such officer may qualify as above set forth.

SECTION 4.5 OATH OF OFFICE.

Each elective or appointive officer of the city, before entering upon the duties of this office and within the time specified in this charter, shall take and subscribe to the oath of office prescribed by the state constitution, which shall be filed and kept in the office of the clerk.

SECTION 4.6 SURETY BONDS.

Any city officer may be required to give a bond to be approved by the council for the faithful performance of the duties of his office in such sum as the council shall determine, but all officers receiving or disbursing city funds shall be bonded. All official bonds shall be corporate surety bonds and the premiums thereon shall be paid by the city. All official bonds shall be filed with the clerk, except that of the clerk, which shall be filed with the treasurer or other officer designated by the council.

SECTION 4.7 VACANCY DEFINED.

In addition to other provisions of this charter, a vacancy shall be deemed to exist in any elective office on the day when the officer dies, files his resignation with the city clerk, is removed from office, moves from the city, is convicted of a felony, or of misconduct in office under this charter, is judicially declared to be mentally incompetent, or is absent from three (3) consecutive regular meetings of the council, unless excused by the council for cause to be stated in the record of council proceedings.

SECTION 4.8 VACANCIES.

(a) Except as otherwise provided in this charter, any vacancy occurring in any elective office shall be filled within thirty (30) days after such vacancy shall have occurred by the concurring vote of at least four (4) members of the council. The person appointed by the council shall serve for the remainder of the unexpired term of the vacated office.

(b) If a vacancy occurs in any appointive office, it shall be filled in the manner provided for making the original appointment. In the case of members of boards and commissions appointed for a definite term, such appointments shall be for the unexpired term.

(Amendment approved by the city electorate on November 8, 2011)

SECTION 4.9 RESTRICTIONS CONCERNING OFFICERS.

(a) (1) Except where authorized by law or five (5) members of the council, no councilman shall hold any other city office or city employment during the term for which he was elected to the council, and no former councilman shall hold any compensated appointive city office or city employment until one (1) year after the expiration of the term for which he was elected to the council. The application of provision shall not apply to appointed city boards or commissions, or volunteer firemen.

(2) It is the intent of this provision (a) that no councilman, or former councilman, shall be appointed as city manager, city clerk, city treasurer or city assessor until one (1) year has expired after the term to which he was elected has expired.

(b) No individual member of the council shall in any manner dictate the appointment or removal of any city administrative officers or employees, but the councilman may express his views and fully and freely discuss with the manager anything pertaining to appointment and removal of such officers and employees.

(c) Except for the purpose of inquiries and investigations, the council or its members shall deal with city officers and employees who are subject to the direction and supervision of the manager solely through the manager, and neither the council nor its members shall give orders to any such officer or employee, either publicly or privately.

(d) No incumbent elective city officers shall become a candidate for any elective city office, except to succeed himself, without first resigning from his or her then incumbent elective city office; provided, that the provisions hereof shall not apply to any incumbent elective city officer whose term of office will expire with the election at which he or she is to be a candidate for another elective city office. An appointive city officer or city employee may seek an elective city office of the city without first resigning from his or her appointive city office or city position, but such person must resign from his or her appointive city office or city position upon being successfully elected to an elective city office.

(e) No member of the council or of any board or commission of the city shall vote on any issue or matter in which he or a member of his family shall have a proprietary or financial interest or as the result of which he may receive or gain a financial benefit. If a question is raised under this section at any council, board or commission meetings, such specific question shall be resolved before the main question shall be voted on, but the council, board or commission member concerning whom the question was raised shall not vote on such determination.

(f) Unless the council shall by an affirmative vote of five (5) members, which vote shall be recorded as part of the official proceedings, determine that the best interests of the city shall be served, the following relatives of any elective or appointive office are disqualified from holding any appointive office or city employment during the term for which said elective or appointive officer was elected or appointed: Spouse, child, parent, grandchild, grandparent, brother, sister, half-brother, half-sister, or the spouse of any of them.

All relationships shall include those arising from adoption. This section shall in no way disqualify such relatives or their spouses who are bona fide appointive officers or employees of the city at the time of the election or appointment of said official or employed by the city at the time of adoption of this charter.

The provisions of this relationship, above, specifically applies to the prohibition of the employment of relatives to be directly under the supervision of another relative. Employment of another department

than that of the relatives' supervision is permissible subject to review by the council.

(Amendment approved by the city electorate on November 8, 2011)

SECTION 4.10 COMPENSATION FOR COUNCILMEN.

(a) The members of the council shall receive as compensation the sum of thirty-five dollars ($35.00) for each regular or special meeting of the council attended by him, but not to exceed payment for twenty-four (24) meetings each year. The mayor shall be paid in addition one hundred fifty dollars ($150.00) per year. Such compensation shall be paid quarterly or more often as the council directs and shall be the only compensation which may be paid councilmen for the discharge of any official duties as a councilman for or in behalf of the city during their tenure in office, except that they may be reimbursed for expenses actually incurred by them on city business or in the interest of the city when such reimbursement is approved by the council.

(b) Provisions of this section shall be subject to review of a compensation commission, to be established by ordinance in accordance with statute.

SECTION 4.11 JUDGE QUALIFICATIONS OF MEMBERS.

The council shall be the judge of the election and qualifications of its members and of the grounds of forfeiture of their office and for that purpose shall have power to subpoena witnesses, administer oaths and required production of evidence. A member charged with conduct constituting grounds for forfeiture of his office shall be entitled to a public hearing on demand, and notice of such hearing shall be published in one (1) or more newspapers for general circulation in the city at least one (1) week in advance of the hearing. Decisions made by the council under this section shall be subject to review by the Courts.

SECTION 4.12 ORGANIZATION OF THE COUNCIL, MAYOR AND MAYOR PRO TEM.

The council at its first meeting following each regular city election shall elect one (1) of its members as mayor and one (1) mayor pro tem by an affirmative vote of a majority of its members, and whom shall serve for one (1) year or until their successors are elected. The mayor shall preside at all meetings of the council, shall speak and vote at such meetings as any other council member, shall be recognized as head of the city government for all ceremonial purposes and for purposes of military law, but shall have no administrative duties. The mayor pro tem shall act as mayor during the absence or disability of the mayor.

SECTION 4.13 REGULAR MEETINGS OF THE COUNCIL.

Regular meetings of the council shall be held at least twice in each calendar month at the usual place of holding meetings of the council. If any time set by resolution of the council for the holding of a regular meeting of the council shall be a holiday, then such regular meeting shall be held on the next following secular day which is not a holiday or on such other day as may be set by the council.

SECTION 4.14 SPECIAL MEETINGS OF THE COUNCIL.

Special meetings of the council may be called by the clerk on the written request of the mayor or any two (2) members of the council or the city manager on eighteen (18) hours' written notice to each member of the council, designating the purpose of such meeting and served personally or left at his usual place of residence by the clerk or someone designated by the clerk.

SECTION 4.15 BUSINESS AT SPECIAL MEETINGS.

No business shall be transacted at any special meeting of the council unless the same has been stated in the notice of such meeting.

SECTION 4.16 MEETINGS TO BE PUBLIC.

All regular and special meetings of the council shall be open to the public and the rules of order of the council shall provide that the citizens shall have a reasonable opportunity to be heard at any such meeting on matters within the jurisdiction of the council.

SECTION 4.17 QUORUM.

Four (4) members of the council shall be a quorum for the transaction of business, but in the absence of a quorum, two (2) or more members may adjourn any regular or special meeting to a later date.

SECTION 4.18 RULES OF ORDER.

The council shall determine its own rules and order of business and shall keep a written or printed journal of all its proceedings in the English language which shall be signed by the mayor and the clerk. The vote upon the passage of all ordinances, and upon the adoption of all resolutions shall be taken by “Yes” and “No”, votes and entered upon the record, except that where the vote is unanimous, it shall only be necessary to so state in such record. Each member of the council, who shall be recorded as present at any meeting shall be required to vote on all questions decided by the council at such meeting, unless excused by four (4) of the members present or in any case, where the matter personally affects the member not voting. A member not excused can be considered in violation of this charter when so determined by the council.

SECTION 4.19 VOTE REQUIRED.

Except as otherwise provided in this charter, no resolution shall be adopted or passed except by the affirmative vote of a majority of the councilpersons present and voting, and no ordinance shall be adopted or passed except by the affirmative vote of a majority of the members of the council.

(Amendment approved by the city electorate on November 8, 2011)

SECTION 4.20 INVESTIGATIONS.

The council or its duly appointed representatives may subpoena witnesses, administer oaths, and compel the production of books, papers, and other evidence to conduct formal investigation into the conduct of any department, office, or officer of the city and make investigations as to malfeasance, misfeasance, nonfeasance or irregularities in municipal affairs. Failure to obey such subpoena or to produce books, papers, or other evidence as ordered under the provisions of this section shall constitute misconduct in office. The council shall give a reasonable time for such action.

SECTION 4.21 PUBLICATION OF COUNCIL PROCEEDINGS.

The minutes of the council shall be published within twenty (20) days after the passage thereof. A synopsis of such minutes, prepared by the clerk and approved by the mayor, showing the substance of each separate proceedings of the council shall be a sufficient compliance with the requirements of this section.

SECTION 4.22 DEPOSITORY OF CITY FUNDS.

The council shall select annually one (1) or more depositories in which the funds of the city shall be deposited. Additions may be made at the discretion of the council during the year.

SECTION 4.23 HEALTH.

The council shall have and exercise within and for the city all the powers, privileges and immunities conferred upon boards of health and may enact such ordinances as may be deemed necessary for the preservation and protection of the health of the city's inhabitants.

SECTION 4.24 LICENSES.

The council shall by ordinance prescribe the terms and conditions upon which licenses may be granted, suspended, or revoked; and may require an exact payment of such reasonable sums for any licenses as it may deem proper.

SECTION 4.25 RIGHTS AS TO PROPERTY.

The council shall have the power to acquire for the city by purchase, gift, condemnation, lease, construction or otherwise, either within or without its corporate limits, and either within or without the County of Allegan, private property.

SECTION 4.26 TRUSTS.

The council may, in its discretion receive and hold any property in trust for cemetery, park, or other municipal purposes. Any trust now existing for the benefit of the Village of Saugatuck shall be continued to full force and in accordance with the cy pres doctrine.

SECTION 4.27 TRAFFIC VIOLATIONS BUREAU.

The council shall have the power and authority to establish by ordinance a Traffic Violations Bureau, as provided by law, for the handling of such violations of ordinances and regulations of the city, or parts thereof, as prescribed in the ordinance establishing such bureau. Any person who has received any notice to appear to a charge of violating any of such ordinance may within the time specified in the notice of such charge answer at the Traffic Violations Bureau to the charges set forth in such notice by paying a fine, in writing pleading guilty to the charge, waiving a hearing in court and pay such fine in court. Acceptance of the prescribed fine by the bureau shall be deemed to be complete satisfaction for the violation, and the violator shall be given receipt which so states. The creation of such a bureau shall not operate as to deprive any person of a full and impartial hearing in court, should a person so choose.

SECTION 4.28 ADVISORY COMMITTEES OR BOARDS.

The mayor, with the advice and consent of the city council may, from time to time, appoint such committees or boards as are deemed appropriate to advise and consult with them, and with appropriate departments, regarding any municipal activity. Such committees or boards shall be advisory, serve temporarily and without compensation unless otherwise provided by the city council.

SECTION 4.29 FURTHER FUNCTIONS AND DUTIES OF THE COUNCIL.

The council shall determine all matters of policy of the city and adopt ordinances and necessary rules and regulations to make the same effective. Further the council shall, subject to the limitations of law, raise revenues and make appropriations for the operation of the city government, provide for the public peace and health and safety of persons and property.

CHAPTER V. LEGISLATION

SECTION 5.1 PRIOR LEGISLATION.

All valid ordinances, resolutions, rules and regulations of the Village of Saugatuck which are not inconsistent with this charter and which are in force and in effect on the effective date of this charter shall continue in full force and effect until repealed or amended. Those provisions of any effective, valid ordinance, resolution, rule or regulation which are inconsistent with this charter are hereby repealed.

SECTION 5.2 ORDINANCES.

The style of all ordinances shall be, “The City of Saugatuck Ordains.” No ordinances shall be revised, altered or amended by reference to its title only, but the section or sections of the ordinance revised, altered, and published in full, except as otherwise provided in this charter. An ordinance may be repealed by reference to its number and title only. The effective date of any ordinance shall be prescribed therein.

SECTION 5.3 ORDINANCE RECORD.

All ordinances when enacted shall be recorded by the clerk in a book called “The Ordinance Book,” and it shall be the duty of the mayor and the clerk to authenticate such record by their official signatures.

SECTION 5.4 PUBLICATION OF ORDINANCES.

Except as otherwise provided in this charter, all ordinances when enacted shall be published forthwith by the clerk in the manner provided by this charter for publication of notices, or as otherwise provided by law, and the clerk shall enter his certificate as to the manner and date of publication under each ordinance in the ordinance book. The council may adopt any detailed technical regulations as a city ordinance by reference to any recognized standard code, official or unofficial, or if such a code be written in detail for the city and adopted as an ordinance, the publication of a sufficient number of copies in booklet form, available for public distribution at cost, shall be sufficient publication of such ordinance, and any amendment to or revision of such adopted code or detailed technical ordinance may be published in the same manner.

SECTION 5.5 COMPILATION AND REVISION.

In the event of the codification of the ordinances, with printed copies available at the office of the clerk, available for public inspection and sale at cost shall constitute publication thereof.

SECTION 5.6 PENALTIES.

The council shall provide in each ordinance for the punishment of violations thereof, but, unless permitted by law, no such punishment, excluding the costs charged, shall exceed the maximum fine, or imprisonment, or both, provided by statute, in the discretion of the Court.

SECTION 5.7 PUBLICATION OF NOTICES, PROCEEDINGS AND ORDINANCES.

Unless otherwise provided by this charter, notices or proceedings requiring publication, and all ordinances adopted by the city council, shall be published once in a newspaper of general circulation in the city, in any form permitted by law, including, as applicable, in a synopsis form which states that a full copy of the document is available for public inspection at the clerk's office during regular city office hours. Newspaper publication may be substituted by posting on the city website, if authorized by state law.

(Amendment approved by the city electorate on November 8, 2011)

SECTION 5.8 INITIATIVE AND REFERENDUM.

An ordinance may be initiated by petition. A referendum on an ordinance enacted by the council may be had by a petition filed prior to twenty (20) days subsequent to enactment of the ordinance; as hereinafter provided.

SECTION 5.9 PETITIONS.

An initiatory or a referendary petition shall be signed by registered qualified electors of the city in number equal to fifteen percent (15%) of the active registration file of voters at the preceding state even-numbered year election prior to the filing of the petition. Before being circulated for signatures, all such petitions shall be approved as to form by the clerk. No such petition need be on one paper, but may be the aggregate of two (2) or more petition papers, each containing a copy of the issue. Each signer of a petition shall sign his name in ink or indelible pencil, and shall place thereon after his name, the date and his place of residence by street and number. To each petition paper there shall be attached a certificate by the circulator thereof, stating the number of signers thereto and that each signature thereon is the genuine signature of the person whose name it purports to be, and that it was made in the presence of the circulator. Any such petition shall be filed with the clerk who shall, within ten (10) days, determine the sufficiency thereof and so certify.

In the case of initiatory petitions, any signatures obtained more than ninety (90) days before filing of such petition with the clerk shall not be counted. If found to contain an insufficient number of signatures of qualified registered electors of the city, or to be improper as to form or compliance with the provisions of this section, ten (10) days shall be allowed for the filing of supplemental petition papers. When found sufficient and proper, the clerk shall present the petition to the council at its next regular meetings. If found not to be in compliance with this section, no further action will be had with these petitions.

SECTION 5.10 COUNCIL PROCEDURE.

Upon receiving a certified initiatory or referendary petition from the clerk, the council shall, within thirty (30) days, either:

(a) if it be an initiatory petition, adopt the ordinance.

(b) if it be a referendary petition, repeal the ordinance;

(c) or if the council neither adopts or repeals the ordinance, as the case may be, the council shall submit the proposal to the electors.

SECTION 5.11 SUBMISSION TO ELECTORS.

When the provisions of this charter require the council to submit the proposal to the electors, it shall be submitted at the next election held in the city for any other purpose, or in the discretion of the council, at a special election. In any event, it shall be submitted at an election where there is sufficient time for the processing of the notice of registration and of election and providing for absentee ballots. The results shall be determined by a majority vote of the electors voting thereon, except in cases where otherwise required by law.

SECTION 5.12 GENERAL PROVISIONS.

The certification by the clerk of the sufficiency of a referendary petition shall automatically suspend the ordinance in question pending repeal by the council or final determination by the electors, as the case may be. An ordinance adopted by the electorate through initiatory proceedings, may not be amended or repealed by the council for a period of two (2) years, and then only by the affirmative vote of not less than five (5) councilmen. Should two (2) or more ordinances adopted at the same election have conflicting provisions, the one receiving the highest vote shall prevail as to those provisions.

CHAPTER VI. THE ADMINISTRATIVE SERVICE

SECTION 6.1 ADMINISTRATIVE OFFICERS.

The administrative officers of the city shall be a city manager, city clerk, city treasurer, city attorney, assessor, and such other administrative officials as may be established by the council. They shall subscribe to the Constitutional oath of office and be citizens of the United States.

SECTION 6.2 CITY MANAGER.

(a) The city manager shall be the chief administrative officer of the city government, in conformity with the provisions of this charter. He shall be selected by the council on the basis of training and ability alone, and need not be a resident of the city. He shall serve at the pleasure of, and be subject to removal by the council, but he shall not be removed from office during a period of ninety (90) days following any regular city election except by the affirmative vote of five (5) members of the council.

(b) The council shall appoint a city manager within one hundred and twenty (120) days after any vacancy exists in such position, or they may appoint an acting manager during the period of a vacancy in the office, or the city manager, with the consent and approval of the council, may designate an administrative officer or employee of the city to act as city manager if he is temporarily absent from the city or unable to perform the duties of his office.

SECTION 6.3 FUNCTIONS AND DUTIES.

(a) The city manager shall be responsible to the council for the proper administration of the affairs of the city and to that end shall make all appointments and removals of those appointed, except he shall receive the approval of a majority of the council for the appointment of the clerk, treasurer and assessor. He shall set employees' compensation in accordance with budget appropriations, and supervise and coordinate the work of the administrative officers and departments of the city except the work of the city clerk in keeping the council records and as the clerical official of the council.

(b) The city manager shall see that all laws and ordinances are enforced. He shall prepare and administer the annual budget under policies formulated by the council, and he shall keep the council advised as to the financial condition and needs of the city. He shall furnish the council with information concerning city affairs and prepare and submit such reports as may be required or which the council may request, including an annual report which shall include the work of the several departments. Subject to any employment ordinance of the city, he shall employ or be responsible for the employment of all city employees and supervise and coordinate the personnel policies and practices of the city. He shall establish and maintain a central purchasing service for the city and he or his authorized representative to be the purchasing agent for the city.

(c) The city manager shall attend all meetings of the council with the right to be heard in all council proceedings, but without the right to vote. He shall possess such other powers and perform such additional duties as may be granted to or required of him by the council, so far as may be consistent with the provisions of law. He shall establish procedures necessary to carry out any of the foregoing duties.

SECTION 6.4 CITY CLERK.

(a) The clerk shall be the clerk and clerical officer of the council and shall keep its journal. He shall keep a record of all actions of the council at its regular and special meetings. He shall certify all ordinances and resolutions adopted by the council.

(b) The clerk shall have the power to administer all oaths required by law and by the ordinances of the city. He shall be the custodian of the city seal, and shall affix the same to documents required to

be sealed. He shall be the custodian of all papers, the treasurer's bond, documents, and records pertaining to the city, the custody of which is not otherwise provided by this chapter. He shall give the proper officials ample notice of the expiration or termination of any official bonds, franchises, contracts, or agreements to which the city is a part and he shall notify the council of the failure of any officer or employee required to take an oath of office or furnish any bond required of him.

(c) The clerk shall perform such other duties in connection with his office as may be required of him by law, the ordinances or resolutions of the council, or by the city manager.

SECTION 6.5 CITY TREASURER.

(a) The treasurer shall have the custody of all monies of the city, the clerk's bond, and all evidences of value or indebtedness belonging to or held in trust by the city. He shall keep and deposit all monies or funds in such manner and only in such places as the council may determine, and shall report the same to the city manager and council.

(b) The treasurer shall have such powers, duties and prerogatives in regard to the collection and custody of state, county, school district, and city taxes and monies as are provided by law.

(c) He shall perform such other duties in connection with his office as may be required of him by law, the ordinances and resolutions of the council, or by the city manager.

SECTION 6.6 DEPUTY CLERK OR TREASURER.

The clerk and treasurer may appoint and remove their deputies, subject to the budget allowances therefor and the approval of the city manager and council in case of appointments. Each deputy shall possess all powers and authorities of his superior officer.

SECTION 6.7 CITY ASSESSOR.

(a) The assessor shall possess all the power vested in and shall be charged with the duties imposed upon assessing officers by law. He shall make and prepare all regular and special assessment rolls in the manner prescribed by law or ordinances of the city.

(b) He shall perform such other duties as may be prescribed by law or the ordinances of the city, or by the city manager.

SECTION 6.8 CITY ATTORNEY.

(a) The city attorney shall be appointed by the council for an indefinite term, shall be responsible to and serve at the pleasure of the council and have his compensation fixed by the council.

(b) The city attorney shall act as legal advisor of and be responsible to the council. He shall advise the city manager concerning legal problems affecting the city administration and any officer or department head of the city in matters relating to his official duties when so requested in writing, and shall file with the clerk a copy of all written opinions given by him.

(c) Prosecute ordinance violations and shall represent the city in cases before the Courts and other tribunals.

(d) Prepare or review all ordinances, regulations, deeds, contracts, bonds, and such other instruments as may be required by this charter or by the council, and shall promptly give his opinion as to the legality thereof.

(e) Upon request of the council, he shall attend meetings of the council.

(f) He shall defend all officers and employees in all actions arising out of the performance of their official duties as directed by the council.

(g) He shall perform such other duties as may be prescribed for him by this charter, the city manager, or the council.

(h) Upon the attorney's recommendation, or upon its own initiative, the council may retain special legal counsel to handle any matter in which the city has an interest, or to assist the city attorney. This provision shall apply when in the opinion of the council a conflict of interest for the attorney may seem possible.

SECTION 6.9 FINANCIAL ACCOUNTING.

(a) The city manager shall designate a person to act as a finance officer from among the administrative officers of the city. However, when the council feels that a separate official is required, they may so designate by ordinance and the official will be an appointment of and under the supervision of the city manager with the approval of the council.

(b) The finance officer shall be the general accountant of the city, shall keep the books of account of the assets, receipts, and expenditures of the city, and shall keep the council and city manager informed as to the financial affairs of the city. The system of accounts of the city shall conform to such uniform systems as may be required by law.

(c) He shall balance all the books of account of the city at the end of each calendar month, and he shall make a report thereon, as soon as practical, to the city manager. He shall, upon direction of the city manager, examine and audit all books of account kept by any official or department of the city.

SECTION 6.10 ADDITIONAL ADMINISTRATIVE POWERS AND DUTIES.

The council shall by ordinance establish departments of city government and determine and prescribe the functions and duties of each department. Upon recommendation of the city manager, the council may by ordinance prescribe additional powers and duties and diminish any powers and duties in a manner not inconsistent with this charter to be exercised and administered by appropriate officials and departments of the city.

SECTION 6.11 CITY PLANNING.

The council shall provide for and maintain a city planning commission which shall possess all of the powers and perform the functions of planning commissions as set forth by state statute. The citizen members of the planning commission shall be appointed by the mayor, subject to confirmation by the council.

SECTION 6.12 ZONING BOARD OF APPEALS.

A zoning board of appeals shall be appointed by the mayor with the approval of the council. The board shall have such powers and duties as are authorized by statute.

SECTION 6.13 MERIT SYSTEM OF PERSONNEL MANAGEMENT.

The council may provide by ordinance for a merit system of personnel management for the city.

SECTION 6.14 COMPENSATION AND EMPLOYEE BENEFITS.

(a) All administrative officers of the city shall be appointed for an indefinite term.

(b) The city council shall have the power to make available to the administrative officers and employees of the city and its departments an actuarial pension plan by ordinance, and any recognized group plan of life, hospital, health, or accident and income protection insurance, or any one or more thereof.

CHAPTER VII. GENERAL FINANCE

SECTION 7.1 FISCAL YEAR.

The fiscal year of the city shall begin on the first day of July each year.

SECTION 7.2 BUDGET PROCEDURE.

On or before the second Monday in March of each year, each officer, department and board of the city shall submit to the city manager an itemized estimate of its expected income, if any, and expenditures for the next fiscal year, for the department or activities under its control. The city manager shall compile and review such budget request and shall then prepare his budgetary recommendations and submit them to the city council at its meeting nearest to the third Monday in April of each year.

SECTION 7.3 BUDGET DOCUMENT.

The budget document shall present a complete financial plan for the ensuing fiscal year and shall include those items required by the Uniform Budgeting and Accounting Act 621, of the Public Acts of 1978, as amended. Also to be included shall be such other supporting schedules as the council may deem necessary or the council may require.

Statutory reference:

Public Act 621 of 1978, see M.C.L.A. §§ 141.421a et seq.

SECTION 7.4 BUDGET HEARING.

Before its final adoption, a public hearing on the budget proposal shall be held as provided by law. Notice of the time and place of holding such hearings shall be published by the clerk in a newspaper having general circulation in the city at least a week in advance thereof. A copy of the proposed budget shall be on file and available to the public during office hours at the office of the clerk for a period of not less than one (1) week prior to such public hearing.

SECTION 7.5 ADOPTION OF THE BUDGET.

The council shall, not later than June 30 of each year, adopt by resolution a budget for the ensuing fiscal year and make appropriations therefor. After consideration of probable other revenues, the council shall determine and declare the amount of money necessary to be raised by property taxation, which amount shall not be greater than otherwise limited in this charter or by general law.

(Amendment approved by the city electorate on November 8, 2011)

SECTION 7.6 BUDGET CONTROL.

(a) Except for purposes which are to be financed by the issuance of bonds or by special assessment or for other purposes not chargeable to a budget appropriation, no money shall be drawn from the treasury of the city except in accordance with an appropriation thereof for such specific purposes, nor shall any obligation for the expenditure of money be incurred without an appropriation covering all payments which will be due under such obligation in the current fiscal year. The council, by resolution, may transfer any unencumbered appropriation balance, or any portion thereof, from one account, department, fund or agency to another.

(b) The council may make additional appropriations during the fiscal year for unanticipated expenditures required by the city, but such additional appropriations shall not exceed the amount by which actual and anticipated revenues of the year are exceeding the revenues as estimated in the

budget, unless the appropriations are necessary to relieve an emergency endangering the public health, peace or safety.

(c) Except in those cases where there is no other logical account to which expenditures can be charged, expenditures shall not be charged directly to the contingency fund (or other similar fund). Instead, the necessary part of the appropriation from the contingency fund (or other similar fund) shall be transferred to the logical account, and the expenditure charged to such account.

(d) At the beginning of each quarterly period during the fiscal year, and more often if required by the council, the city manager shall submit to the council data showing the relation between the estimated and actual revenues and expenditures to date; and if it shall appear that the revenues are less than anticipated, the council may reduce appropriations except amounts required for debt and interest charges, to such a degree as may be necessary to keep expenditures within the revenues.

(e) The balance in any budget appropriation which has not been encumbered at the end of the fiscal year shall, subject to restrictions imposed or permitted by law, revert to the general fund.

SECTION 7.7 INDEPENDENT AUDIT.

An independent audit shall be made of all accounts of the city government annually and more frequently if deemed necessary by the council. Such audit shall be made by qualified accountants experienced in municipal accounting. The results of such audit shall be made public in such manner as the council may determine. An annual report of the city business shall be made available to the public in such form as will disclose pertinent facts concerning the activities and finance of the city government. The council shall provide the funds to defray the cost of the annual audit and the report herein required in each annual budget of the city.

CHAPTER VIII. TAXATION

SECTION 8.1 POWER TO TAX.

The city shall have power to assess, levy and collect taxes, rents, tolls and excises. The subject of ad valorem taxation shall be the same as for state, county, and school purposes under general law. Except as otherwise provided by this charter, city taxes shall be levied, collected and returned in the manner provided by statute.

SECTION 8.2 TAX LIMITS.

Exclusive of any levy for the payment of principal of and interest on outstanding general obligation bonds, and exclusive of any other levies authorized by law to be made beyond charter tax rate limitations, the levy of ad valorem taxes for general municipal purposes shall not exceed one and three-quarters percent (1 3/4%), or seventeen and one-half (17.5) mills on the assessed value of all real and personal property in the city.

SECTION 8.3 EXEMPTIONS.

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

SECTION 8.4 TAX DAY.

Subject to the exceptions provided or permitted by statute, the taxable status of persons and property shall be determined as of the 31st day of December, or such other day as may subsequently be required by law, which shall be deemed Tax Day.

SECTION 8.5 ASSESSMENT ROLL.

The assessor shall, in accordance with state law, make and certify an assessment roll of all persons and property in the city liable to taxation.

SECTION 8.6 BOARD OF REVIEW.

(a) The Board of Review shall consist of three (3) residents who are electors of the city, but not city officers or employees. The assessor is to be the clerk of the Board of Review and nonvoting. The board shall be entitled to such remuneration as shall be determined by the council.

(b) The first such board of review appointed under the provisions of this charter shall be made up of three (3) qualified members appointed for one (1), two (2) and three (3) year terms. The council shall appoint a member for a three (3) year term at the first regular council meeting in January of each succeeding year.

SECTION 8.7 DUTIES AND FUNCTIONS OF THE BOARD OF REVIEW.

For the purpose of revising and correcting assessments, the Board of Review shall have the same powers and perform like duties in all respects as are conferred by law and required of boards of review. It shall hear the complaints of all persons considering themselves aggrieved by assessment, and if it shall appear that any person or property has been wrongfully assessed or omitted from the rolls, the board shall correct the roll in such manner as it deems just. In all cases the roll shall be reviewed according to the facts existing on the tax day and no change in the status of any property after that day shall be considered by the board in making its decision. Except as otherwise provided by law, no person, other than the Board of Review, shall make or authorize any change upon or addition or correction to the assessment roll. It shall be the duty of the assessor to keep a permanent record of all the proceedings of the board and to enter therein all resolutions and decisions of the board. Such proceedings shall be filed in the office of the clerk.

SECTION 8.8 MEETINGS OF THE BOARD OF REVIEW.

The board of review shall convene in accordance with statute each year to review and correct the assessment roll and shall remain in session for not less than two (2) days. It shall choose its own chairman and a majority of its members shall constitute a quorum. On or before the first Monday in April the board of review shall endorse the assessment roll as provided hereafter.

SECTION 8.9 NOTICE OF MEETINGS.

Notice of the time and the sessions of the board of review shall be published by the assessor at least ten (10) days prior to the meeting.

SECTION 8.10 CERTIFICATION OF ROLL.

The board of review shall endorse the assessment roll as provided by statute. Such roll shall be the assessment roll of the city for all tax purposes.

SECTION 8.11 CLERK TO CERTIFY TAX LEVY.

Within three (3) days after the council has adopted the budget for the ensuing year, the clerk shall certify to the assessor the total amount which the council determines shall be raised by the general ad valorem tax. He shall also certify all amounts of current or delinquent special assessments and all other amounts which the council requires or orders to be assessed, reassessed, or charged upon said roll against any property or any person in accordance with the provisions of this charter or any ordinances of the city.

SECTION 8.12 CITY TAX ROLL.

The assessor shall prepare a copy of the assessment roll, to be known as the city tax roll, and upon receiving the certification of the several amounts to be raised, the assessor shall spread upon said tax roll the several amounts determined by the council to be charged, assessed, or reassessed against persons or property. He shall also spread thereon the amounts of the general ad valorem city tax according to and in proportion to the several valuations set forth in said assessment roll. To avoid fractions in computation of any tax roll, the assessor may add to the amount of the several taxes to be raised not more than the amount prescribed by law. Any excess created thereby on any tax roll shall belong to the city.

SECTION 8.13 TAX ROLL CERTIFIED FOR COLLECTION.

After spreading the taxes the assessor shall certify the tax roll, and shall annex his warrant thereto, directing and requiring the treasurer to collect the several sums mentioned therein opposite their respective names as a tax, charge, or assessment, and granting to him, for the purpose of collecting the taxes, assessments and charges of such roll, all the statutory powers and immunities possessed by township treasurers for the collection of taxes, except he shall not add any collection fee or percentage for collection to such tax bills.

SECTION 8.14 TAX LIEN.

On July 1st of each year the taxes thus assessed shall become a debt due to the city from persons to whom assessed. The amounts and for all interest and charges thereon and all personal taxes shall become a lien on all personal property of such persons so assessed. Such lien shall take precedence over all other claims, encumbrances, and liens to the extent provided by law and shall continue until such taxes, interest and charges are paid.

SECTION 8.15 TAXES DUE NOTIFICATION THEREOF.

City taxes shall be due on July 1st of each year. The treasurer shall not be required to call upon persons named in the city tax roll nor make personal demand for payment of taxes, but shall:

(1) Publish between June 15th and July 1st notice of the time when said taxes will be due for collection and of the penalties and fees for the late payment thereof; and

(2) Mail a tax bill to each person named in said roll. In cases of multiple ownership of property only one bill need be mailed. Failure on the part of the treasurer to publish said notice or mail such bills shall not invalidate such taxes on said tax roll nor release the person or property assessed from the penalties and fees provided in this chapter in case of late or nonpayment of same.

SECTION 8.16 COLLECTION CHARGES ON LATE PAYMENT OF TAXES.

No penalty shall be charged for city taxes paid on or before the 10th day of August. The council shall provide, by ordinance, the tax payment schedule for taxes paid after August 10th, and the amount of penalty. Collection fee, or interest charges, if any, to be paid thereafter in an amount not to exceed the limit allowed by statute. Such charges shall belong to the city and constitute a charge and shall be a lien against the property to which the taxes apply, collectible in the same manner as the taxes to which they are added.

Cross-reference:

Property tax schedule, see §§ 32.35 et seq.

SECTION 8.17 COLLECTION OF DELINQUENT TAXES.

All city taxes on real property remaining uncollected by the treasurer on the 1st day of March, or such date established by statute, following the date when said roll was received by him shall be returned to the county treasurer in the same manner and with like effect as returned by township treasurers of township, school and county taxes. Such return should be made upon a delinquent tax roll to be prepared by the treasurer and shall include all the additional charges and assessments hereinbefore provided, such charges shall be added to the amount assessed in said tax roll against each description. Taxes thus returned shall be collected in the same manner as other taxes returned to the county treasurer in accordance with the provisions of the general laws of the state, and shall be and remain a lien upon the property against which they are assessed until paid.

SECTION 8.18 FAILURE OR REFUSAL TO PAY PERSONAL PROPERTY TAX.

If any person, firm, or corporation shall neglect or refuse to pay any personal property tax assessed to him or them, the treasurer shall collect the same by seizing the personal properties of such person, firm or corporation, to an amount sufficient to pay such tax, fees and charges for subsequent sale, wherever the same may be found in the state, and from which seizure no property shall be exempt. He may sell the property seized to an amount sufficient to pay the taxes and all charges in accordance with statutory provisions. The treasurer may, if otherwise unable to collect a tax on personal property, sue the person, firm, or corporation to whom it is assessed in accordance with the statute.

SECTION 8.19 STATE, COUNTY AND SCHOOL TAXES.

The levy, collection and return of state, county and school taxes shall be in conformity with the general laws of the state.

CHAPTER IX. BORROWING AUTHORITY

SECTION 9.1 GENERAL BORROWING.

Subject to applicable provisions of law and this charter, the council may by ordinance or resolution authorize the borrowing of money for any purpose within the scope of powers vested in the city and permitted by law and may authorize the issuance of bonds or other evidences of indebtedness therefor. Such bonds or other evidences of indebtedness shall include, but not be limited to, the following types:

(a) General obligation bonds which pledge the full faith, credit, and resources of the city for payment of such obligations.

(b) Notes issued in anticipation of the collection of taxes, but the proceeds of such notes may be spent only in accordance with appropriations as provided in Section 7.6.

(c) In case of fire, flood, windstorm, or other calamity, emergency loans due in not more than five (5) years for the relief of inhabitants of the city and for the preservation of municipal property.

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

(e) Mortgage bonds for the acquiring, owning, purchasing, constructing, improving, or operating of any public utility which the city is authorized by this charter or by law to acquire or operate.

(f) Bonds for the refunding of the funded indebtedness of the city.

(g) Revenue bonds as authorized by law which are secured only by the revenues from a public improvement or public utility and do not constitute a general obligation of the city.

(h) Bonds issued in anticipation of future payments from the Motor Vehicle Highway Fund or any other fund of the state or federal government which the city may be permitted by law to pledge for the payment of principal and interest thereof.

(i) Budget bonds, which pledge the full faith, credit, and resources of the city, in an amount which, in any year together with the taxes levied for the same year, will not exceed the limit of taxation authorized by this charter.

(j) Bonds which the city is, by any general law of the state, authorized to issue, now or hereafter, which shall pledge the full faith, credit, and resources of the city or be otherwise secured or payable as provided by law.

SECTION 9.2 LIMITS OF BORROWING AUTHORITY.

(a) The net bonded indebtedness incurred for all public purposes shall not at any time exceed the maximum amount permitted by law, provided that in computing such bonded indebtedness there shall be excluded money borrowed on notes issued in the anticipation of the collection of taxes, special assessment bonds, even though they are a general obligation of the city, mortgage bonds, revenue bonds, bonds in anticipation of state-returned revenues to the extent permitted by law, and any other bonds or indebtedness excluded by law from such limitation. The amount of funds accumulated for the retirement of any outstanding bonds shall also be deducted from the amount of bonded indebtedness.

(b) The amount of emergency loans which may be made under the provisions of this charter may not exceed the maximum amount permitted by law, and such loans may be made even if it causes the indebtedness of the city to exceed the limit of the net bonded indebtedness fixed in this charter, or by law.

(c) No bonds shall be sold to obtain funds for any purpose other than that for which they were specifically authorized, and if such bonds are not sold within the time limited by law, such authorization shall be null and void.

(d) The issuance of any bonds not requiring the approval of the electorate shall be subject to applicable requirements of law with reference to public notice in advance of authorization of such issues, filing of petitions for a referendum on such issuance, holding such referendum, and other applicable procedural requirements.

SECTION 9.3 PREPARATION AND RECORD OF BONDS.

Each bond or other evidence of indebtedness shall contain on its face a statement specifying the purpose for which it is issued and it shall be unlawful for any officer of the city to use the proceeds thereof for any other purpose. Any officer who shall violate this provision shall be deemed guilty of a violation of this charter, except that, whenever the proceeds of any bond issue or parts thereof shall remain unexpended and unencumbered for the purpose for which said bond issue was made, the council may authorize the use of said funds for the retirement of bonds of such issue or for any other purpose permitted by law. All bonds or other evidences of indebtedness issued by the city shall be signed by the mayor and countersigned by the clerk, under the seal of the city. The signatures of the mayor and the clerk, and the seal of the city may be facsimiles in the case of fully-registered bonds. Interest coupons may be executed with the facsimile signature of the mayor and the clerk. A complete and detailed record of all bonds and other evidences of indebtedness issued by the city shall be kept by the clerk or other designated officer. Upon the payment of any bond or other evidence of indebtedness, the same shall be cancelled.

SECTION 9.4 DEFERRED PAYMENT CONTRACTS.

The city may enter into installment contracts for the purchase of property or capital equipment. Each such contract shall not extend over a period greater than, nor shall the total amounts of principal payable under all such contracts exceed a sum permitted by law. All such deferred payments shall be included in the budget for the year in which the installment is payable.

CHAPTER X. SPECIAL ASSESSMENT

SECTION 10.1 SPECIAL ASSESSMENTS: GENERAL POWERS.

The council shall have the power to determine that the whole or any part of the cost of any public improvement shall be defrayed by special assessment upon property in a special district and shall so declare by resolution or resolutions shall state that estimated cost of the improvement, what proportion of the cost thereof shall be paid by special assessment, and what part, if any, shall be a general obligation of the city, the number of installments in which assessments shall be levied and whether the assessments shall be based upon special benefits, frontage, area, valuation or other factors permitted by law, or a combination thereof. The council shall also have the power of reassessment with respect to any such public improvement.

SECTION 10.2 PROCEDURE FIXED BY ORDINANCE.

The council shall prescribe by ordinance the complete special assessment or reassessment procedure governing the initiation of projects, preparation of plans and cost estimates, notice of hearings on necessity and on confirmation of the assessment rolls, and making and confirming of the assessment rolls, correction of errors, the collection of special assessments, and any other matters concerning the making and financing of improvements by special assessment.

Cross-reference:

Special assessments, see §§ 32.50 et seq.

SECTION 10.3 IMPLEMENTATION OF THE CHAPTER.

The city council shall have and is hereby given the power to pass ordinances implementing the provisions of this chapter and detailing the procedure relative thereto.

CHAPTER XI. UTILITIES

SECTION 11.1 GENERAL POWERS RESPECTING UTILITIES.

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

SECTION 11.2 ACQUISITION OF PRIVATE PROPERTY.

Private property may be taken and appropriated either within or without the city, for public use in connection with any acquisition, enlargement, or extension of public utilities.

(a) For supplying water, light, heat, power, gas, sewage treatment, and garbage and refuse disposal facilities, or any of them.

(b) For the purpose of opening, widening, altering and extending streets, alleys, avenues or the construction of bridges.

(c) For public buildings and other public structures.

(d) For public grounds, parking spaces, parks, marketplaces and spaces.

(e) For the improvement of waters and water courses within the city, the sewers, drains, and ditches.

(f) For public hospitals and public cemeteries, and for other lawful and necessary public uses.

The ownership of such property shall be acquired by the city negotiation and purchase, or in any other manner permitted by the general laws by the state for the taking of private property for public use.

SECTION 11.3 CONTROL OF UTILITIES.

The council may enact such ordinances and adopt such resolutions as may be necessary for the care, protection, preservation, control and operation of any public utilities which the city may, in any manner acquire, own, or operate and all fixtures, appurtenances, apparatus, building, and machinery connected therewith or belonging thereto, and to carry into effect the powers conferred upon the city by the provisions of this charter and by statute.

SECTION 11.4 MANAGEMENT OF UTILITIES.

All municipally owned or operated utilities shall be administered as a regular department of the city government, under the management and supervision of the city manager.

SECTION 11.5 RATES AND CHARGES.

The council shall have the power to establish, from time to time, such just and equitable rates as may be deemed advisable for supplying the inhabitants of the city and others with water or sewage disposal, with electricity for light, heat, and power and with such other utility services as the city may acquire or provide.

SECTION 11.6 UTILITY CHARGES - COLLECTION.

The council shall provide, by ordinance, for the collection of all public utility charges made by the city and for such purpose, shall have all the power granted to cities by statute. When any person or persons, or any firm or corporation shall fail or refuse to pay to the city any sums due on utility bills, which are not covered by deposits, the utility service or services upon which such delinquency exists may be shut off or discontinued and suit may be instituted by the city for the collection of the same in any court of competent jurisdiction.

SECTION 11.7 ACCOUNTS.

Separate accounts shall be kept for each public utility owned or operated by the city, distinct from other city accounts, and in such manner as to show the true and complete financial result of such city ownership or operation, or both, including all assets, liabilities, revenues, and expenses. These accounts shall show the actual cost to the city of each such public utility, the cost of all extensions, additions, and improvements, all expenses of maintenance, the amounts set aside for sinking fund purposes, and all operating expenses. They shall show as nearly as possible, the value of any service furnished to or rendered by any such public utility by or to any other city department. They

shall also show a proper allowance, for depreciation and insurance. The council shall annually cause to be made a report showing the financial results of such city ownership or operation, or both, which report shall give for each utility, the information specified in this section, and such further information as the council shall deem expedient.

SECTION 11.8 DISPOSAL OF PLANTS AND PROPERTY.

The city shall not sell, exchange, lease, or in any way alien or dispose of the property, easements, income or other equipment, privilege or asset belonging to and appertaining to any utility which it may acquire, unless and except the proposition for such purpose shall first have been submitted, at a special election held for the purpose in the manner provided in this charter, to the qualified voters of the city and approved by them by a majority vote of the electors voting thereon. All contracts, negotiations, grants, leases or other forms of transfer in violation of this provision, shall be void and of no effect as against the city. The provisions of this section shall not, however, apply to the sale or exchange of any articles or equipment of any city-owned utility as are worn out or useless, or which could, with advantage to the service, be replaced by new and improved machinery or equipment.

CHAPTER XII. FRANCHISES, CONTRACTS AND PERMITS

SECTION 12.1 FRANCHISES.

(a) No franchise ordinance, which is not revocable at the will of the council, shall be granted or become operative until the same shall have been referred to the people at a regular or special election and has received the approval of three-fifths (3/5) of the electors voting thereon at such election or as required by statute.

(b) All irrevocable public utility franchises, and all renewals, extensions and amendments thereof, shall be granted only by ordinance. No such ordinance shall be adopted before thirty (30) days after application therefor has been filed with the council, nor until a full public hearing has been held thereon. No such ordinance shall become effective until it has been submitted to the electors and has been approved by a majority of the electors voting thereon. No such ordinance shall be submitted to the electors at a general election to be held less than sixty (60) days after the grantee named therein has filed unconditional acceptance of all terms of such franchise, and it shall not be submitted to a special election unless the expense of holding the election, as determined by the council, shall have been paid to the city treasurer by the grantee.

(c) No exclusive franchise shall ever be granted, and no franchise shall be granted for a longer term than thirty (30) years.

(d) No such franchise shall be transferable, directly or indirectly, except with the approval of the council expressed by ordinance.

(e) Purchase of a franchised utility by the city shall require the approval of three-fifths (3/5) of the electors voting thereon.

SECTION 12.2 RIGHT OF REGULATION.

All public utility franchises, whether it be so provided in the granting ordinance or not, shall be subject to the right of the city:

(a) To repeal the same for misuse or nonuse, or for failure to comply with the provisions thereof;

(b) To require proper and adequate extension of plant and service and maintenance thereof at the highest practicable standard of efficiency;

(c) To establish reasonable standards of service and quality of products, and prevent unjust discrimination in service or rates;

(d) To make independent audit and examination of accounts at any time, and to require reports annually;

(e) To require continuous and uninterrupted service to the public in accordance with the terms of the franchise throughout the entire period thereof;

(f) To impose such other regulations as may be determined by the council to be conducive to safety, welfare, and accommodation of the public.

SECTION 12.3 RATES OF FRANCHISED UTILITIES.

The rates charged by public utilities under the supervision of state regulatory agencies shall be fixed by such agencies. The rates not preempted by the state for public utilities shall be set, after public hearing, by the city council.

SECTION 12.4 PURCHASE - CONDEMNATION.

The city shall have the right to acquire by condemnation or otherwise the property of any public utility in accordance with the general laws of the state, provided that the price to be paid shall in no event include any value predicated upon the franchise, goodwill, or prospective profits.

SECTION 12.5 REVOCABLE PERMITS.

Temporary permits for public utilities, revocable at any time at the will of the council, may be granted by the council by resolution on such terms and conditions as it shall determine, provided that such permits, shall in no event be construed to be franchises or amendments to franchises.

SECTION 12.6 USE OF STREETS BY UTILITY.

Every public utility franchise shall be subject to the right of the city to use, control and regulate the use of its streets, alleys, bridges, and public places and the space above and beneath them. Every public utility shall pay such part of the cost of improvement or maintenance of streets, alleys, bridges, and public places, as shall arise from its use thereof and shall protect and save the city harmless from all damages arising from said use and may be required by the city to permit joint use of its property and appurtenances located in the streets, alleys, and public places of the city by the city and other utilities insofar as such joint use may be reasonably practicable and upon payment of a reasonable rental therefor; provided, that, in the absence of agreement, upon application by any public utility, the council shall provide for arbitration of the terms and conditions of such joint use and the compensation to be paid therefor, which award shall be final.

SECTION 12.7 CONTRACTING AUTHORITY OF COUNCIL.

The power to authorize the making of contracts on behalf of the city is vested in the council, and shall be exercised in accordance with the provisions of the law. All contracts, except as otherwise provided by ordinance in accordance with the provisions of this charter, shall be authorized by the council, and shall be signed on behalf of the city by the mayor and the clerk.

SECTION 12.8 PURCHASE AND SALE OF PROPERTY.

The council shall establish by ordinance the procedures for the purchase or sale of personal property for the city for the direction of the city manager. The ordinance shall provide a dollar limit within which purchases of property may be made without the necessity of securing competitive bids, and the dollar limit within which the purchases may be made without the necessity of prior council approval.

SECTION 12.9 LIMITATIONS ON CONTRACTUAL POWERS.

(a) The council shall only have power to enter into contracts which, by the terms thereof, will be fully executed within a period of ten (10) years, unless such contract shall first receive the approval of the majority of the qualified electors voting thereon at a regular or special election. This qualification shall not apply to any contract for services with a public utility, or one or more other governmental units, nor to contracts for debt secured by bonds or notes which are permitted to be issued by the city by law.

(b) Except as provided by ordinance authorized in this charter, each contract for construction of public improvements or for the purchase or sale of personal property, shall be let after opportunity for competition.

(c) All bids shall be opened and read aloud in public by the city manager or his authorized representative at the time designated in the notice or letting, and shall be reported by him to the council at its next regular meeting. The council may reject any or all bids if deemed advisable. If, after ample opportunity for competitive bidding, no bids are received, or such bids as are received are not satisfactory to the council, the council may either endeavor to obtain new competitive bids or authorize the city manager, or other proper officials of the city, to negotiate or contract on the open market.

SECTION 12.10 OFFICIAL INTEREST IN CONTRACTS.

No person holding any elective or appointive office of the city shall take any official action on any city contract in which he shall have a direct personal interest in the profits to be derived therefrom or be a bondsman or surety on any contract or bond given to the city. The provisions for handling this shall be in accordance with Act 317 of the Public Acts of 1968, as amended. Any officer violating the provisions of this section shall be deemed guilty of misconduct in office and upon conviction shall forfeit his office.

Statutory reference:

Public Act 317 of 1968, see M.C.L.A. §§ 15.321 et seq.

CHAPTER XIII. MUNICIPAL RIGHTS AND LIABILITIES

SECTION 13.1 RIGHTS, LIABILITIES, REMEDIES.

All rights and properties of any kind and description which were vested in the Village of Saugatuck at the time of the adoption of this charter shall continue, and no rights or liabilities, either in favor of or against the village at the time of the adoption of this charter, and no suit or prosecution of any kind shall be in any manner affected by the adoption of this charter, but the same shall stand or progress as if no such change had been made, and all debts and liabilities of the village and all taxes levied and uncollected at the time of the adoption of this charter shall be collected the same as if such change had not been made; provided that, when a different remedy is given in this charter, which can be made applicable to any rights existing at the time of the adoption of this charter, the same shall be deemed cumulative to the remedies before provided, and may be used accordingly.

SECTION 13.2 LIABILITY FOR DAMAGES.

The city shall not be liable for unliquidated damages for injuries to persons or property unless the persons claiming such damages, or someone in his or their behalf, shall file a claim in writing with the clerk. Such claim shall be verified by the claimant or claimants, or some person having knowledge of

the facts, who shall specify the time and place, the nature and extent of the injury sustained, the manner in which it occurred, the specific grounds upon which the claim of liability on the part of the city shall be asserted, the names and addresses of all known witnesses, the name of the attending physician, if any, and an itemized statement of the amount claimed. Upon filing such claim, the city shall investigate the same and may require the claimant to produce all witnesses for examination under oath. No action shall be maintained in any case unless the same be brought within the statutory period stated by the general laws of the state after such injury or damages shall have been received.

SECTION 13.3 STATEMENTS OF CITY OFFICERS.

No officer of the city shall have power to make any representation or recital of fact in any franchise, contract, document, or agreement which is contrary to any public record of the city. Any such representation shall be void and of no effect as against the city.

CHAPTER XIV. GENERAL PROVISIONS AND DEFINITIONS

SECTION 14.1 PUBLIC RECORDS.

All public records of the city shall be available to the public during normal business hours, except any of a personal nature on personnel which may be protected by statute or decency, and shall be in the English language.

SECTION 14.2 HEADINGS.

The chapter and section headings used in this charter are for convenience only and shall not be considered to be a part of this charter.

SECTION 14.3 DEFINITIONS AND INTERPRETATIONS.

Except as otherwise specifically provided or indicated by the context of this charter:

(a) The word “state” shall mean the State of Michigan;

(b) The word “city” shall mean the City of Saugatuck;

(c) The word “council” shall mean the City Council of the City of Saugatuck.

(d) The word “officer” shall include, but shall not be limited to the mayor, the members of the council, and, as herein provided, the administrative officers, deputy administrative officers, and members of city boards and commissions created by or pursuant to this charter;

(e) The word “person” may extend and be applied to bodies politic and corporate and to partnerships and associations, as well as to individuals;

(f) The words “printed” and “printing” shall include printing, engraving, stencil, duplicating, lithographing, typewriting, photostating, or any similar method;

(g) Except in reference to signatures, the words “written” and “in writing” shall include handwritten script, printing, typewriting, and teletype and telegraphic communications;

(h) The words “publish” or “published” shall include publication of any matter, required to be published, in the manner provided by law, or where there is no applicable law, in one or more newspapers of general circulation in the city, qualified by law for publication of legal notices or in accordance with this charter;

(i) The words “public utility” shall include all common carriers in the public streets; water, sewage disposal, electric light and power, gas, telephone and telegraph lines and systems, cable television, garbage and refuse collection and disposal and reduction plants, transportation, and such other and different enterprises as the council may determine or designate;

(j) All words indicating the present tense shall not be limited to the time of the adoption of this charter, but shall extend to and include the time of happening of any event or requirement to which any provision of this charter is applied;

(k) The singular shall include the plural, and plural shall include the singular, the masculine gender shall extend to and include the feminine gender and the neuter;

(l) All references to statutes shall be considered to be references to such statutes as amended.

SECTION 14.4 AMENDMENTS.

This charter may be amended at any time in the manner provided by statute. Should two (2) or more amendments, adopted at the same election, have conflicting provisions, the one receiving the highest vote shall prevail as to those provisions.

SECTION 14.5 EFFECT OF ILLEGALITY OF ANY PART OF CHARTER.

Should any provision or section, or portion thereof, of this charter be held by a Court of competent jurisdiction to be invalid, illegal, or unconstitutional, such holding shall not be construed as affecting the validity of this charter as a whole or of any remaining portion of such provision or section.

CHAPTER XV. SCHEDULE

SECTION 15.1 PURPOSE AND STATUS OF SCHEDULE CHAPTER.

The purpose of this schedule chapter is to inaugurate the government of the City of Saugatuck under this charter and to provide the transition from the Village of Saugatuck to that under this home rule city charter. It shall constitute a part of this charter only to the extent and for the time required to accomplish this end.

SECTION 15.2 ELECTION TO ADOPT CHARTER.

This charter shall be submitted to a vote of the registered electors of the territory comprising the Village of Saugatuck at a special election to be held in conjunction with the annual village election on Monday, March 12, 1984 between the hours of 7:00 A.M. and 8:00 P.M., local time. The provisions for the submission of the question of adopting this charter at such election shall be made in a manner provided by law. The election shall be conducted by the Saugatuck Village Clerk, and if at said election a majority of the electors voting thereon shall vote in favor of the adoption of this charter, then the clerk shall perform all other acts required by law to carry this charter into effect.

SECTION 15.3 FORM OF BALLOT.

The form of the question of submission of this charter shall be as follows:

“Shall the proposed Charter of the City of Saugatuck drafted by the Charter Commission elected March 14, 1983 be adopted?”

Yes ☐

No ☐

SECTION 15.4 EFFECTIVE DATE OF CHARTER.

If the canvass of the vote on the adoption of this charter shows that it has been adopted, it shall take effect and become law as the Charter of the City of Saugatuck for all purposes on Sunday, July 1, 1984, at 12:01 A.M., local time.

SECTION 15.5 FIRST ELECTION OF OFFICERS.

(a) An election to elect the first city council shall be held on Monday, June 11, 1984, between the hours of 7:00 A.M. and 8:00 P.M., local time. The four (4) candidates receiving the highest vote shall have terms beginning at 12:01 A.M., July 1, 1984, and extend until the second Monday in November following the annual city election in 1986. The three (3) candidates receiving the next highest number of votes shall have terms extending from 12:01 A.M., July 1, 1984, until the second Monday in November following the annual city election in 1985. Henceforth, the elections for city council shall be held in accordance with and at the times set forth in this charter.

(b) Candidates for city council shall file petitions signed by not less than twenty (20) nor more than forty (40) qualified and registered electors of the city, and filed with the village clerk by 4:00 P.M., local time, on Monday, April 23, 1984. The village clerk shall publish notice of the last day and time of filing petitions, which notice shall be published in the Commercial Record by Thursday, March 22, 1984. Such petitions shall be in the form designated by statute for the use in the nomination of nonpartisan office. The manner of approval of dominating petitions and those who qualify to sign shall be in general as outlined in this charter.

(c) Friday, the 11th day of May, 1984 shall be the last day of registration for such election. The village clerk of the Village of Saugatuck will act as registrar for the purpose of registering the electors of the city for the election to be held on June 11, 1984. Those registered voters now registered with the Village of Saugatuck will be eligible to vote without further registration if their registrations in the Village of Saugatuck are in order. The village clerk shall also publish notices as required in accordance with state election law for such election.

(d) The County Board of Canvassers shall canvass both the votes for and against the March 12, 1984 election on adoption of this charter and the June 11, 1984 election for the first city council.

SECTION 15.6 FIRST MEETING OF CITY COUNCIL.

On or before the effective date of this charter, each person who has been elected to office of the city shall appear before the clerk of the Village of Saugatuck and take and subscribe to his oath of office. The officer receiving such oath shall file the subscribed copy of such oath with the city clerk within ten (10) days after the effective date of this charter. The first council of the city shall assemble at 7:30 P.M., local time, on Monday, July 2nd, 1984 in the Village Hall. The meeting shall be called to order by the Chairman of the Charter Commission who shall introduce the council to the public and call the meeting to order. The chairman shall preside for the election of the mayor from among the council and then turn the meeting over to the mayor, and the council shall proceed with the business before it.

SECTION 15.7 CONTINUATION OF APPOINTIVE OFFICERS.

Except as otherwise provided in this charter, all appointive officers and employees of the Village of Saugatuck shall continue in that city office or employment that they now hold.

SECTION 15.8 BOARDS AND COMMISSIONS.

The present boards and commissions of the Village of Saugatuck shall continue as now established under the terms of the ordinance establishing them and the members of such boards and

commissions shall continue for the terms as established in the ordinance creating them.

SECTION 15.9 CONTINUATION OF CONTRACTS AND OBLIGATIONS.

All contracts and obligations of the Village of Saugatuck shall continue as they now exist until the terms of the contract or obligation are met as stated elsewhere in this charter. This provision also applies to all intergovernmental contracts and agreements now existing with the Village of Saugatuck.

SECTION 15.10 COUNCIL ACTION.

In all cases involving the transition of the Village of Saugatuck to that under this charter, which are not covered by this schedule, the council shall supply the necessary details and procedures and may adopt such rules, regulations, and ordinances as may be required therefor.

TITLE I: GENERAL PROVISIONS

Chapter

CHAPTER 10: GENERAL PROVISIONS

Section

Cross-reference:

Legislation generally, see Charter Ch. V

§ 10.01 TITLE OF CODE; CONTENTS.

(A) This code of ordinances may be known and cited as the "Saugatuck City Code."

(B) This code contains all ordinances of a general and permanent nature of the city and includes but is not limited to ordinances dealing with municipal administration, public works, traffic regulations, general regulations, business regulations, general offenses and land usage. This code excludes ordinances granting franchises and special privileges, adopting budgets, zoning map changes, or authorizing the borrowing of money or the issuance of bonds.

§ 10.02 INTERPRETATION.

Unless otherwise provided herein, or by law or implication required, the same rules of construction, definition and application shall govern the interpretation of this code as those governing the interpretation of state law.

§ 10.03 APPLICATION TO FUTURE ORDINANCES.

All provisions of Title I compatible with future legislation, shall apply to ordinances hereafter adopted amending or supplementing this code unless otherwise specifically provided.

§ 10.04 CAPTIONS.

(A) Headings and captions used in this code other than the title, chapter and section numbers are employed for reference purposes only and shall not be deemed a part of the text of any section.

(B) No provision of this code shall be held invalid by reason of deficiency in any chapter or section heading.

§ 10.05 DEFINITIONS.

(A) *General rule*. Words and phrases shall be taken in their plain, or ordinary and usual sense. However, technical words and phrases having a peculiar and appropriate meaning in law shall be understood according to their technical import.

(B) *Definitions*. For the purpose of this code, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

CITY, MUNICIPAL CORPORATION or ***MUNICIPALITY***. The City of Saugatuck, Michigan.

CODE, THIS CODE or ***THIS CODE OF ORDINANCES.*** This municipal code as modified by amendment, revision and adoption of new titles, chapters or sections.

COUNTY. Allegan County, Michigan.

MAY. The act referred to is permissive.

MONTH. A calendar month.

OATH. An affirmation in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the words ***SWEAR*** and ***SWORN*** shall be equivalent to the words ***AFFIRM*** and ***AFFIRMED***.

OFFICER, OFFICE, EMPLOYEE, COMMISSION or ***DEPARTMENT.*** An officer, office, employee, commission or department of this municipality unless the context clearly requires otherwise.

PERSON. Includes any individual, co-partnership, corporation, association, club, joint venture, estate, trust and any other group or combination acting as a unit, and the individuals constituting the group or unit.

PRECEDING or ***FOLLOWING.*** Next before or next after, respectively.

PUBLIC PLACE. Any place to or upon which the public resorts or travels, whether the place is owned or controlled by the city or any agency of the state, or is a place to or upon which the public resorts or travels by custom or by invitation, express or implied.

PUBLIC RIGHT-OF-WAY. The public's right to travel over a public street, highway, alley or waterway.

SHALL. The act referred to is mandatory.

SIDEWALK. That portion of a street between the curb lines or lateral lines and the right-of-way lines which is intended for the use of pedestrians.

SIGNATURE or ***SUBSCRIPTION.*** Includes a mark when the person cannot write.

STATE. The State of Michigan.

STREET, HIGHWAY and ***ALLEY.*** The entire width subject to an easement for public right-of-way, or owned in fee by the city, county or state, of every way or place, of whatever nature, whenever any part thereof is open to the use of the public as a matter of right for purposes of public travel. The word ***ALLEY*** shall mean any such way or place providing a secondary means of ingress and egress from a property.

STREET END. The end of a public street, highway or alley which borders on a public river, lake or stream and includes the riparian rights of the city in and to the water and the land under the water to the middle of the river, lake or stream.

SUBCHAPTER.

(a) A division of a chapter, designated in this code by a heading in the chapter analysis and a capitalized heading in the body of the chapter, setting apart a group of sections related by the subject matter of the heading.

(b) Not all chapters have ***SUBCHAPTERS***.

WRITTEN. Any representation of words, letters or figures, whether by printing or otherwise.

YEAR. A calendar year, unless otherwise expressed.

§ 10.06 RULES OF INTERPRETATION.

The construction of all ordinances of this municipality shall be by the following rules, unless the construction is plainly repugnant to the intent of the legislative body or of the context of the same

ordinance:

(A) ***AND*** or ***OR.*** Either conjunction shall include the other as if written "and/or," if the sense requires it.

(B) *Acts by assistants*. When a statute or ordinance requires an act to be done which, by law, an agent or deputy as well may do as the principal, the requisition shall be satisfied by the performance of such act by an authorized agent or deputy.

(C) *Gender; singular and plural; tenses*. Words denoting the masculine gender shall be deemed to include the feminine and neuter genders; words in the singular shall include the plural, and words in the plural shall include the singular; the use of a verb in the present tense shall include the future, if applicable.

(D) *General term*. A general term following specific enumeration of terms is not to be limited to the class enumerated unless expressly so limited.

§ 10.07 SEVERABILITY.

(A) It is the legislative intent of the City Council that all provisions of this code be liberally construed to protect and preserve the peace, health, safety and welfare of the inhabitants of the city.

(B) Should any provision of this code or part thereof be held unconstitutional or invalid, such holding shall not be construed as affecting the validity of any of the remaining provisions, and the remainder of this code shall stand, notwithstanding the invalidity of any such provision thereof.

§ 10.08 REFERENCE TO OTHER SECTIONS.

Whenever in one section reference is made to another section hereof, the reference shall extend and apply to the section referred to as subsequently amended, revised, recodified or renumbered unless the subject matter is changed or materially altered by the amendment or revision.

§ 10.09 REFERENCE TO OFFICES.

Reference to a public office or officer shall be deemed to apply to any office, officer or employee of this municipality exercising the powers, duties or functions contemplated in the provision, irrespective of any transfer of functions or change in the official title of the functionary.

§ 10.10 ERRORS AND OMISSIONS.

If a manifest error is discovered, consisting of the misspelling of any words; the omission of any word or words necessary to express the intention of the provisions affected; the use of a word or words to which no meaning can be attached; or the use of a word or words when another word or words was clearly intended to express such intent, the spelling shall be corrected and the word or words supplied, omitted or substituted as will conform with the manifest intention, and the provisions shall have the same effect as though the correct words were contained in the text as originally published. No alteration shall be made or permitted if any question exists regarding the nature or extent of the error.

§ 10.11 OFFICIAL TIME.

The official time, as established by applicable state and federal laws, shall be the official time within this municipality for the transaction of all municipal business.

§ 10.12 REASONABLE TIME.

(A) In all cases where an ordinance requires an act to be done in a reasonable time or requires reasonable notice to be given, reasonable time or notice shall be deemed to mean the time which is necessary for a prompt performance of the act or the giving of the notice.

(B) The time within which an act is to be done, as herein provided, shall be computed by excluding the first day and including the last. If the last day is a Saturday, Sunday or a holiday, it shall be excluded.

§ 10.13 ORDINANCES REPEALED.

This code, from and after its effective date, shall contain all of the provisions of a general and permanent nature pertaining to the subjects herein enumerated and embraced. All prior ordinances pertaining to the subjects treated by this code shall be deemed repealed from and after the effective date of this code; provided, that any sections or parts of any such ordinance which are not permanent and general in nature and which are severable from the remainder of such ordinance are saved from repeal.

§ 10.14 ORDINANCES UNAFFECTED.

(A) All ordinances of a temporary or special nature and all other ordinances pertaining to subjects not embraced in this code shall remain in full force and effect unless herein repealed expressly or by necessary implication.

(B) Ordinances hereafter adopted which are not of a general and permanent nature shall be numbered consecutively, authenticated, published and recorded in the book of ordinances, but shall not be prepared for insertion in this code, nor be deemed a part thereof.

§ 10.15 EFFECTIVE DATE OF ORDINANCES.

All ordinances passed by the legislative body requiring publication shall take effect from and after the due publication thereof, unless otherwise expressly provided. Ordinances not requiring publication shall take effect from their passage, unless otherwise expressly provided.

§ 10.16 REPEAL OR MODIFICATION OF ORDINANCE.

(A) Whenever any ordinance or part of an ordinance shall be repealed or modified by a subsequent ordinance, the ordinance or part of an ordinance thus repealed or modified shall continue in force until the due publication of the ordinance repealing or modifying it when publication is required to give effect thereto, unless otherwise expressly provided.

(B) No suit, proceedings, right, fine, forfeiture or penalty instituted, created, given, secured or accrued under any ordinance previous to its repeal shall in any way be affected, released or discharged, but may be prosecuted, enjoyed and recovered as fully as if the ordinance had continued in force unless it is otherwise expressly provided.

(C) When any ordinance repealing a former ordinance, clause or provision shall be itself repealed, the repeal shall not be construed to revive the former ordinance, clause or provision, unless it is expressly provided.

(D) The adoption of this code shall not be interpreted as authorizing or permitting any use or the continuance of any use of a structure or premises in violation of any ordinance of the city in effect on the date of adoption of this code.

§ 10.17 ORDINANCES WHICH AMEND OR SUPPLEMENT CODE.

(A) This code shall be amended by ordinance.

(B) The title of each amendatory ordinance, adapted to the particular circumstances and purposes of the amendment, shall be substantially as follows:

(1) To amend any section:

"AN ORDINANCE TO AMEND SECTION [SECTIONS] , CHAPTER , TITLE OF THE CODE OF THE CITY OF SAUGATUCK."

(2) To insert a new section, chapter or title:

"AN ORDINANCE TO AMEND THE CODE OF THE CITY OF SAUGATUCK BY ADDING A NEW SECTION [SECTIONS, CHAPTER or TITLE, as the case may be] WHICH NEW SECTION [SECTIONS, CHAPTER or TITLE] SHALL BE DESIGNATED AS SECTION [SECTIONS] , CHAPTER , TITLE [or proper designation if a chapter or title is added] OF SUCH CODE."

(3) To repeal a section, chapter or title:

"AN ORDINANCE TO REPEAL SECTION [SECTIONS] , CHAPTER , TITLE [as the case may be] OF THE CODE OF THE CITY OF SAUGATUCK."

§ 10.18 SECTION HISTORIES; STATUTORY REFERENCES.

(A) As histories for the code sections, the specific number and passage date of the original ordinance, and all amending ordinances, if any, are listed following the text of the code section.

Example: (Ord. passed 5-13-1960; Am. Ord. passed 1-1-1970; Am. Ord. passed 1-1-1980; Am. Ord. passed 1-1-1985)

(B) (1) If a statutory cite is included in the history, this indicates that the text of the section reads substantially the same as the statute.

Example: (M.C.L.A. § 15.231) (Ord. passed 1-1-1980; Am. Ord. passed 1-1-1985).

(2) If a statutory cite is set forth as a "statutory reference" following the text of the section, this indicates that the reader should refer to that statute for further information.

Example:

§ 39.01 PUBLIC RECORDS AVAILABLE.

This municipality shall make available to any person all public records for inspection or copying, unless otherwise exempted by state law.

Statutory reference:

For provisions concerning the inspection of public records, see M.C.L.A. §§ 15.231 et seq.

§ 10.19 SERVICE OF NOTICE; INTERFERENCE WITH NOTICES OF THE CITY.

(A) *Service of notice*. Except where the manner of service of notice is specifically provided for in sections of the City Charter, or in any section of this code requiring notice, the notice shall be served by:

(1) Delivering the notice to the owner personally or by leaving the notice at his or her residence, office or place of business, with some person of suitable age and discretion;

(2) Mailing the notice by registered mail or first class mail (accompanied by proof of service) to the owner at his or her last known address;

(3) Posting the notice in some conspicuous place on the premises of his or her last known residence or business address; or

(4) Publication of the notice in a newspaper having a general circulation in the city.

(B) *Interference with notices of the city*. No person shall interfere with, obstruct, mutilate, conceal or tear down any official notice posted by any city officer unless permission therefor has been given by the officer.

Penalty, see § 10.99

§ 10.20 RESPONSIBILITY FOR VIOLATIONS.

Whenever any act or omission to act is a violation of this code, including the amendments thereto, or a violation of any rule or regulation adopted thereunder, any person who causes, secures, aids or abets such violation may be prosecuted, and on conviction thereof, shall be punished as if he or she had directly committed the violation.

Penalty, see § 10.99

§ 10.21 MUNICIPAL CIVIL INFRACTION SYSTEM.

(A) *Definitions*. For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ACT. Public Act 236 of 1961, as amended, being M.C.L.A. §§ 600.8801 through 600.8835.

AUTHORIZED CITY OFFICIAL. The City Manager, Building Official, Police Chief, any police officer, Fire Chief, any firefighter, Zoning Administrator or other officer of the city authorized by resolution or ordinance of the City Council to issue municipal civil infraction notices or citations.

BUREAU. The City of Saugatuck Municipal Ordinance Violations Bureau as established by this section.

MUNICIPAL CIVIL INFRACTION. An act or omission that is prohibited by any ordinance of the city, but which is not a crime under an ordinance of the city, and for which civil sanctions including, without limitation, fines, damages, expenses and costs may be ordered.

MUNICIPAL CIVIL INFRACTION ACTION. A civil action in which the defendant is alleged to be responsible for a municipal civil infraction.

MUNICIPAL CIVIL INFRACTION CITATION. A written complaint or notice prepared by an authorized city official, directing a person, firm, corporation, trust, partnership or other legal entity to appear in court regarding the occurrence or existence of a municipal civil infraction violation by the persons cited.

MUNICIPAL CIVIL INFRACTION VIOLATION NOTICE. A written notice prepared by an authorized city official, directing a person, firm, corporation, trust, partnership or other legal entity to appear at the 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 §§ 8396 and 8707(6) of the Act.

SUBSEQUENT VIOLATION. A repeat municipal civil infraction violation within a period of two years of the same requirement or provision of an ordinance committed by a person, firm, corporation, trust, partnership or other legal entity and for which the person admits responsibility or is determined to be responsible.

(B) *Bureau*. There is hereby established a City of Saugatuck Municipal Ordinance Violations Bureau as authorized by the Act. The Bureau shall be located at the offices of the City Clerk and shall be supervised by the City Clerk. All costs associated with establishing and maintaining the Bureau shall be borne by the city.

(C) *Municipal civil infraction violation notice*. Municipal civil infraction violation notices shall specify 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 which the Bureau is open, the amount of the fine scheduled for the alleged violation, the amount of any costs associated with the prosecution of the action and the consequences for failure to appear and pay the required fine within the required time.

(D) *Schedule of fines established*.

(1) A schedule of civil fines payable at the Bureau for admissions of responsibility by persons served with municipal ordinance violation notices is hereby established. The fines for the violations listed below shall be as follows.

Chapter	***Ordinance Name***	***Fine for First Violation***	***Fine for Second Violation***	***Fine for Third or Any Subsequent Violation***
Chapter	***Ordinance Name***	***Fine for First Violation***	***Fine for Second Violation***	***Fine for Third or Any Subsequent Violation***
Ch. 50	Garbage and Rubbish	$25	$100	$250
Ch. 72	Toy Vehicles	$25	$100	$250
Ch. 91 (as designated)	Animals	$25	$100	$250
Ch. 93	Inoperable Motor Vehicles	$25	$100	$250
Ch. 94	Nuisances	$25	$100	$250
Ch. 96 (as designated)	Streets and Sidewalks	$25	$100	$250
Ch. 110	Business License	$100	$300	$500
Ch. 112	Garage Sales	$25	$100	$250
Ch.150 (as designated)	Building Code	$250	$500	$1,000
Ch.150 (as designated)	International Fire Code	$250	$500	$1,000
Ch. 151	Flood Damage Prevention	$250	$500	$1,000
Ch. 152 (as designated)	Historic District	$100/$2,500	$300/$3,000	$500/$5,000
Ch. 153	Subdivision Regulations	$250	$500	$1,000
Ch. 154	Waterfront Construction	$250	$500	$1,000
Ch. 154	Zoning Code	$100	$300	$500

(2) Copies of the schedule of fines shall be posted at the Bureau as required by the Act.

(E) *Municipal civil infraction violation citation*. If an alleged violator who is served with a municipal civil infraction violation notice does not appear at the Bureau, admit responsibility and pay the civil fine

and costs prescribed by the schedule of fines for the violation within the time specified in the notice, a municipal civil infraction citation may be filed with the District Court and a copy of the citation may be served upon the alleged violator in the manner permitted by the Act. Nothing herein shall limit the authority of the city to issue a municipal civil infraction citation without having first issued a municipal civil infraction notice.

(F) *General penalty for municipal civil infractions*.

(1) Unless another penalty is expressly provided for in division (D) above or another section of this code, any person, firm, corporation, trust, partnership or other legal entity determined responsible for a violation of a city ordinance which has been designated as a municipal civil infraction shall be punishable by a civil fine of $25 for a first violation, $100 for a second violation, and $250 for a third or subsequent violation and shall be liable for the payment of the costs of prosecution in an amount not less than $9, but not more than $500. Each act of violation and every day upon which any such violation shall occur or continue shall constitute a separate offense, and shall make the violator liable for the imposition of a fine for each day.

(2) Notwithstanding any provision in this code to the contrary, in addition to the fines and penalties provided for in this section, the District Court shall have jurisdiction to enforce any judgment, writ or order necessary to enforce any provision of a city ordinance, the violation of which is a municipal civil infraction including, but not limited to, abatement of the violating condition or granting any injunctive relief. In addition, the court may impose the total amount of the civil fine, costs or both as a lien upon the property where the violation occurred.

(Ord. passed 8-9-1999; Am. Ord. 150223-2, passed 2-23-2015)

§ 10.22 AUTHORIZED CITY OFFICIALS.

The City Manager, Clerk, Police Chief, any police officer, Fire Chief, any firefighter, Building Official, Zoning Administrator and Authority Manager are hereby designated as the city officials authorized to issue municipal civil infraction citations and municipal civil infraction violation notices as provided for by city ordinance.

(Ord. passed 8-9-1999)

§ 10.99 GENERAL PENALTY.

(A) Unless another penalty is expressly provided in this code, or in any amendment thereof, a person convicted of a violation of any provision of this code shall be punished by fine not to exceed $500, by imprisonment for not more than 90 days in the county jail, or both, plus applicable costs. Each act of violation and every day upon which the violation shall occur or continue shall constitute a separate offense.

(B) In the event that the doing of any act or the permitting of any condition to exist is declared to be a nuisance by any section of this code, the doing of that act or the permitting of such condition to exist may be punished as provided in division (A) of this section in addition to or as an alternate procedure to injunctive relief in a court of competent jurisdiction or the abatement of the nuisance by procedures provided and permitted in the Charter or this code.

Statutory reference:

Violation of ordinances, maximum penalty authorized, see M.C.L.A. § 117.4i(k)

TITLE III: ADMINISTRATION

Chapter

CHAPTER 30: GENERAL PROVISIONS

Section

§ 30.01 CITY MANAGER; DUTIES GENERALLY.

(A) The City Manager shall see that all laws, ordinances, rules and regulations adopted by the City Council and the provisions of this code are properly enforced. He or she shall attend all meetings of the City Council, regular and special.

(B) During the absence or disability of the City Manager, an acting City Manager shall be appointed in accordance with Charter § 6.2(b).

(C) The City Manager shall be appointed for a term specified by the City Council. If no term is specified, the appointment shall be for an indefinite term. The City Council shall have the authority to enter into a contract with the City Manager. The City Manager may be removed from office upon an affirmative vote of not less than five of the members of the City Council.

(Ord. 080324-2, passed 3-24-2008)

§ 30.02 VACANCIES IN OFFICES.

In case of vacancy in office or during the absence of any administrative officer, the City Manager may designate an interim acting head or perform personally the functions of the office, until the vacancy is filled in accordance with the Charter.

Cross-reference:

Vacancies generally, see Charter §§ 4.7 and 4.8

§ 30.03 ADMINISTRATIVE MANUAL.

(A) The City Manager is authorized to adopt such administrative regulations in addition to, but not inconsistent with, the Charter and this code, as he or she shall deem necessary and proper to provide for the adequate functioning of all departments.

(B) These regulations shall comprise the *Administrative Manual*.

§ 30.04 APPROVAL OF LEGAL DOCUMENTS.

The Mayor shall sign, the City Clerk shall attest to, the City Manager shall approve as to substance, and the City Attorney shall approve as to form all contracts and agreements requiring the assent of the city, unless otherwise provided for by law, Charter, ordinance or the provisions of this code.

§ 30.05 BONDS.

Surety bonds, conditioned for the faithful performance of their respective offices, shall be filed by the following officers of the city in not less than the amounts indicated:

(A) Treasurer: $50,000;

(B) Manager: $25,000;

(C) Clerk: $50,000; and

(D) All other officers of the city and employees (except the Mayor and members of the City Council); blanket bond; $5,000.

Cross-reference:

Surety bonds generally, see Charter § 4.6

§ 30.06 ISSUANCE OR REVIEW OF PERMITS, LICENSES, APPROVALS OR CONTRACTS TO PERSONS INDEBTED TO CITY.

The city shall not review or act on a request for the approval or review of plans, plats, permits, licenses, contracts or similar matters if the applicant is in default of real or personal property taxes due to the city or if the applicant is otherwise financially indebted to the city. Pending appeals filed in good faith in a court or tribunal of competent jurisdiction shall not prohibit the city from acting as requested.

(Ord. 060508-1, passed 5-10-2006)

RETIREMENT PROVISIONS

§ 30.20 AUTHORITY.

(A) The Municipal Employees Retirement Act of 1984, section 36(2)(a); Plan Document Section 36(2)(a), provides that the Retirement Board (effective August 15, 1996):

“shall determine and establish all of the provisions of the retirement system affecting benefit eligibility, benefit programs, contribution amounts, and the election of municipalities, judicial circuit

courts, judicial district courts, and judicial probate courts to be governed by the provisions of the retirement system ... [and] to establish additional programs including but not limited to defined benefit, defined contribution, ancillary benefits, health and welfare benefits, and other postemployment benefit programs" (as amended by 2004 PA 490).

(B) Pursuant to the Board's powers, the MERS Plan Document of 1996 was adopted effective October 1, 1996, and the Plan has been amended periodically by the Board. The MERS Plan, an agent, multiple employer, public employee pension plan, has been determined by the Internal Revenue Service to be a governmental plan that is tax qualified as a trust under Code section 401(a) and exempt from taxation under section 501(a) (Letter of Favorable Determination dated June 15, 2005; and letter dated July 8, 1997).

(Ord. 091012-1, passed 10-12-2009)

§ 30.21 PURPOSE.

(A) On March 14, 2006, the Retirement Board authorized establishment of a Hybrid Plan, with a defined benefit (DB) and defined contribution (DC) component. New Section 19B, Benefit Program H, and related plan amendments, create a new Hybrid Program that a participating municipality may adopt for MERS members to be administered in whole or in part under the discretion of the Municipal Employees' Retirement Board as trustee and fiduciary, directly by (or through a combination of) MERS or MERS* duly-appointed third-party administrator for the DC component. On December 1, 2006, the Retirement Board entered into an amended and restated alliance agreement (the "2006 Alliance Agreement") with ICMA-RC (the International City Management Association Retirement Corporation) as third-party administrator for the DC Program or components established under the MERS Plan Document (which replaced the 2001 Alliance Agreement dated November 14, 2001). This Uniform Hybrid Program Ordinance has been approved by the Retirement Board under the authority of MCL 38.1536(2)(a); Plan section 36(2)(a) declaring that the Retirement Board "shall determine . . . and establish" all provisions of the retirement system. Under this authority, the Retirement Board authorized Section 19B, Benefit Program H, which shall not be implemented unless in strict compliance with the terms and conditions of this subchapter as provided under section 19B(17):

(1) In the event any alteration of any provision of section 19B, or other sections of the plan document related to the provisions of Benefit Program H, is made or occurs, under section 43B of the plan document concerning collective bargaining or under any other plan provision or law, adoption of Benefit Program H shall not be recognized, other than in accordance with this section and other sections of the plan document related to the provisions of Benefit Program H.

(2) In the event any alteration of the terms or conditions stated in this subchapter is made or occurs, it is expressly recognized that MERS and the Retirement Board, as sole trustee and fiduciary of the MERS Plan and its trust reserves, and whose authority is nondelegable, shall have no obligation or duty: to administer (or to have administered) the Benefit Program H; to authorize the transfer of any plan assets to the hybrid program; or to continue administration by MERS directly or indirectly, or by any third-party administrator.

(B) Concurrent with the adoption of this subchapter, and as a continuing obligation, the City Council is approving, for submission to MERS, documents necessary for adoption and implementation of MERS Benefit Program H. This obligation applies to any documents deemed necessary to the operation of the DC component by MERS' third-party administrator.

(Ord. 091012-1, passed 10-12-2009)

§ 30.22 NEW EMPLOYEE PLAN QUALIFICATIONS.

Effective November 1, 2009, (to be known as the adoption date), the city hereby adopts Benefit Program H for employees hired after May 1, 2004 first hired or rehired or transferred to the division at any time on and after the adoption date, and optional participation for any employee or officer of this

municipality otherwise eligible to participate in MERS under Section 2B(3)(a) of the Plan Document who has previously elected to not participate in MERS. Only those employees eligible for MERS membership (Section 2B(3) and 3 of the plan document) shall be eligible to participate.

(A) *Hybrid plan contributions*.

(1) The DB component shall be exclusively funded by the employer, with no member contributions permitted.

(2) For the DC component, employee and employer contributions shall be required as allowed and specified in plan section 19B(6) and the MERS Uniform Hybrid DC Component Adoption Agreement ("Adoption Agreement," completed and approved and a certified copy submitted to MERS concurrent with and incorporated by reference in this subchapter.) A member is immediately 100% vested in any employee contributions, and is vested in employer contributions under the employer vesting schedule.

(B) *Compensation and earnings.*

(1) For the DB component, earnings shall include items of "compensation" under Section 2A(6) of the MERS Plan Document, with the exception of the last sentence, which shall not apply.

(2) For the DC component, earnings shall include items of "compensation" under Section 2A(6) of the MERS Plan Document as provided for Benefit Program DC, which equals the Medicare taxable wages as reported by the employer on the member's federal form W-2, wage and tax statement.

(C) *Hybrid Plan Vesting*.

(1) For the DB component, 6 year vesting is mandatory.

(2) For the DC component, employee and employer contributions shall be required as allowed and specified in plan section 19B(6) and the adoption agreement. A member is immediately 100% vested in any employee contributions, and is vested in employer contributions under the employer vesting schedule.

(3) As provided in Section 19B(16), where a member has previously acquired in the employ of any participating municipality or participating court:

(a) Not less than 1 year of defined benefit service in force with a participating municipality or participating court;

(b) Eligible credited service where the participating municipality or participating court has adopted the Reciprocal Retirement Act, 1961 PA 88; or,

(c) At least 12 months in which employer contributions by a participating municipality or participating court have been made on behalf of the member under benefit program DC.

such service shall be applied toward satisfying the vesting schedule for the DB component, and for the DC component, for employer contributions.

(D) *Benefits under hybrid plan; for the DB component.*

(1) The Benefit Multiplier (Plan Section 19B(2)) initially selected shall be irrevocable, shall not later be changed and shall be 1.5% times (x) years of service times (x) FAC.

(2) Final Average Compensation (FAC) shall be FAC-3 (Plan Section 19B(4)).

(3) The Benefit shall be payable at age 60 (Plan Section 19B(3)(b)).

(4) Credited Service shall be comprised solely of the sum of (a) the total of the member's credited service under the previous DB program on the effective date of coverage under the Hybrid Plan (Plan

Section 19B(14)(b)(ii); see II (E)(b)(ii) below); plus (b) credited service earned by the member after the effective date of coverage under the Hybrid Plan (Plan Section 19B(15)(b)).

(E) *Benefits Under Hybrid Plan; for the DC Component (Plan Section 19B(10))*. Upon termination of membership, a vested former member or a beneficiary, as applicable, shall elect 1 or a combination of several of the following methods of distribution of the vested former member's or beneficiary's accumulated balance, to the extent allowed by federal law and subject to Plan Section 19B(9)(b) and procedures established by the Retirement Board:

(1) Lump sum distribution to the vested former member or beneficiary.

(2) Lump sum direct rollover to another eligible retirement plan, to the extent allowed by federal law.

(3) Annuity for the life of the vested former member or beneficiary, or optional forms of annuity as determined by the Retirement Board.

(4) No distribution, in which case the accumulated balance shall remain in the retirement system, to the extent allowed by federal law.

(Ord. 091012-1, passed 10-12-2009)

§ 30.23 TRANSFER OF CURRENT MERS DC PROGRAM MEMBERS TO HYBRID PROGRAM FOR NEW EMPLOYEES.

(A) (1) Effective on the adoption date, pursuant to Plan Section 19B(11), all current MERS defined contribution members who are members of the same employee classification described in Section 1 above on the adoption date shall be offered the opportunity to irrevocably elect coverage under Benefit Program H. Section 19B(12) specifies an employee's written election to participate shall be filed with MERS:

(a) Not earlier than the last day of the third month after this subchapter is adopted and Ord. 091012-1 is received by MERS; and

(b) Not later than the first day of the first calendar month that is at least 6 months after MERS receives Ord. 091012-1. This means each eligible employee will have about 90 days to make the decision.

(2) After MERS receives Ord. 091012-1, this governing body's authorized official and eligible employees will be advised by MERS of the election window timelines and other information to consider in making the irrevocable decision whether to participate in Benefit Program H.

(3) Participation for those electing coverage shall be effective the first day of the first calendar month at least 6 months after MERS' receipt of the Ordinance, here designated as being the month of November 1, 2009, shall be known as the "CONVERSION DATE."

(4) The opportunity for current employees on the adoption date to participate in the Hybrid Program shall not apply to any employee who separates from or terminates employment with this municipality after the adoption date.

(B) Contributions shall be as provided in § 30.22(A).

(C) Compensation and earnings shall be as provide in § 30.22(B).

(D) Hybrid Plan Vesting shall be as provided in § 30.22(C).

(E) For each employee irrevocably electing to participate in Benefit Program H, then under Plan Section 19B(15), the following shall apply:

(1) The accumulated balance in the reserve for defined contribution plan under Benefit Program DC. if any, as of 12:01 a.m. on the day the member becomes covered by Benefit Program H shall be transferred to the reserve for defined contribution plan under Benefit Program H.

(2) For purposes of calculating benefit amounts under the defined benefit component of Benefit Program H, only credited service earned after 12:01 a.m. on the day the member becomes covered by Benefit Program H shall be recognized.

(Ord. 091012-1, passed 10-12-2009)

§ 30.24 IMPLEMENTATION DIRECTIONS FOR MERS HYBRID PROGRAM DC COMPONENT TO THIRD-PARTY ADMINISTRATOR.

(A) The City Council of this MERS participating municipality, as Employer, desires that MERS Hybrid Program DC Component be administered by MERS' duly-designated third-party administrator and that some or all of the funds held under such plan be invested in the TPA's retirement trust established for the collective investment of funds held under the Employer's retirement, defined contribution, and deferred compensation plans.

(B) The Employer hereby establishes MERS Hybrid Program DC Component as authorized by Section 19B(5)-(16) of the Municipal Employees' Retirement System of Michigan Plan Document, in the form of the third-party administrator's IRS-qualified retirement trust.

(C) The Declaration of Trust of the Vantage Trust, adopted and executed concurrent with and incorporated by reference in this subchapter, is operative and applies with respect to any MERS Hybrid Program DC component, DC plan, retirement or deferred compensation plan previously or subsequently established by the employer, if the assets are to be invested in the Vantage Trust.

(D) The City Manager shall be the Employer's MERS Hybrid Program Plan coordinator; shall receive necessary reports, notices, etc. from MERS and the third-party administrator or its retirement trust; shall cast, on behalf of the Employer, any required votes under the retirement trust; may delegate any administrative duties relating to the defined contribution plan to appropriate departments.

(E) The Municipal Employees' Retirement Board retains full and unrestricted authority over the administration of MERS Benefit Program H, including but not limited to the appointment and termination of the third-party administrator, or MERS' self-administration of the defined contribution program in whole or in part.

(Ord. 091012-1, passed 10-12-2009)

§ 30.25 LEGAL EFFECT OF SUBCHAPTER.

This subchapter shall have no legal effect under the MERS Plan Document until a certified copy of Ordinance 091012-1 is filed with MERS, and MERS determines that all necessary requirements under Plan Document Section 19B, Ordinance 091012-1, and other applicable requirements have been met. All dates for implementation of Benefit Program H under Section 19B shall be determined by MERS from the date of filing with MERS of Ordinance 091012-1 in proper form and content. Upon MERS determination that all necessary documents have been submitted to MERS, MERS shall record its formal approval upon Ordinance 091012-1, and return a copy to the Employer's Hybrid Program Plan Coordinator identified in § 30.23(D). In the event an amendatory ordinance or other action by the City Council is required, such ordinance or action will be deemed effective as of the date of the initial ordinance or action where concurred in by the City Council and MERS (and the third-party administrator if necessary). Section 54 of the Plan Document shall apply to this subchapter and all acts performed under its authority. The terms and conditions of this ordinance supersede and stand in place of any prior ordinance or resolution, and its terms are controlling.

(Ord. 091012-1, passed 10-12-2009)

CHAPTER 31: DEPARTMENTS, BOARDS AND COMMISSIONS

Section

Cross-reference:

Board of Review, see Charter §§ 8.6 et seq.

Historic District Commission, see § 152.06

Planning Commission review of marihuana establishments, see § 98.04

Zoning Board of Appeals, see §§ 154.150 et seq. and Charter § 6.12

GENERAL PROVISIONS

§ 31.01 DEPARTMENTS; REGULATIONS GENERALLY.

All departments of the city shall comply with the following:

(A) All department heads shall keep informed as to the latest practices in their particular fields and shall inaugurate, with the approval of the City Manager in the case of departments responsible to him or her, or in the case of other departments, with the approval of the officer or body to whom the department head is responsible, such new practices as appear to be of benefit to the service and to the public;

(B) Reports of the activities of each department shall be made to the City Manager as he or she shall direct; and

(C) Each department head shall be held responsible for the preservation of all public records under his or her jurisdiction and shall provide a system of filing and indexing the same. No public records, reports, correspondence or other data relative to the business of any department shall be destroyed or removed permanently from the files without the knowledge and approval of the City Council and shall be subject to the provisions of this chapter.

§ 31.02 EMERGENCY DECLARATIONS.

(A) The novel coronavirus (COVID-19) is a respiratory disease that can result in serious illness or death and is easily spread from person to person. In light of this, it is the judgment of the Saugatuck City Council that it must be able to continue to hold public meetings virtually. As authorized by Michigan's Open Meetings Act, Act No. 267 of the Public Acts of 1976, as amended, after January 1, 2021, virtual public meetings will only be legally allowed under certain limited circumstances. Among such circumstances is when a local official or governing body has declared a local state of emergency to limit the risk to health and safety of members of the public and the public body. Michigan law, including without limitation the Emergency Management Act, Act No. 390 of the Public Acts of Michigan of 1976, as amended (the "Act"), permits a municipality to declare a local state of emergency in certain identified circumstances. It is the City Council's intent, in adopting this section, to set forth a method and process by which a declaration of local state of emergency can occur if necessary.

(B) Pursuant to the Act, the City Council of the City of Saugatuck hereby designates the City Manager as its emergency management coordinator and who shall serve at the direction of the Allegan County Emergency Management Coordinator.

(C) The city may declare a local state of emergency if circumstances indicate that the occurrence or threat of widespread or severe damage, injury, or loss of life or property from a natural or human-made cause exists. This power shall be vested in the Mayor but may not be continued or renewed for a period in excess of seven days except with the consent of the City Council. The declaration of a local state of emergency shall be promptly filed with the emergency management division of the Department of the Michigan State Police, unless circumstances attendant upon the disaster prevent or impede its prompt filing. For purposes of this section, "local state of emergency" shall mean a proclamation or declaration that activates the response and recovery aspects of any and all applicable local or interjurisdictional emergency operations plans and authorizes the furnishing of aid, assistance, and directives under those plans.

(D) The city may take such further actions relative to a local state of emergency as permitted by Act 390 or other applicable laws. Nothing in this section shall be interpreted to limit the power of city officials to petition the State of Michigan or any officer thereof as permitted by law with respect to local emergencies.

(Ord. 201123-A, passed 11-23-2020; Am. Ord. 201214-A, passed 12-14-2020)

CITY PLANNING COMMISSION

§ 31.30 PLANNING COMMISSION CONTINUED.

The Planning Commission heretofore created is hereby continued with all authority as set forth in the Michigan Zoning Enabling Act, Act 110 of 2006, being M.C.L.A. §§ 125.3101 through 125.3702 as amended. It shall be known as the City Planning Commission.

(Am. Ord. 140811-1, passed 8-11-2014; Am. Ord. 150413-1, passed 4-13-2015)

Cross-reference:

City planning generally, see Charter § 6.11

§ 31.31 TERMS OF OFFICE.

The membership of the City Planning Commission shall consist of a member of the City Council who shall be selected by the Council and whose term of office shall correspond with his or her term as a Council member; and six residents of the city who shall be appointed by the Mayor, subject to the approval by a majority vote of the members elect of the City Council.

(Ord. passed 5-13-2002; Am. Ord. 191209-2, passed 12-9-2019)

§ 31.32 HOLDING OTHER OFFICE.

No member of the City Planning Commission shall hold any other municipal office except the Council member to be appointed as herein provided and except that one member may also be a member of the City Zoning Board of Appeals.

(Ord. passed 5-13-2002)

§ 31.33 TERMS OF APPOINTED MEMBERS.

The terms of each appointed member, other than the Council member referred to above, shall be three years or until his or her successor takes office.

§ 31.34 COMPENSATION; REMOVAL; VACANCIES.

(A) All members of the City Planning Commission shall serve as such without compensation but may receive reimbursement for reasonable and necessary expenses incurred in the exercise of their duties.

(B) Any member may, after a public hearing, be removed by the Mayor for inefficiency, neglect of duty, or malfeasance in office.

(C) Vacancies occurring otherwise than through the expiration of term shall be filled for the unexpired term by the Mayor in the case of members selected or appointed by him or her, and by the City Council in the case of the Council member.

§ 31.35 ORGANIZATION.

The City Planning Commission shall elect its Chairperson from amongst its appointed members and fill such other of its offices as it may determine. The term of the Chairperson shall be one year with eligibility of re-election. The City Planning Commission shall hold at least one regular meeting in each month and shall adopt rules for transaction of business and shall keep a record of its resolutions, transactions, findings and determinations, which record shall be a public record.

§ 31.36 POWERS.

The City Planning Commission shall have and exercise all of the powers granted to it under the provisions of the Michigan Zoning Enabling Act, Act 110 of 2006, being M.C.L.A. §§ 125.3101 through 125.3702, and any amendments thereto, and shall perform all of the duties on its part to be performed as provided in that Act, and shall be subject to all of the regulations therein provided.

(Am. Ord. 150413-1, passed 4-13-2015)

COMPENSATION COMMISSION

§ 31.40 PURPOSE.

Consistent with Charter § 4.10, members of the City Council are to be compensated on a per meeting basis for attendance at regular and special meetings of the Council. The manner and amount of such compensation is subject to the review of a Compensation Commission to be established by

this subchapter. Sections 31.40 through 31.43 are intended to establish and set forth the composition and powers of a Compensation Commission as provided for in Charter § 4.10.

(Ord. 170925-1, passed 9-25-2017)

§ 31.41 COMPENSATION COMMISSION; MEMBERSHIP.

A Compensation Commission is hereby created which shall review and recommend compensation for members of the City Council including the Mayor. The Compensation Commission shall consist of three individuals who are registered electors of the city. Compensation Commission members shall be appointed by the Mayor and subject to confirmation by a majority of the members elected and serving on the City Council. Terms of office shall be three years. All first members shall be appointed within 30 days after September 28, 2017 and, thereafter, members shall be appointed at the first regular meeting of the City Council in each applicable calendar year. Vacancies shall be filled for the remainder of an unexpired term. No officer, employee or contractor of the city or immediate family members of the same shall be eligible to serve on the Compensation Commission.

(Ord. 170925-1, passed 9-25-2017)

§ 31.42 COMPENSATION RECOMMENDATIONS.

The Commission shall review current compensation levels for members of the City Council and such other information as the Commission deems pertinent, and shall, based on that review, make a recommendation to the City Council with regard to proposed modifications to be made (if any) to the compensation paid to Council members including the Mayor. The recommendation of the Compensation Commission shall not become effective unless affirmatively approved by a majority of the members elected and serving on the City Council. If a recommendation to modify the current compensation paid to Council members is not approved, then existing compensation amounts shall continue to be in effect.

(Ord. 170925-1, passed 9-25-2017)

§ 31.43 MEETINGS; QUORUM; CHAIRPERSON; COMPENSATION; CONFERENCE WITH OFFICIALS REQUIRED.

The Compensation Commission shall meet at the call of a majority of the Council members elected and serving. Any recommendation to be made to the City Council as provided for in § 31.42 shall be placed on a regular meeting agenda for the City Council's consideration. To the extent permitted by law, the City Council need not act on the recommendation at the meeting at which it is presented. A majority of the members of the Compensation Commission shall constitute a quorum for conducting the business of such commission. The Compensation Commission shall take no action or make any recommendation without the approval of a majority of its members appointed and serving. The Compensation Commission shall elect a Chairperson from among its members. The members of the Compensation Commission shall receive no compensation, but shall be entitled to their actual and necessary expenses incurred in the performance of their duties. The Compensation Commission shall confer with members of the City Council including the Mayor prior to making a recommendation as provided for herein.

(Ord. 170925-1, passed 9-25-2017)

CHAPTER 32: FINANCE AND TAXATION

Section

Cost Recovery

Cross-reference:

Board of Review, see Charter §§ 8.6 et seq.

Finance, borrowing, special assessments and taxation generally, see Charter Ch. VII through X

Treasurer, Assessor, financial accounting, see Charter §§ 6.5, 6.7 and 6.9

GENERAL PROVISIONS

§ 32.01 PAYMENT OF MONEY.

City funds shall be paid out upon approval of the payment by the City Council, and shall be issued and drawn in accordance with the City Charter. Checks must be signed by the Mayor or Mayor Pro Tem and by the City Clerk or City Manager.

(Ord. passed 10-10-1988; Am. Ord. 060327, passed 3-27-2006)

TAX EXEMPTION ORDINANCE FOR OLDE MILL APARTMENTS

§ 32.02 PREAMBLE.

(A) It is a proper public purpose of the state and its political subdivisions to provide housing for citizens of low and moderate income and to encourage the development of such housing by providing for a service charge in lieu of property taxes in accordance with the State Housing Development Authority Act of 1966 (Public Act 346 of 1966) as amended, being M.C.L.A. §§ 125.1401 et seq. The city is authorized pursuant to the Act to establish, prohibit, or change a service charge to be paid in lieu of taxes by any or all classes of housing exempt from taxation under the Act at any amount it chooses, not to exceed the taxes that would be paid but for the Act. Such housing for persons of low and moderate income is a public necessity, and as the city will be benefitted and improved by such housing, the encouragement of the same by providing certain real estate tax exemption for such housing is a valid public purpose; further, that the continuance of the tax exemption and the service charge in lieu of taxes during the period contemplated in this subchapter are essential to the determination of economic feasibility of the Housing Development identified in this subchapter.

(B) Olde Mill Limited Dividend Housing Association Limited Partnership (the “Sponsor”) has proposed, subject to receipt of an allocation under the Low Income Housing Tax Credit Program (LIHTC) from the state Housing Development Authority, to renovate, restore, own, and operate a housing development identified as Olde Mill Apartments on property located at 712 N. Maple in the city (the “Project”), to serve persons of low and moderate income, and has offered to pay the city on account of this housing development an annual service charge for public services in lieu of taxes on that part of the development designed for and occupied by persons of low and moderate income.

(Ord. 110613-1, passed 6-13-11)

§ 32.03 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ACT. The state Housing Development Authority Act, being Public Act 346 of 1966 of the state, as amended.

AUTHORITY. The state Housing Development Authority.

HOUSING DEVELOPMENT. A development which contains a significant element of housing for persons of low and moderate income and such elements of other housing, commercial, recreational,

industrial, communal, and educational facilities as the Authority determines improve the quality of the development as it relates to housing for persons of low income.

LOW INCOME. People eligible to live in the Housing Development as defined in § 15a of the Act, being M.C.L.A. § 125.1415a.

SPONSOR. Olde Mill Limited Dividend Housing Association Limited Partnership, which has applied to the Authority for an allocation of low income housing tax credits to finance the project, a type of housing development.

(Ord. 110613-1, passed 6-13-11)

§ 32.04 CLASS OF HOUSING DEVELOPMENTS.

It is determined that the class of housing developments to which the tax exemption shall apply and for which a service charge shall be accepted in lieu of such taxes shall be the multi-family project, as § 32.02. Adoption of this subchapter shall not be deemed precedent for other pilot projects.

(Ord. 110613-1, passed 6-13-11)

§ 32.05 ESTABLISHMENT OF ANNUAL SERVICE CHARGE.

(A) The housing development identified as Olde Mill and the property upon which it sits shall be exempt from all property taxes as provided in the Act and this subchapter from and after the date that restoration of the project is substantially completed as evidenced by a certificate of occupancy from the applicable public authority; provided, however, that this exemption shall not apply to accessory fixtures or structures located on the property (e.g., cell towers, etc.). The city, acknowledging that the sponsor and the Authority have established the economic feasibility of the housing development in reliance upon the enactment and continuing effect of this subchapter and the qualification of the housing development for exemption from all property taxes and a payment in lieu of taxes as established in this subchapter, and in consideration of the sponsor's offer, subject to receipt of an allocation of LIHTC from the Authority, to construct, own, and operate the housing development, agrees to accept payment of an annual service charge for public services in lieu of all property taxes attributable to the portion of the project occupied by persons of low or moderate income. The exemption is contingent on the sponsor remaining current with all annual service charges.

(B) The initial annual service charge shall be equal to $18,667.64 (which is equal to the tax on the property on which the project is located for the 2011 tax year). In each succeeding year the annual service charge shall increase by the same percentage increase set forth in the inflation rate multiplier developed and published by the state for the immediately preceding year, but shall not increase by more than 3% in any one year. However, in no event, shall the service charge drop below the taxes paid on the property on which the project is located for the 2011 tax year, nor shall the service charge exceed the taxes that would be paid but for the Act or this subchapter.

(Ord. 110613-1, passed 6-13-11)

§ 32.06 LIMITATION ON THE PAYMENT OF ANNUAL SERVICE CHARGE.

Notwithstanding § 32.05, the service charge to be paid each year in lieu of taxes for the part of the housing development which is tax exempt and which is occupied by other than low or moderate income persons or families shall be equal to the full amount of the taxes which would be paid on that portion of the housing development if the housing development were not tax exempt.

(Ord. 110613-1, passed 6-13-11)

§ 32.07 CONTRACTUAL EFFECT OF SUBCHAPTER.

Notwithstanding the provisions of § 15a(5) of the Act to the contrary (M.C.L.A. § 125.1215a(5)), a contract between the city and the sponsor, with the Authority as third-party beneficiary under the contract, to provide tax exemption and accept payments in lieu of taxes, as previously described, is effectuated by enactment of this subchapter.

(Ord. 110613-1, passed 6-13-11)

§ 32.08 PAYMENT OF SERVICE CHARGE.

The annual service charge in lieu of taxes authorized in accordance with this subchapter shall be payable in the same manner as general property taxes are payable to the city, except that the annual payment shall be paid on or before July 1 of each year.

(Ord. 110613-1, passed 6-13-11)

§ 32.09 DURATION.

The tax exemption shall commence on the last day of the calendar year in which the city issues its certificate of occupancy as described in § 32.05 and shall thereafter remain in effect for 30 years; provided, however, that renovation of the housing development commences within two years from the effective date of this subchapter and that the sponsor is not in default of the annual service charge.

(Ord. 110613-1, passed 6-13-11)

§ 32.10 NON-APPLICATION OF EXEMPTION.

Except as expressly authorized by this subchapter, the property tax exemption available pursuant to the Act shall not apply or be available to other housing projects financed with federally-aided or Authority-aided mortgages, advances, credits, or grants owned by a non-profit housing corporation, consumer cooperative, limited dividend housing corporation, mobile home park corporation, or mobile home park association.

(Ord. 110613-1, passed 6-13-11)

§ 32.11 SEVERABILITY.

The various sections and provisions of this subchapter shall be deemed to be severable. If any section or provision of this subchapter be declared by any court of competent jurisdiction to be unconstitutional or invalid, this determination shall not affect the validity of the subchapter as a whole or any section or provision of this subchapter other than the section or provision so declared to be unconstitutional or invalid.

(Ord. 110613-1, passed 6-13-11)

PURCHASES, CONTRACTS AND SALES

§ 32.15 PURCHASING AGENT.

The City Manager shall act as Purchasing Agent of the city, or, under his or her responsibility, delegate such duties to some officer or employee of the city and shall adopt any necessary rules respecting requisitions and purchase orders.

§ 32.16 PURCHASES OR CONTRACTS UNDER $10,000.

(A) Purchases of supplies, materials or equipment, the cost of which is less than $10,000, may be made in the open market but those purchases shall, where practicable, be based on at least three competitive bids. The Purchasing Agent may solicit bids verbally or by telephone, or may contact prospective bidders by written communication.

(B) If a contract is to be awarded, it shall be awarded to the bidder whose bid is in the best interest of the city. When determining whether a bid is in the best interest of the city, the price bid and other relevant factors, including, without limitation, reputation and reference, shall be considered, but the price bid shall not necessarily be the determining factor. If the Purchasing Agent shall find any of the bids to be satisfactory, the Purchasing Agent, subject to the rights reserved in the last sentence of this subsection, shall accept the bid which is in the best interest of the city, unless the City Council has expressly reserved the right to have the City Council accept the bid. If the City Council has expressly reserved the right to accept the bid, the bid or bids received shall be examined, tabulated and reported to the City Council with the recommendation of the Purchasing Agent. When the bids are submitted to the City Council, if the City Council shall find any of the bids to be satisfactory, the City Council, subject to the rights reserved in the last sentence of this subsection, shall accept the bid of the low qualified bidder. The award may be by resolution or ordinance. The City Council shall have the right to reject any or all bids and to waive irregularities in bidding and to accept bids which do not conform in every respect to the bidding requirements.

(Am. Ord. 090427-1, passed 4-27-2009)

§ 32.17 PURCHASES OR CONTRACTS OVER $10,000.

(A) Any expenditure for supplies, materials, equipment, construction project or contract obligating the city, where the amount of the city's obligation is in excess of $10,000, shall be approved by the City Council and shall be governed by the provisions of this section.

(B) The expenditure shall be made the subject of written contract when directed by the City Council. A purchase order shall be a sufficient written contract in cases where the expenditure is in the usual and ordinary course of the city's affairs.

(C) The Purchasing Agent shall solicit bids from a reasonable number of the qualified prospective bidders as are known to him or her by sending each a copy of the notice requesting bids. Bids shall be solicited by newspaper advertisement when directed by the City Council.

(D) Unless prescribed by the City Council, the City Manager shall prescribe the amount of any security to be deposited with any bid which deposit shall be in the form of cash, certified or cashier's check or bond written by a surety company authorized to do business in the state. The amount of the security shall be expressed in terms of percentage of the bib submitted. Unless fixed by the City Council, the City Manager shall fix the amount of the performance bond and in the case of construction contracts, the amount of the labor and materials bond to be required of the successful bidders.

(E) Bids shall be opened in public at the time and place designated in the notice requesting bids in the presence of the Purchasing Agent and at least one other city official. The bids shall thereupon be carefully examined and tabulated and reported to the City Council with the recommendation of the Purchasing Agent at the next Council meeting. The recommendation of the Purchasing Agent may take into account such relevant factors as reputation and references. After tabulation, all bids may be inspected by the competing bidders. In lieu of the procedure for opening bids herein specified, the City Council may direct that bids be opened at a Council meeting.

(F) When the bids are submitted to the City Council, if the City Council shall find any of the bids to be satisfactory, the City Council, subject to the rights reserved in the last sentence of this subsection, shall accept the bid of the low qualified bidder. The award may be by resolution or ordinance. The City Council shall have the right to reject any or all bids and to waive irregularities in bidding and to accept bids which do not conform in every respect to the bidding requirements.

(G) (1) At the time the contract is executed by him or her, the contractor shall file a bond executed by a surety company authorized to do business in the state, to the city, conditioned to pay all laborers, mechanics, subcontractors and material laborers as well as all just debts, dues and demands incurred in the performance of the work and shall file a performance bond when one is required.

(2) The contractor shall also file evidence of public liability insurance naming the city harmless from loss or damage caused to any person or property by reason of the contractor's negligence.

(H) All bids and deposits of certified or cashier's checks may be retained until the contract is awarded and signed. If any successful bidder fails or refuses to enter into the contract awarded to him or her within 15 days (or such alternative period of time as specified in the bid solicitation materials) after a notice of award has been issued by the city, or fails to file with the city all required bonds and evidence of insurance within the same time, the deposit accompanying his or her bid shall be forfeited to the city, and the City Council may, in its discretion, award the contract to the next lowest qualified bidder or the contract may be re-advertised.

(Am. Ord. 090427-1, passed 4-27-2009)

Statutory reference:

Bidders on public contracts, see M.C.L.A. §§ 123.501 et seq.

§ 32.18 EXCEPTIONS TO COMPETITIVE BIDDING.

Competitive bidding shall not be required in the following cases:

(A) Where the subject of the contract is other than a public work or improvement and the product or material contracted for is not competitive in nature and no advantage to the city could result from requiring competitive bidding, and the City Council, upon written recommendation of the City Manager, authorizes execution of a contract without competitive bidding;

(B) In the employment of professional services;

(C) Where the City Council shall determine that the public interest will be best served by purchase from or joint purchase with another unit of government; and

(D) To take advantage of favorable unit prices in an existing contract with the city, the city may amend the existing contract by issuing a change order, for example, to expand the scope of work without competitive bidding, provided that a substantial majority of the additional work, as determined in the discretion of the Council, shall be performed at the unit prices set forth in the existing contract; and

(E) Where the city elects to undertake the work itself.

(Am. Ord. 090427-1, passed 4-27-2009)

§ 32.19 INSPECTION OF MATERIALS.

The responsibility for the inspection and acceptance of all materials, supplies and equipment shall rest with the City Manager.

§ 32.20 SALE OF PERSONAL PROPERTY.

Any personalty of this city no longer required for public purposes may be sold without competitive bidding by resolution of the City Council. If the value of the personalty is demonstrably less in value than $1,000, no competitive bids or resolution is required and the City Manager may proceed to sale.

PROPERTY TAX SCHEDULE

§ 32.35 TAX PAYMENT SCHEDULE.

The city tax payment schedule, fees and interest for payment as required by Charter § 8.16 shall be as provided in this subchapter.

§ 32.36 ADMINISTRATION FEES AND LATE PENALTY CHARGES.

(A) *General*.

(1) In order to off-set a portion of the tax collection expenses, a property tax administration fee shall be added to each property tax bill in the following manner:

(a) For summer taxes, 1% of the total tax bill per parcel shall be due and payable as a property tax administration fee, which fee shall be added to the summer taxes billed on July 1 of each year and due between July 1 and September 14; and

(b) For winter taxes, 1% of the total tax bill per parcel shall be due and payable as a property tax administration fee, which fee shall be added to the winter taxes billed on December 1 of each year and due between December 1 and February 14 of the ensuing year.

(2) In order to recoup for tax bills not timely paid, a late penalty charge shall be added to a property tax bill as follows:

(a) A late penalty charge equal to 3% of the outstanding tax bill shall be added to those summer tax bills which are not paid as of September 14. The 3% late penalty charge shall thereafter be due and payable in full with taxes paid after September 14 until the last day of February of the ensuing year after which time unpaid taxes are returned to the County Treasurer as delinquent. Under no circumstances shall a late penalty be charged for taxes paid on or before August 10; and

(b) A late penalty charge equal to 3% of the outstanding tax bill shall be added to those winter tax bills which are not paid as of February 14. The 3% late penalty charge shall thereafter be due and payable in full with taxes paid after February 14 until the last day of February of the ensuing year after which time unpaid taxes are returned to the County Treasurer as delinquent.

(B) *Pending rights and proceedings*. Nothing in this section shall be construed to affect any suit or proceeding in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance by this section; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this section.

(Ord. 061009, passed 10-9-2006)

§ 32.37 INTEREST.

(A) All summer taxes which are unpaid as of September 15 of each year shall be subject to interest at a rate of 1% per month. Interest shall be calculated as of the date of payment to the City Treasurer, in the absence of payment until the last day of February of the ensuing year, after which time unpaid taxes are returned to the County Treasurer as delinquent. All interest earned is to accrue to the separate taxing districts or funds in proportion to their percentage of the entire tax bill.

(B) All winter taxes which are unpaid as of February 15 shall be subject to interest calculated at the rate of 1% per month until turned over to the County Treasurer for collection.

SPECIAL ASSESSMENTS

§ 32.50 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

COST. When referring to the cost of any local public improvement, shall include the cost of services, plans, condemnation, spreading of rolls, notices, advertising, financing, construction, legal fees, interest on special assessment bonds for not to exceed one year, and all other costs incident to the making of the improvement, the special assessments therefor and the financing thereof.

LOCAL PUBLIC IMPROVEMENT. Any public improvement which is of such a nature as to benefit especially any real property or properties within a district in the vicinity of the improvement.

§ 32.51 AUTHORITY TO ASSESS.

The whole cost or any part thereof of any local public improvement may be defrayed by special assessment upon the lands specially benefitted by the improvement in the manner hereinafter provided.

§ 32.52 INITIATION OF SPECIAL ASSESSMENT PROJECTS.

Proceedings for the making of local public improvements within the city, the tentative necessity thereof, and the determination that the whole or any part of the expense thereof shall be defrayed by special assessment upon the property especially benefitted; provided, that all special assessments levied shall be in proportion to the benefits derived from the improvements and may be commenced by resolution of the City Council, with or without petition.

§ 32.53 INITIATION BY PETITION.

Local public improvements may be initiated by petition signed by property owners whose aggregate property in the proposed district was assessed for not less than 51% of the total assessed value of the privately-owned real property located therein, as shown by the last preceding general tax records of the city. The petition shall contain a brief description of the property owned by the respective signatories thereof, and if it shall appear that the petition is signed by at least 51% as aforesaid, the Clerk shall certify same to the City Council. The petition shall be addressed to the City Council and filed with the Clerk and shall in no event be considered directory but is advisory only.

§ 32.54 SURVEY AND REPORT.

(A) Before the City Council shall consider the making of any local improvement, the Council shall cause to be prepared a report which shall include necessary plans, profiles, specifications and detailed estimates of cost, an estimate of the life of the improvement, a description of the assessment district or districts, and such other pertinent information as will permit the Council to decide the cost, extent and necessity of the improvement proposed and what part or proportion thereof should be paid by special assessments upon the property especially benefitted, and what part, if any, should be paid by the city-at-large.

(B) The Council shall not finally determine to proceed with the making of any local improvement until the report has been filed nor until after a public hearing has been held by the Council for the purpose of hearing objections to the making of the improvement.

§ 32.55 TENTATIVE DETERMINATION; ASSESSMENT ROLL.

(A) Upon receipt of the report required in § 32.54 above, if the City Council shall decide to proceed with the improvement, it shall, by resolution, order the report filed with the Clerk.

(B) In addition, by that resolution, the Council shall tentatively determine the necessity thereof, set forth the nature thereof, designate the limits of the special assessment district to be affected and describe the lands to be assessed, the part or portion, if any, to be paid by the city-at-large for benefit to the city- at-large, and shall direct the Assessor to make a special assessment roll of the part or the proportion of the cost to be borne by the lands specially benefitted according to the benefits received and to report the same to the Council.

§ 32.56 DEVIATION FROM PLANS AND SPECIFICATIONS.

(A) No deviation from original plans or specifications as adopted shall be permitted by any officer or employee of the city without authority of the City Council by resolution.

(B) A copy of the resolution authorizing such changes or deviation shall be certified by the Clerk and attached to the original plans and specifications on file in his or her office.

§ 32.57 LIMITATIONS ON PRELIMINARY EXPENSES.

(A) The Council shall specify the provisions and procedures for financing a local public improvement.

(B) No contract or expenditure, except for the cost of preparing necessary profiles, plans, specifications and estimates of cost, shall be made for the improvement, nor shall any improvement be commenced until the special assessment roll to defray the costs of the same shall have been made and confirmed.

§ 32.58 SPECIAL ASSESSMENT ROLL.

The Assessor shall make a special assessment roll of all lots and parcels of land within the designated district benefitted by the proposed improvement and assess to each lot or parcel of land the proportionate amount benefitted thereby. The amount spread in each case shall be based upon the detailed estimate of cost as approved by the City Council.

§ 32.59 ASSESSOR TO FILE ASSESSMENT ROLL.

When the Assessor shall have completed the assessment roll, he or she shall file the same with the City Clerk for presentation to the City Council for review and certification by it.

§ 32.60 HEARING TO DETERMINE NECESSITY AND REVIEW SPECIAL ASSESSMENT ROLL.

(A) Upon receipt of the special assessment roll, the City Council, by resolution, shall accept the assessment roll and order it to be filed in the office of the Clerk for public examination, shall fix the time and place the Council will meet to hear objections to the improvement and review the special assessment roll and direct the Clerk to give notice of a public hearing for the purpose of affording an opportunity for interested persons to be heard. The notice shall be given by publication once at least ten full days prior to the date of the hearing in a newspaper published or circulated within the city and by first-class mail addressed to each owner of or person in interest in property to be assessed, as shown by the last general tax assessment roll of the city, mailed at least ten days prior to the date of the hearing. The hearing required by this section may be held at any regular, adjourned or special meeting of the Council. At the hearing, all interested persons or parties shall present, in writing, their objections, if any, to the improvement and the assessments against them. The Assessor shall be present at every meeting of the Council at which a special assessment is to be reviewed.

(B) The notice of hearing shall include a statement that appearance and protest at the hearing in the special assessment proceeding is required in order to appeal the amount of the special assessment to the state tax tribunal and shall describe the manner in which an appearance and protest shall be made.

(C) An owner or party in interest, or his or her agent may appear in person at the hearing to protest the special assessment or shall be permitted to file his or her appearance or protest by letter and his or her personal appearance shall not be required.

(D) The City Council shall maintain a record of parties who appear to protest at the hearing. If a hearing is terminated or adjourned for the day before a party is provided the opportunity to be heard, a party whose appearance was recorded is considered to have protested the special assessment in person.

Statutory reference:

Notice of special assessment hearings, state law requirements, see M.C.L.A. §§ 211.741 et seq.

§ 32.61 CHANGES AND CORRECTIONS IN ASSESSMENT ROLL.

(A) The City Council shall meet at the time and place designated for the hearing on the improvements and review of the special assessment roll, and at such meeting, or a proper adjournment thereof, shall consider all objections thereto submitted in writing. The Council may correct the roll as to any special assessment or description of any lot or parcel of land or other errors appearing therein, or it may, by resolution, annul the assessment roll and direct that new proceedings be instituted. The same proceedings shall be followed in making a new roll as in the making of the original roll.

(B) If after the hearing all objections and making a record of the changes as the Council deems justified, the Council may, by resolution, determine to proceed with the public improvement, determine the necessity thereof and set forth the nature thereof, designate the limits of the special assessment district to be affected and describe the lands to be assessed, finally determine the part or proportion of the cost of the public improvement to be paid by the lands specially benefitted thereby and the part or portion, if any, to be paid by the city-at-large for the benefit to the city-at-large.

(C) (1) If the Council determines that it is satisfied with the special assessment roll and that assessments are in proportion to the benefits received, it shall thereupon pass a resolution reciting such determinations, confirming the roll, placing it on file in the office of the Clerk and directing the Clerk to attach his or her warrant to a certified copy thereof within ten days, therein commanding the Assessor to spread and the Treasurer to collect the various sums and amounts appearing thereon as directed by the Council.

(2) The roll shall have the date of confirmation endorsed thereon and shall from that date be final and conclusive for the purpose of the improvement to which it applies unless contested in the manner as provided in this chapter, and subject to adjustment to conform to the actual cost of the improvement, as provided in § 32.67 below.

Statutory reference:

Filing of name and address change with the local tax assessor, see M.C.L.A. § 211.742

§ 32.62 OBJECTION TO ASSESSMENT.

If at or prior to the final confirmation of any special assessments the owners of privately owned real property to be assessed for more than 50% of the cost of an improvement or in the case of paving or similar improvements the owners of more than 50% of the frontage to be assessed for any such improvement shall object in writing to the proposed improvement, the improvement shall not be made by proceedings delineated by this chapter without a 2/3 vote of the members-elect of the City Council. This section shall not apply to sidewalk construction.

§ 32.63 SPECIAL ASSESSMENTS; WHEN DUE.

All special assessments, except the installments thereof as the City Council shall make payable at a future time as provided in this chapter, shall be due and payable upon confirmation of the special assessment roll.

§ 32.64 INSTALLMENT PAYMENTS; WHEN DUE.

(A) The City Council may provide for the payment of special assessments in installments. The installments shall not exceed 30 in number, the first installment being due upon confirmation of the roll or on such date as the Council may determine and the deferred installments shall be due annually

thereafter, or, in the discretion of the Council, shall be due annually on such other date as the Council may fix or may be spread upon and made a part of each annual city tax roll thereafter until all are paid.

(B) (1) Interest shall be charged on all deferred installments at a rate not to exceed 9% per annum commencing on such date on or after the confirmation as may be fixed by the Council and payable with each installment.

(2) The full amount of all or any deferred installments, with interest accrued thereon to the date of payment, may be paid in advance of the due dates thereof.

(3) If the full assessment or the first installment thereof shall be due upon confirmation, each property owner shall have 30 days from the date of confirmation to pay the full amount of the assessment or the full amount of any installments thereof without penalty or interest.

(4) Following the 30-day period, the assessment or first installment thereof shall, if unpaid, be considered delinquent and the same penalties shall be collected on the unpaid assessments or first installments thereof as are provided by law to be collected on delinquent general city taxes.

(C) Deferred installments shall be collected without penalty until 30 days after the due date thereof, after which time the installments shall be considered as delinquent and such penalties on the installments shall be collected as are provided by law to be collected on delinquent general city taxes.

(D) After the Council has confirmed the roll, the City Treasurer shall notify by mail each property owner on the roll that the roll has been filed, stating the amount assessed and the terms of payment. Failure on the part of the City Treasurer to give notice or of the owner to receive notice shall not invalidate any special assessment roll of the city or any assessment thereon, nor excuse the payment of interest or penalties.

§ 32.65 DELINQUENT SPECIAL ASSESSMENTS.

(A) Any assessment, or part thereof, remaining unpaid on the first Monday of March following the date when the same became delinquent shall be reported as unpaid by the Treasurer to the City Council.

(B) Any such delinquent assessment, together with all accrued interest, shall be transferred and reassessed on the next annual city tax roll in a column headed “Special Assessments,” with a penalty of 4% upon the total amount added thereto, and when so transferred and reassessed upon the tax roll shall be collected in all respects as provided for the collection of city taxes.

§ 32.66 CREATION OF LIEN.

Special assessments and all interest, penalties and charges thereon from the date of confirmation of the roll shall become a debt to the city from the persons to whom they are assessed, and until paid, shall be and remain a lien upon the property assessed, of the same character and effect as the lien created by general law for state, county and city taxes, and the lands upon which the same are a lien shall be subject to sale therefor the same as are lands upon which delinquent city taxes constitute a lien.

§ 32.67 ADDITIONAL ASSESSMENTS; REFUNDS.

(A) The Clerk shall, within 60 days after the completion of each local or special public improvement, compile the actual cost thereof and certify the same to the Assessor, who shall adjust the special assessment roll to correspond therewith.

(B) Should the assessment prove larger than necessary by less than 5%, the same shall be reported to the City Council, which may place the excess in the city treasury or make a refund thereof pro rata according to the assessment. No refunds of special assessments may be made which impair or contravene the provisions of any outstanding obligation or bond secured, in whole or in part, by the

special assessments. In the case of assessments due in installments, the Council may order the refund given by credit against the installments last coming due.

(C) When any special assessment roll shall prove insufficient to meet the cost of the improvement for which it was made, the Council may make an additional pro rata assessment, but the total amount assessed against any one parcel of land shall not exceed the benefits received by the lot or parcel of land.

§ 32.68 ADDITIONAL PROCEDURES.

In any case where the provisions of this chapter may prove to be insufficient to carry out fully the making of any special assessment, the City Council shall provide by ordinance any additional steps or procedures required.

§ 32.69 COLLECTION OF SPECIAL ASSESSMENTS.

In the event bonds are issued in anticipation of the collection of special assessments as hereinbefore provided, all collections on each special assessment roll, or combination of rolls, shall be set in a separate fund for the payment of the principal and interest on the bonds so issued in anticipation of the payment of the special assessments, and shall be used for no other purpose.

§ 32.70 SPECIAL ASSESSMENT ACCOUNTS.

(A) Moneys raised by special assessment to pay the cost of any local improvements shall be held in a special fund to pay such cost or to repay any money borrowed therefor.

(B) Each special assessment account may be used only for the improvement project for which the assessment was levied, expenses incidental thereto, including the repayment of the principal and interest on money borrowed therefor, and to refund excessive assessments if refunds are authorized.

§ 32.71 CONTESTED ASSESSMENTS.

(A) An action may not be instituted for the purpose of contesting or enjoining the collection of a special assessment unless:

(1) Within 45 days after the confirmation of the special assessment roll, written notice is given to the City Council indicating an intention to file the action and stating the grounds on which it is claimed that the assessment is illegal; and

(2) The action is commenced within 90 days after the confirmation of the roll.

(B) An owner or any person having an interest in the real property may file a written appeal of the special assessment with the state tax tribunal within 30 days after the confirmation of the special assessment roll if that special assessment was protested at the hearing held for the purposes of confirming the roll, as specified in § 32.60 and M.C.L.A. §§ 211.741 *et seq*.

§ 32.72 REASSESSMENT FOR BENEFITS.

(A) (1) Whenever the City Council shall deem any special assessment invalid or defective for any reason whatever, in whole or in part, the Council shall have the 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 completed and whether any part of the assessment has been collected or not.

(2) All proceedings on the reassessment and for the collection thereof shall be made in the manner as provided for the original assessment.

(B) If any portion of the original assessment shall have been collected 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 collected, the balance shall be refunded to the person making the payment.

§ 32.73 COMBINATION OF PROJECTS.

(A) The City Council may combine several districts into one project for the purpose of effecting a saving in the costs.

(B) There shall be established for each district separate funds and accounts to cover the cost of the same.

§ 32.74 DIVISION OF PARCELS.

Should any lots or lands be divided after a special assessment thereon has been confirmed and divided into installments, the assessor shall apportion the uncollected amounts upon the several lots and lands so divided, and shall enter the several amounts as amendments upon the special assessment roll. The City Treasurer shall, within ten days after the apportionment, send notice of the action to the persons concerned at their last known address by first class mail. The apportionment shall be final and conclusive on all parties unless protest, in writing, is received by the City Treasurer within 20 days of the mailing of the notice.

§ 32.75 DEFERRED PAYMENTS OF SPECIAL ASSESSMENTS.

The City Council may provide for the deferred payment of special assessments from persons who, in the opinion of the Council and the Assessor, by reason of hardship, are unable to contribute toward the cost thereof. In all such cases, as a condition to the granting of the deferred payments, the city shall require mortgage security on the real property of the beneficiary payable on or before his or her death, or, in any event, on the sale or transfer of the property.

§ 32.76 RECONSIDERATION OF PETITIONS.

In the event that the City Council shall fail to make any public improvement petitioned for under the provisions of § 32.53 during the calendar year during which any petition is filed, the petition shall be reconsidered by the Council prior to the first day of March of the succeeding calendar year for the purpose of determining whether the improvement should be made during that calendar year.

§ 32.77 SINGLE LOT IMPROVEMENTS.

(A) *Report by City Manager*. When any expense shall have been incurred by the city upon or in respect to any single lot or parcel of land, which expense is chargeable against the lot or parcel of land, and the owner thereof, by any city Charter provision or ordinance or the laws of the state, and is not of that class required to be prorated among several lots or parcels of land in a special assessment district, the amount of labor and material, or any other expense or service for which the expenses were incurred, with a description of the lot or parcel of land upon or in respect to which the expense was incurred, and the name of the owner, if known, shall be reported by the City Manager to the City Council.

(B) *Determination of Council*. After reviewing the report of the City Manager, the City Council may, if it so desires, determine by resolution what amount or part of each such expense shall be charged and the person, if known, against whom and the premises upon which the same shall be levied as a special assessment. By resolution, the City Council shall determine the number of installments in which the installment may be paid, determine the rate of interest to be charged on installments, designate the land and premises upon which the special assessment shall be levied, direct the city assessor to prepare a special assessment roll in accordance with the City Council’s determination and

designate the name by which the assessment roll shall be known and referred to, and, as often as the City Council shall deem expedient, require notice of the several amounts so reported and determined to be given by the City Clerk, to each owner of or party in interest in the property to be assessed whose name appears upon the last local tax assessment records, by mailing by first-class mail addressed to the owner or party at the address shown on the tax records.

(C) *Preparation of roll*. The city assessor shall thereupon prepare a special assessment roll, including all lots and parcels of land within the special assessment district designated by the City Council, and shall assess to each such lot or parcel of land such sums as may have been directed by the City Council.

(D) *Certificate of assessor*. When the city assessor shall have completed the assessment roll, he or she shall attach thereto and endorse thereon his or her certificate to the effect that the roll has been made by him or her pursuant to a resolution of the City Council (giving the date of adoption of same), and that in making the assessments therein, he or she has, as near as may be, according to his or her best judgment, confirmed in all respects to the directions contained in the resolution, the City Charter and the provisions of this chapter. Thereupon, he or she shall file the special assessment roll with the City Clerk, who shall present the same to the City Council.

(E) *Resolution; notice of hearing*. Upon receipt of the special assessment roll, the City Council shall order it filed in the office of the City Clerk for public examination, and shall, by resolution, fix the time and place when the City Council shall meet and review the roll, which meeting shall not be less than ten days after notice of the time and place thereof has been published in a newspaper of general circulation by the City Clerk (publication to be twice, the first publication to be at least ten days before the hearing). In addition, notice of the public hearing shall be given by the City Clerk to the owner of or party in interest in the property to be assessed whose name appears on the last local tax assessment records by mailing the notice by first-class mail addressed to each owner or property at the address shown on the tax records at least ten days before the date of the hearing.

(F) *Objections to roll*. Any person deeming himself or herself aggrieved by the special assessment roll may file his or her objections and protest thereto in writing with the City Clerk at or prior to the time of hearing, which written objections shall specify in what respect he or she deems himself or herself aggrieved, and if the objections are timely and properly filed, the objecting person's appearance in person is not required at the hearing.

(G) *Review of roll*. The City Council shall meet and review the special assessment roll at the time and place appointed or at an adjourned date therefor and shall consider any written objections thereto.

(H) *Changes in roll*. The City Council may correct such roll as to any assessment or description of any lot or parcel of land or other errors appearing therein. Any changes made in the roll shall be noted in the City Council minutes.

(I) *Confirmation of roll*. After the hearing, the City Council shall confirm the special assessment roll, with such corrections as may have been made, and the City Clerk shall endorse the date of confirmation thereon, and upon confirmation, the roll shall be final and conclusive.

(Ord. 061023-1, passed 10-23-2006)

COST RECOVERY

§ 32.85 SHORT TITLE.

This subchapter shall be known and may be cited as the "City of Saugatuck Cost Recovery Ordinance".

(Ord. 090713-1, passed 7-13-2009)

§ 32.86 PURPOSE.

The City of Saugatuck hereby finds that in order to protect the city and its general populace from extraordinary costs associated with providing for police, fire fighting, rescue, and emergency medical services within the city limits, it has become necessary to charge certain costs for providing these services. The city finds that this legislation is necessary to fairly allocate the costs among those responsible for them; to establish a policy and set forth the methods by which it may recover costs incurred in making emergency responses and providing such response services; and to provide for the health, safety and welfare of its residents.

(Ord. 090713-1, passed 7-13-2009)

§ 32.87 DEFINITIONS.

Unless the context explicitly indicates otherwise, the meaning of the terms used in this subchapter shall be as follows:

ASSESSABLE COSTS. The direct and reasonable costs incurred in connection with a response to a public safety or fire emergency incident within the city. These costs include all salaries, wages, or fringe benefits of the city personnel responding to the incident; salaries, wages, or fringe benefits of the city personnel engaged in the investigation, supervision and report preparation regarding the incident; all salaries, wages, or fringe benefits of the personnel of assisting governmental agencies or any other private or public entities operating at the request, direction, or on behalf of the city in response to the incident; salaries, wages, or fringe benefits of the personnel of the Saugatuck Township Fire District (“Fire District”); and all costs connected with the administration of the incident relating to any prosecution of the person(s) responsible, including those relating to the production and appearances of any witnesses. Additional costs may include, but are not limited to, the rental or leasing of equipment for a specific response, replacement of equipment which is destroyed or contaminated in the response, laboratory costs and equipment, medical expenses incurred as a result of response activities, and any legal expenses that may be incurred as a result of an emergency response including efforts to recover expenses pursuant to this subchapter.

CITY. Refers to City of Saugatuck, County of Allegan, State of Michigan, only.

EMERGENCY ASSISTANCE. Any response by medical, public safety, police, fire, or civil defense services to respond to an emergency incident.

EMERGENCY INCIDENT. Include the following:

(1) Excessive requests for emergency assistance;

(2) A false alarm;

(3) A hazardous material incident or emergency;

(4) An illegal fire;

(5) Threats of harm;

(6) A structure demolition or utility line failure;

(7) Water rescue attempts; or

(8) Any other incident where emergency medical, public safety, police, fire or civil defense services are necessary.

EXCESSIVE REQUEST FOR EMERGENCY ASSISTANCE. Any request for emergency assistance made for a particular location or premises if emergency assistance has been provided to that location or premises more than five times in the preceding 30 days.

FALSE ALARM. The intentional or non-intentional activation of an automated or manual device which was designed to request of summon emergency assistance when there was no need for emergency assistance, and any request for emergency assistance when the requesting person or entity knew or should have known that there was no actual need for such assistance. The determination that there was no actual need for emergency assistance shall be made by the Chief of the Fire District or by the most senior official of the Fire District responding to the false alarm. A false alarm shall not include any response to a request for emergency assistance which was caused by an act of God.

HAZARDOUS MATERIALS. Any explosive, pyrotechnic, compressed gas, flammable liquid, flammable solid, combustible liquid, oxidizing material, poisonous gas, poisonous liquid, poisonous solid, etiological material, radioactive material, corrosive material or liquefied petroleum gas and also includes, but is not limited to, any of the following:

(1) Any material listed in the list of toxic pollutants found in 40 CFR 401.15, et seq., as amended, or under any other federal law or regulations;

(2) Any material regulated as a class A or class B explosive by the United States Department of Transportation, pursuant to 49 CFR 173.5;

(3) Any flammable liquid or solid regulated by the United States Department of Transportation, pursuant to 49 CFR 171.1, et seq.;

(4) Any material designated as a hazardous material by the Secretary of the United States Department of Transportation through regulations found at 49 CFR 171.1, et seq.;

(5) Any material deemed a "hazardous substance" as defined by 1994 PZ 451, Part 207, Subsection 2010l(n), MCL 324.20101 (n);

(6) Any material designed a hazardous material by state or federal law or regulations;

(7) Any hazardous chemical substance or mixture with respect to which the Administrator of the Environmental Protection Agency has taken action pursuant to section 7 of the Toxic Substance Control Act; and

(8) Any otherwise non-hazardous material which becomes a potential hazard to vehicular or pedestrian traffic.

HAZARDOUS MATERIAL INCIDENT OR EMERGENCY. Any occurrence, incident, activity, accident or emergency where a release of hazardous materials occurs or is reasonably imminent, as determined by the Chief of the Fire District or the most senior official of the Fire District responding to the incident.

ILLEGAL FIRE. A fire set or determined to have been set in violation of a federal, state or local law and shall include an arson fire and a fire set in violation of a "no burning" ban or order. An illegal fire does not include a fire caused by an act of God.

RELEASE. Any actual or threatened spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, leaching, dumping or disposing into the environment, including but not limited to the air, soil, groundwater and surface water.

RESPONSIBLE PARTY. Any individual, firm, corporation, association, partnership, government entity or other entity responsible for an emergency incident or assistance or any owner, tenant, occupant or party in control of real and personal property from which, onto which or related to which there is an emergency incident or assistance and their heirs, estates, successors and assigns.

STRUCTURE DEMOLITION. The tearing down of a structure damaged by fire which must in the opinion of the Chief of the Fire District or the most senior official of the Fire District responding to the incident be promptly demolished following the fire to protect public safety.

THREAT OF HARM. The verbal or written threat of physical harm to oneself, another, or another's property which if carried out would be a violation of federal, state or local law.

UTILITY LINE FAILURE. The disabling of any transmission or service line, cable, conduit, pipeline, wire or the like used to provide, collect or transport electricity, natural gas, communication or electronic signals, or water, sanitary or storm sewage if the owner or party responsible for the maintenance of such utility line does not respond within one hour to a request to repair or correct such failure.

VEHICLE. Any motorized or self-propelled means of transportation including, but not limited to, automobiles, ATV's, railroad engines and other cars, boats, helicopters, planes, and/ or other aircraft, and all trailers, vehicles, or other appurtenances attached to any vehicle.

WATER RESCUE. Any emergency incident on a body of water where emergency medical, public safety, police, fire or civil defense services are necessary. Bodies of water include rivers, lakes, streams, impoundments, estuaries, springs, wells, or other collectors/ collections of water.

(Ord. 090713-1, passed 7-13-2009)

§ 32.88 CITY'S ASSESSABLE COSTS.

(A) The city may recover all of its assessable costs incurred in connection with any emergency assistance provided within its boundaries from any or all responsible parties jointly and severally.

(B) The City Manager or, in his or her absence, a Council member or city officer designated by the Council as its representative in this matter ("Council's designee) shall determine the city's total assessable costs and shall in such emergency incidents determine whether to assess any, all or part of such costs against any of the responsible parties. In making such determinations, the following shall be considered:

(1) Total assessable costs:

(2) Any risk the incident imposed on the city, its residents and their property;

(3) The risk of injury or damage to persons or property;

(4) Any evacuation required because of the incident;

(5) Any unusual or extraordinary use of the city personnel or equipment; and/or

(6) Any damage to the environment.

(C) After the consideration of the factors listed in (B) immediately above, the City Manager or the Council's designee may allocate assessable costs among and between responsible parties, including allocating all or some of such costs jointly and severally against more than one responsible party regardless of whether a responsible party has other legal liability or is legally at fault.

(D) Whether the City Manager or the Council's designee determines to assess all, part or none of the assessable costs against a responsible party, such determination shall not in any way limit or extinguish the liability of the responsible party to the city or any other person, corporation, partnership, government entity or any other entity.

(Ord. 090713-1, passed 7-13-2009)

§ 32.89 FIRE DISTRICT'S ASSESSABLE COSTS.

(A) The Fire District may recover all its assessable costs incurred in connection with any emergency assistance provided within the city boundaries from any or all responsible parties jointly and severally.

(B) The Chief of the Fire District or, in his or her absence, a board member or official of the Fire District designated by the board as its representative in this matter ("board's designee") shall determine the Fire District's total assessable costs and shall determine whether to assess any, all or part of such costs against any of the responsible parties.

(C) The Chief of the Fire District or the board's designee may allocate assessable costs among and between responsible parties, including allocating all or some of such costs jointly and severally against more than one responsible party regardless of whether a responsible party has other legal liability or is legally at fault.

(D) Whether the Chief or the board's designee determines to assess all, part or none of the assessable costs against a responsible party, such determination shall not in any way limit or extinguish the liability of the responsible party to the Fire District, the city, or any other person, corporation, partnership, government entity or any other entity.

(Ord. 090713-1, passed 7-13-2009)

§ 32.90 BILLING AND COLLECTION OF ASSESSABLE COSTS.

After determining to assess assessable costs against a responsible party, an itemized invoice shall be sent to the responsible party at the party's last known address. Such invoice shall be due and payable within 30 days of the date of mailing and any amounts unpaid after such date shall bear a late payment fee equal to 1% per month or fraction thereof that the amount due and any previously imposed late payment fee remain unpaid. If a responsible party shall appeal assessable costs pursuant to § 32.91 hereof, such costs, if upheld, in whole or in part, shall be due and payable 30 days from the date of determination of the appeal and any late payment fees shall apply thereafter.

(Ord. 090713-1, passed 7-13-2009)

§ 32.91 PROCEDURE FOR APPEALING ASSESSABLE COSTS.

(A) Any responsible party who receives an invoice for assessable costs shall have an opportunity to meet with the City or the Fire District, depending on what entity assessed the costs. The initial meeting shall be with the City Manager or Council's designee and/or the Chief or board's designee to request a modification of assessable costs. The responsible party shall request in writing such a meeting within seven calendar days of the date of the invoice assessing the assessable costs.

(B) If after this initial meeting any responsible party is still not satisfied, he or she may request an opportunity to appear before the City Council and/or the board of the Fire District to further request a modification of assessable costs. A responsible party who desires to appear before the City Council and/or the Fire District board must have had an initial meeting as provided above and then shall make a written request to appear before the City Council or Fire District board within seven calendar days of the date of this meeting. Upon receipt of such request, the responsible party will be put on the agenda of the next regularly scheduled City Council and/or Fire District board meeting, which meeting must be held within 21 calendar days of the date on which the responsible party files the request to appear.

(C) Any filed request to appear shall specifically identify and explain all reasons why the responsible party believes the assessed costs should be modified. Any reason, basis or argument for modification of assessable costs not set forth in the request to appear shall be deemed waived by the responsible party. Failure to timely file a written request to appear shall constitute a waiver of any argument the responsible party may have had that the party is not liable for the assessable costs invoiced. After a responsible party has been given an opportunity to appear before it, the City Council and/or Fire District board shall promptly determine whether to confirm, modify or void the payment of assessable costs invoiced.

(Ord. 090713-1, passed 7-13-2009)

§ 32.92 ASSESSABLE COSTS A LIEN UPON PROPERTY.

Costs assessed against a responsible party not paid when due, including late fees, shall constitute a lien upon the real property of the responsible party in the city, from which, upon which or related to which the emergency incident occurred. Such lien shall be of the same character and effect as the lien created by city charter for city real property taxes and shall include accrued interest and penalties. The City Treasurer shall, prior to March 1 of each year, certify to the City Assessor the fact that such assessable costs are delinquent and unpaid. The City Assessor shall then enter the delinquent amount on the next general ad valorem tax roll as a charge against the affected property, and the lien thereon shall be enforced in the same manner as provided and allowed by law for delinquent and unpaid real property taxes. The Fire District is responsible for alerting the City Treasurer of any delinquent, unpaid assessable costs.

(Ord. 090713-1, passed 7-13-2009)

§ 32.93 OTHER REMEDIES.

In addition to the remedy set forth in §§ 32.88 and 32.89 above, the city and the Fire District shall be entitled to pursue any other remedy or may institute any appropriate action or proceeding in a court of competent jurisdiction as permitted by law to collect assessable costs from a responsible party.

(Ord. 090713-1, passed 7-13-2009)

§ 32.94 NO LIMITATION OF LIABILITY.

The recovery of assessable costs pursuant hereto does not limit the liability of a responsible party under applicable local, state or federal law.

(Ord. 090713-1, passed 7-13-2009)

§ 32.95 SEVERABILITY.

Should any provision or part of this subchapter be declared by a court of competent jurisdiction to be invalid or unenforceable, the same shall not affect the validity or enforceability of any other provision or part, which shall remain in full force and effect.

(Ord. 090713-1, passed 7-13-2009)

§ 32.96 EFFECTIVE DATE; PUBLIC INSPECTION.

This ordinance shall become effective 30 days after its publication or 30 days after the publication of a summary of its provisions in a newspaper of general circulation in the City. A copy of this ordinance and the Code shall be available for public inspection at the office of the City Clerk.

(Ord. 090713-1, passed 7-13-2009)

CHAPTER 33: WATER IMPROVEMENT TAX INCREMENT FINANCE AUTHORITY

Section

§ 33.01 TITLE.

This chapter shall be known as the “Water Improvement Tax Increment Finance Authority Ordinance of the City of Saugatuck”.

(Ord. 111212-2, passed 12-12-2011)

§ 33.02 DETERMINATION OF NECESSITY; PURPOSE.

The City Council determines that it is necessary for the best interests of the public to create a public body corporate, for the purpose of correcting and preventing deterioration in the water resources of Kalamazoo Lake; increasing property valuation where possible in the water resource improvement district; and promoting economic growth, pursuant to Act 94 of Public Acts of Michigan, 2008, being M.C.L.A. §§ 125.1771 through 125.1794, as amended.

(Ord. 111212-2, passed 12-12-2011)

§ 33.03 DEFINITIONS.

The terms used in this chapter shall have the same meaning as given them in M.C.L.A. §§ 125.1771 through 125.1794, or as hereinafter in this section provided, unless the context clearly indicates to the contrary:

AUTHORITY. A water resource improvement tax increment finance authority created pursuant to M.C.L.A. §§ 125.1771 through 125.1794.

BOARD or ***BOARD OF DIRECTORS.*** The Board of Directors of the Authority.

CHIEF EXECUTIVE OFFICER. The Mayor of the city or his or her designee.

CITY. The City of Saugatuck.

COUNCIL or ***CITY COUNCIL.*** The governing body of the city.

WATER RESOURCE IMPROVEMENT DISTRICT or ***DISTRICT.*** That portion of the Kalamazoo Lake lying within the city boundaries, and parcels of land that are contiguous to its shoreline up to one mile from the shoreline as designated herein, as now existing or hereafter amended, and within which the Authority shall exercise its powers.

(Ord. 111212-2, passed 12-12-2011)

§ 33.04 CREATION OF AUTHORITY.

There is hereby created pursuant to M.C.L.A. §§ 125.1771 through 125.1794 a Water Resource Improvement Tax Increment Finance Authority for the city. The Authority shall be a public body corporate and shall be known and exercise its powers under title of the “Water Resource Improvement

Tax Increment Finance Authority of the City of Saugatuck." The Authority may sue or be sued in any court of this state, and shall possess all of the powers necessary to carry out the purpose of its incorporation as provided under this chapter and M.C.L.A. §§ 125.1771 through 125.1794.

(Ord. 111212-2, passed 12-12-2011)

§ 33.05 DESCRIPTION OF WATER RESOURCE IMPROVEMENT DISTRICT.

The Water Resource Improvement District shall consist of the territory in the city described below, and inclusive of all parcels delineated on the map attached as Exhibit A to Ordinance 111212-2, and made a part hereof, subject to such charges as may hereinafter be made pursuant to this chapter and M.C.L.A. §§ 125.1771 through 125.1794.

(Ord. 111212-2, passed 12-12-2011)

§ 33.06 BOARD OF DIRECTORS.

The Authority shall be under the supervision and control of the Board. The Board shall consist of the chief executive officer and not less than five and not more than nine members as determined by Council. Members shall be appointed by the chief executive officer, subject to approval by the Council. Not less than a majority of the members shall be persons having an ownership or business interest in property located in the District. At least one member shall be a resident of the District or of an area within one-half mile of any part of the District. Of the members first appointed, an equal number of members, as near as practical, shall be appointed for terms of one, two, three and four years. After the initial appointments, each member appointed thereafter shall serve for a term of four years. Any appointment to fill a vacancy shall be made by the chief executive officer for the unexpired term only. Members shall serve without compensation, but may be reimbursed for actual and necessary expenses. The chairperson shall be elected by the Board. The Board shall adopt bylaws governing its procedures subject to the approval of Council. Subject to the approval of the Council, the Board may employ and fix the compensation of a Director, who shall serve at the pleasure of the Board, as well as such other personnel as considered necessary. All appointments shall be subject to the limitations set forth in § 33.08. A member of the Board is not eligible to serve as a Director.

(Ord. 111212-2, passed 12-12-2011)

§ 33.07 POWERS OF AUTHORITY.

Except as specifically otherwise provided in this chapter, the Authority shall have all powers provided by law and subject to the limitations imposed by law and herein.

(Ord. 111212-2, passed 12-12-2011)

§ 33.08 FISCAL YEAR; ADOPTION OF BUDGET.

(A) The fiscal year of the Authority shall begin on July 1 of each year as may hereafter be adopted by the Council.

(B) The Board shall cause the preparation of an annual budget for the operation of the Authority for each fiscal year. The budget shall contain the same information required of city departments. After review by the Board, the budget shall be submitted to Council for approval. The budget may not finally be adopted by the Board unless and until the Council has approved the same.

(C) The Authority shall submit financial reports to Council at the same time and on the same basis as departments of the city if so required. The Authority shall be audited annually by the same independent auditors auditing the city, and copies of the audit shall be filed with Council.

(Ord. 111212-2, passed 12-12-2011)

§ 33.09 TERMINATION.

Upon completion of its purposes for which it was organized, the Authority may be dissolved by the Council. The property and assets of the Authority remaining after the satisfaction of the obligations of the Authority belong to the city.

(Ord. 111212-2, passed 12-12-2011)

TITLE V: PUBLIC WORKS

Chapter

CHAPTER 50: GARBAGE AND RUBBISH

Section

§ 50.01 PURPOSE AND INTENT.

It is the intent of the City Council that this chapter be liberally construed for the purpose of providing sanitary and satisfactory methods of preparation, collection and disposal of domestic solid waste and 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 city, and to provide for a reasonable system of user fees. Upon approval of the City Council, the City Manager is authorized to make such rules and regulations as appear to be necessary from time to time to carry out the intent of this chapter; provided, however, that such rules are not in direct conflict with city ordinances or state law.

(Ord. 080922-1, passed 9-22-2008)

§ 50.02 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

BULK REFUSE. Appliances, furniture and other bulky refuse items, excluding construction and demolition debris, which cannot readily be placed in an approved container.

COMMERCIAL ESTABLISHMENT. Property classified by the city's zoning ordinance as a nonindustrial business, or residential property which has more than four units.

CONSTRUCTION DEBRIS. Waste from buildings, driveways, or other construction, alteration or repair, including dirt from excavations.

CONTRACTOR. A designated collector who has been authorized by the city to collect and dispose of domestic solid waste, recyclable materials, bulk refuse and yard waste.

DEMOLITION DEBRIS. Refuse which is incidental to the demolition of buildings, or structures or appurtenances on a premises.

DISCARDED HOUSEHOLD DEBRIS. Domestic refuse of a quantity that exceeds the amount generated by routine housekeeping, including for example, unsold garage sale items and items discarded in the process of vacating a premises. Discarded household debris does not include bulk refuse for which removal arrangements have been made.

DOMESTIC SOLID WASTE. The waste materials resulting from the usual routine of housekeeping, including garbage and rubbish and excluding hazardous waste, construction and demolition debris, industrial solid waste and medical waste.

GARBAGE. All animals, fish, fowl, fruit or vegetable waste incidental to the use, preparation and storage of food for human consumption. This term does not include food processing wastes from canneries, slaughterhouses and packinghouses or hazardous waste.

GREASE INCEPTOR WASTE. Grease and other wastes required to be collected by inceptors in accordance with the sewer regulations found in § 51.083 of the city code.

HAZARDOUS WASTE. Hazardous waste as defined in Part 111 of the Michigan Natural Resources and Environmental Protection Act, as amended, M.C.L.A. §§ 324.11101 *et seq*., and the regulations promulgated thereunder.

INDUSTRIAL SOLID WASTE. All solid waste materials resulting from industrial or manufacturing operations or process of every nature, including organic wastes from canneries, slaughterhouses, packinghouses and other industrial food processing operations. This terms includes refuse material resulting from cleaning up in connection with such industrial or manufacturing operations, and refuse material resulting from offices, stores, lunchrooms, warehouses, or other operations established in conjunction with such industrial or manufacturing operations, and excludes hazardous waste.

MEDICAL WASTE. Any material that has been identified by state or federal regulation to be medical, biohazardous, or pathological waste and is subject to special handling and disposal regulations.

MULTIPLE RESIDENTIAL. Residential establishments consisting of five or more residential units.

NON-PORTABLE RECEPTACLE. A stationary dumpster of a type that can be mechanically hoisted by a refuse collection vehicle, and with specifications established and approved by the city and the necessities of health and safety. ***NON-PORTABLE RECEPTACLES*** shall be of all-weather material of a sufficient size and capacity to eliminate overflowing, and secured to prevent unauthorized access.

PARTICIPATING UNIT. Any premises receiving services from the contractor.

PERSON IN CHARGE. The owner, proprietor, occupant or agent in charge of any premise, whether an individual, partnership or corporation or business entity.

PREMISES. A parcel of land within the city, which includes right-of-way or legal easements, separated from adjacent parcels of land by legal description.

RECYCLABLE MATERIALS. Materials separated from solid waste for the express purpose of preparation for and delivery to a secondary market or other use. For purposes of this chapter, ***RECYCLABLE MATERIALS*** shall at a minimum include plastic bottles, polystyrene, newsprint, container glass, tin/steel cans, aluminum, aerosol cans, corrugated cardboard boxes, magazines and junk mail. Additional ***RECYCLABLE MATERIALS*** may be collected, provided that said materials are properly collected, transported and recycled in accordance with all applicable laws and regulations.

REFUSE. The same as ***SOLID WASTE***.

RESIDENTIAL UNIT. A building, or portion thereof, designated for occupancy exclusively for residential purposes and having cooking facilities and separate sanitary facilities.

RUBBISH. The miscellaneous waste materials resulting from housekeeping and ordinary mercantile enterprises, including materials such as packing boxes, cartons, excelsior, paper ashes, cinders, glass, metal, plastic and rubber, and excluding hazardous waste.

SOLID WASTE. Garbage and rubbish. This term 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 or its state-designated equivalent.

TYPE II SANITARY LANDFILL. As defined in Part 115 of Public Act No. 451 of 1994, as amended from time to time, or a state equivalent designation.

YARD WASTE. Grass clippings, brush trimmings and branches under six inches. ***YARD WASTE*** does not include leaves.

YARD WASTE COLLECTION. The collection yard waste service provided by the contractor from April 1 to November 30 of each year.

YARD WASTE CONTAINER. A container which has been specifically identified by the city as suitable for the collection and disposal of yard waste.

(Ord. 080922-1, passed 9-22-2008)

§ 50.03 DISPOSAL OF SOLID WASTE GENERALLY.

A person shall dispose of his solid waste and segregate items as provided in this chapter, or as specified by subsequent resolution of the City Council, from all other solid waste produced and shall separately bundle or contain such items for proper disposal and collection, in accordance with the provisions set forth in this chapter.

(Ord. 080922-1, passed 9-22-2008) Penalty, see § 50.99

§ 50.04 ACCUMULATION OF SOLID WASTE.

(A) *Accumulation of refuse or garbage*. No owner and/or person in control of a residential unit, commercial establishment or industrial facility shall permit the accumulation of refuse, garbage or solid waste upon his or her premises for a period that would pose a health hazard, subject adjacent property occupants to unreasonably offensive odors or become a public nuisance. The accumulation of refuse, garbage or solid waste for a period in excess of seven days shall be prima facie evidence of posing a health hazard and creating a public nuisance.

(B) *Composting storage*. Leaves, yard waste and vegetable waste may be stored for composting purposes as long as they do not harbor rodents, subject adjacent property owners to an unreasonably offensive odor or become a public nuisance, provided compost is stored in the rear yard and located not closer than ten feet from the property line.

(C) *Alternate means of disposal*. Residential units that are not participating units are required to provide alternative means of disposing of solid waste. Only a designated collector can collect and transport domestic solid waste in the city.

(Ord. 080922-1, passed 9-22-2008)

§ 50.05 UNAUTHORIZED DUMPING AND LITTERING.

Except as permitted by the city's brush and leaf pickup policy, it shall be unlawful for any person to throw or deposit any refuse upon or into any street, right-of-way, alley or waterway. It is also unlawful to place or permit the placement of any portable or non-portable container upon another's property, public or private, without the permission of the owner, proprietor, occupant or agent in charge of such property. Even with such permission, portable containers not belonging to a participating unit shall not be placed or permitted upon the property of a participating unit for disposal by the designated collector without the designated collector's express consent.

(Ord. 080922-1, passed 9-22-2008) Penalty, see § 50.99

§ 50.06 PRE-COLLECTION REQUIREMENTS; SEPARATION; CONTAINERS.

(A) *Pre-collection; separation and container regulation*. All persons within the city who place the following items for disposal, removal or collection shall do so in strict conformity with the following regulations:

(1) *Solid waste*. Solid waste shall be separated and contained in an approved container.

(2) *Yard waste*. Yard waste shall be separated as required by the city and contained in an approved container.

(3) *Bulk refuse*. All bulk refuse shall be separated and must be removed using an approved method. Approved methods of removal shall be limited to:

(a) Arrangements with the contractor; or

(b) Private arrangements to transfer the bulk refuse to an appropriate disposal site or facility.

(4) *Recyclable material*. All recyclable material shall be separated and contained in a recycling container furnished by the contractor.

(5) *Industrial solid waste*. All industrial solid waste shall be collected by collectors privately contracted for by the industrial user, and shall otherwise comply with the provisions of this chapter.

(6) *Discarded household, construction and demolition debris*. All discarded household, construction and demolition debris shall be separated and collected by contractors privately contracted for by the person who produced the waste, and shall otherwise comply with the provisions of this chapter.

(7) *Hazardous waste*. All hazardous waste shall be separated and collected by collectors privately contracted for by the person who produced the waste, and shall otherwise comply with the provisions of this chapter.

(8) *Medical waste*. All medical waste shall be separated and disposed of in accordance with all applicable state and federal regulations and shall be collected by contractors privately contracted for by the person who produced the waste, and shall otherwise comply with the provisions of this section.

(9) *Grease inceptor waste*. All grease inceptor waste shall be separated and disposed of in accordance with all applicable state and federal regulations and shall be collected by contractors privately contracted for by the person who produced the waste, and shall otherwise comply with the provisions of this section.

(B) *Use of unapproved containers*. Items placed in an unapproved container will not be picked up, unless otherwise provided in this chapter.

(Ord. 080922-1, passed 9-22-2008) Penalty, see § 50.99

§ 50.07 RECEPTACLES.

(A) *Maintenance*. The owner, person in charge, or occupant of a building, house or structure where domestic solid waste accumulates shall maintain proper refuse receptacles as defined in this chapter, and shall place, or cause to be placed, in such receptacles all domestic solid waste accumulating on the premises, provided that bulk refuse, recyclable materials and yard waste may be stored in a condition properly prepared for collection as specified in this chapter.

(B) *Residential*. The person in charge of every residential building having four or less residential units shall maintain and keep clean proper receptacles to house domestic waste.

(C) *Commercial, industrial and multiple residential*. The person in charge of a building consisting of five or more residential units, and every building used as a commercial or industrial business, shall provide and keep clean and in place proper receptacles of a portable type as defined in this chapter, provided that if the city determines that portable receptacles are not practical for a multiple dwelling, commercial or industrial business, it may authorize the use of non-portable receptacles as defined in this chapter.

(D) *Portable receptacles*. Portable receptacles for domestic sold waste shall be of metal, fiberglass, plastic or other substantial construction approved by the city. Such receptacles shall have handles and tight fitting covers and shall not exceed 96 gallons each in capacity.

(E) *Non-portable receptacles*. It shall be the responsibility of the property owner or agent being serviced to maintain the non-portable receptacle area free of odors, scattered or overflowing debris and all other nuisances. All garbage shall be properly wrapped or placed within a closed plastic bag before it is placed in a non-portable receptacle. The city may at any time order the relocation or screening of a dumpster if it is deemed to be interfering with the health, safety or well being of others.

(F) *Location*. All non-portable receptacles shall be placed and collected in a location designated by the city. Such receptacles shall be located so that the permitted collectors will not have to trespass on the private property of another in order to pick up such receptacles. In no event shall nonportable receptacles be placed in or upon public property, easements, or public rights-of-way. All portable receptacles shall be stored upon the premises, and shall not be set out for collection prior to 12:00 p.m. preceding the day of collection, and after the receptacles are emptied they shall be returned to their place of storage on the same day collections are made. No empty portable receptacles shall be stored on city property including the public right-of-way, sidewalks and streets.

(G) *Non-conforming receptacles*. Receptacles that are badly broken or otherwise fail to meet the requirements of this chapter may be classified as rubbish and, after due notice to the owner, may be collected as rubbish by the contractor.

(Ord. 080922-1, passed 9-22-2008) Penalty, see § 50.99

§ 50.08 CONTRACTS.

(A) *Grant of exclusive contract*. The city shall by resolution grant an exclusive, revocable contract to a designated collector, giving it the right, power and authority to collect domestic solid waste, recyclable materials, bulk refuse and yard waste as described herein within the city. The designated collector shall receive no compensation from the city but shall be permitted to enter into private contracts for the collection of solid domestic waste and other services authorized herein.

(B) *Renewal of contract*. Any agreement the city enters into with the designated collector, or renewal extension or amendment thereto, is subject to revocation at the will of the City Council.

(Ord. 0080922-1, passed 9-22-2008)

§ 50.09 TRANSPORTATION OF WASTE MATERIALS.

(A) *Mode of transportation*. The transportation of all garbage, offal or rubbish or other waste materials through the streets, alleys or thoroughfares of the city shall be conducted in a manner which does not create a nuisance. It shall be unlawful for any person to transport, cart, carry or convey through or over any of the streets, alleys or public places of the city any unwanted garbage, refuse, or food containers without the approval of the city. It shall be unlawful for any person to transport or otherwise convey through or over any of the street or public places of the city any rubbish or other waste material, except under written regulations or with the written consent of the city, except rubbish or waste material accumulating on property owned or controlled by him, and then only by approved methods of conveyance.

(B) *Conveyance vehicles*. Vehicles conveying waste must be of such construction and operated in such a manner that the contents shall not spill upon the public right-of-way or public property. Such vehicles shall be watertight and covered.

(Ord. 080922-1, passed 9-22-2008) Penalty, see § 50.99

§ 50.10 FEES.

Charges for the collection and disposal of domestic solid waste and materials shall be billed by the designated collector directly to the residential unit or participating unit owner or occupant at a rate outlined in the collector’s contract with the city.

(Ord. 080922-1, passed 9-22-2008)

§ 50.11 PROHIBITED WASTE.

(A) *Prohibited waste*. It shall be unlawful for any person to place any material in a container or receptacle which might endanger the collection personnel, or to deposit or deliver to a disposal site any hazardous material, waste material which would be detrimental to the normal operation of collection, incineration, recycling or disposal, such as gaseous, solid or liquid poison, dead animals, ammunition, explosives, flammable liquid, undrained garbage of a liquid or semi-liquid nature, whether in containers or not, concrete, dirt, automobile or equipment parts, or any material that possesses heat sufficient to ignite any other collected materials. No motor vehicles shall be dumped or abandoned at any disposal site.

(B) *Prohibited placement*. It shall be unlawful for any person to place yard waste, bulk refuse, hazardous waste or other waste specifically required to be separated from solid waste by this chapter, in a refuse container for the purpose of refuse collection, removal or disposal, or not otherwise dispose of such item, except in conformance with the provisions of this section.

(C) *Use by nonresidents*. The city solid waste disposal and recycling program is designated to accommodate the needs of residents of the city. Nonresidents are strictly prohibited from disposing of solid waste through the program. All violators will be prosecuted to the fullest extent allowed by law and/or provision of this chapter.

(Ord. 080922-1, passed 9-22-2008) Penalty, see § 50.99

§ 50.12 ENFORCEMENT.

Enforcement of this chapter shall be the responsibility of the City Manager or his or her designee. The city is authorized and directed to establish and promulgate reasonable regulations as to the matter, days and times for the collection of waste or recyclable materials. The City Council may, by majority vote, change, modify, repeal or amend any portion of this chapter. Designated city officials charged with the enforcement of this chapter may be authorized to issue citations or notices for violations relative to any part of this chapter.

(Ord. 080922-1, passed 9-22-2008)

§ 50.13 RULES AND REGULATIONS.

The city may promulgate rules and regulations to carry out the provisions of this chapter.

(Ord. 080922-1, passed 9-22-2008)

§ 50.99 PENALTY.

(A) Any person, firm, corporation, trust, partnership or other legal entity which violates or refuses to comply with any provision of this chapter shall be responsible for a municipal civil infraction and shall be punished by a civil fine in accordance with § 10.21 of this code and shall further be liable for the payment of the costs of prosecution in any amount of not less than $9 and not more than $500.

(B) Each day that a violation of this chapter continues to exist shall constitute a distinct and separate offense, and shall make the violator liable for the imposition of fines for each day.

(C) Any violation of the provisions of this chapter shall constitute a nuisance per se and the foregoing penalties shall be in addition to the abatement of the violating condition and injunctive or other relief which may be ordered by the court as prescribed by the laws of the State of Michigan for the abatement of a city ordinance designated as a municipal civil infraction.

(Ord. 080922-1, passed 9-22-2008)

CHAPTER 51: SEWER REGULATIONS

Section

General Provisions

Building Sewers and Connections

Industrial User Regulations

Discharge Regulations

Sewer Rates and Charges

Administration and Enforcement

GENERAL PROVISIONS

§ 51.001 PURPOSE.

The purposes of this chapter are:

(A) To establish uniform requirements for direct and indirect contributors into the wastewater collection and treatment system and to enable the authority to comply with applicable state and federal laws and the general pretreatment regulations (40 C.F.R. § 403);

(B) To prevent the introduction of pollutants into the wastewater system which will:

(1) Interfere with the operation of the system;

(2) Cause the treatment plant to violate its NPDES discharge permits;

(3) Contaminate the sludge;

(4) Pass through the system, inadequately treated, into receiving waters or the atmosphere;

(5) Pose a health threat to sewer workers; or

(6) Be otherwise incompatible with the system.

(C) To improve the opportunity to recycle and reclaim wastewaters and sludges from the system; and

(D) To provide for equitable distribution of the cost of the municipal wastewater system.

(Ord. passed 4-24-1995)

§ 51.002 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

AUTHORITY. The Kalamazoo Lake, Sewer and Water Authority (sometimes referred to as “KLSWA”), its Manager and authorized representatives.

AUTHORITY MANAGER. The Kalamazoo Lake, Sewer and Water Authority Manager.

BOD (BIOCHEMICAL OXYGEN DEMAND). The quantity of oxidation of organic matter under standard laboratory procedure in five days at 20°C, expressed in milligrams per liter.

BUILDING DRAIN. That part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five feet outside the inner face of the building wall.

BUILDING SEWER. The extension from the building drain to the public sewer or other place of disposal.

BYPASS. The intentional diversion of waste streams from any portion of an industrial users treatment process or facility.

CATEGORICAL INDUSTRY. Any industry which the Environmental Protection Agency recognizes as belonging to one of the groups listed as such.

CITY. The City of Saugatuck, Allegan County, Michigan, as represented by the City Council.

CLASSES OF USERS. The division of sanitary sewer customers into classes by similar process or discharge flow characteristics as follows.

(1) ***COMMERCIAL USER.*** Any retail or wholesale business engaged in selling merchandise or a service that discharges only segregated domestic wastes or wastes from sanitary conveniences.

(2) ***GOVERNMENTAL USER.*** Any federal, state or local government office or government service facility that discharges only segregated domestic wastes or wastes from sanitary conveniences.

(3) ***INDUSTRIAL USER.*** Any manufacturing establishment which produces a product from raw or purchased material. A user may be excluded from the ***INDUSTRIAL USER*** class if it is determined that the user will discharge only segregated domestic strength wastes or wastes from sanitary conveniences. Industrial users subject to the “Industrial Cost Recovery System” shall include the following:

(a) Any non-governmental user of a publicly owned treatment works which discharges more than 25,000 gallons per day of sanitary waste, or a volume of process waste, or combined process and sanitary waste, equivalent to 25,000 gallons per day of sanitary waste;

(b) Any non-governmental user of a publicly owned treatment works which discharges wastewater to the treatment works which contains toxic pollutants or poisonous solids, liquids or gasses, in sufficient quantity either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in, or have an adverse effect on, the waters receiving any discharge from the treatment works; and

(c) All commercial users of an individual system constructed with grant assistance under § 201(h) of the Act, being 33 U.S.C. § 1281(h), and this chapter.

(4) ***INSTITUTIONAL USER.*** Any educational, religious or social organization such as a school, church, nursing home, hospital or other institutional user that discharges only segregated domestic wastes or wastes from sanitary conveniences.

(5) ***RESIDENTIAL USER.*** An individual home or dwelling unit, including mobile homes, apartments, condominiums or multi-family dwellings, that discharges only segregated domestic wastes or wastes from sanitary conveniences.

COD (CHEMICAL OXYGEN DEMAND). The oxygen consuming capacity of inorganic and organic matter present in wastewater.

COMBINED SEWER. A sewer receiving both surface runoff and sewage.

COMPATIBLE POLLUTANT. Biochemical oxygen demand, suspended solids, pH and fecal coliform bacteria, plus any additional pollutants identified in the NPDES permit if the treatment works was designed to treat the pollutants and can, in fact, remove the pollutants to a substantial degree. The term ***SUBSTANTIAL DEGREE*** generally means removals on the order of 80% or greater.

DISCHARGE or ***INDIRECT DISCHARGE.*** The introduction of pollutants into the POTW from any non-domestic source regulated under § 307(b), (c) or (d) of the Federal Water Pollution Control Act as amended by the Clean Water Act of 1977, being 33 U.S.C. § 1317(b), (c) or (d).

GARBAGE. Solid wastes from the domestic and commercial preparation, cooking and dispensing of food, and from the handling, storage and sale of produce.

INCOMPATIBLE POLLUTANT. Any pollutant that is not a “compatible pollutant,” as defined in this section.

INDUSTRIAL COST RECOVERY. The recovery from each industrial user, as defined in this section, that portion of the United States Environmental Protection agency grant which is allocable to the treatment of industrial wastes from the industries. The industrial cost recovery charge is further defined in §§ 51.110*et seq*.

INDUSTRIAL WASTES. The liquid wastes from industrial manufacturing processes, trade or business as distinct from segregated domestic strength wastes, or wastes from sanitary conveniences.

INFILTRATION. Any waters entering the system from the ground through such means as, but not limited to, defective pipes, pipe joints, connections or manhole walls. Infiltration does not include, and is distinguished from, inflow.

INFILTRATION/INFLOW. The total quantity of water from both infiltration and inflow.

INFLOW. Any waters 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. Any person or persons authorized by the Authority to inspect and approve the installation of building sewers and their connection to the public sewer system.

INTERFERENCE. A discharge which, alone or in conjunction with discharges from other sources, both inhibits or disrupts the POTW, its treatment processes or operations, or its sludge processes, use or disposal, and therefore is a cause of a violation of any requirement of the POTW’s NPDES permit (including an increase in the magnitude or duration of a violation) or of the prevention of sewage sludge use or disposal in compliance with the following statutory provisions and regulations or permits issued thereunder (or more stringent state or local regulations): § 405 of the Clean Water Act, being 33 U.S.C. § 1345, the Solid Waste Disposal Act (SWDA), being 42 U.S.C. §§ 6901 *et seq*. (including Title II, more commonly referred to as the Resource Conservation and Recovery act (RCRA)), and including state regulations contained in any state sludge management plan prepared pursuant to Subtitle D of the SWDA, being 42 U.S.C. §§ 6941 *et seq*., the Clean Air Act, being 42 §§ U.S.C. 7401 *et seq*., the Toxic Substances Control Act, being 15 U.S.C. §§ 2601 *et seq*., and the Marine Protection, Research and Sanctuaries Act, being 16 U.S.C. §§ 1431 *et seq*. and 33 U.S.C. §§ 1401 *et seq*.

MAY. Permissive.

MG/L. Milligram per liter.

NATURAL OUTLET. Any outlet into a watercourse, pond, ditch, lake or other body of surface or groundwater.

NEW SOURCE.

(1) Any building, structure, facility or installation from which there is or may be a discharge of pollutants, provided that:

(a) The building, structure, facility or installation is constructed at a site at which no other source is located;

(b) The building, structure, facility or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or

(c) The production or wastewater generating processes of the building, structure, facility or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same type of activity as the existing source should be considered.

(2) The term includes the replacement or addition of either process or production equipment generating waste water at an established site.

(3) Construction of a ***NEW SOURCE*** as defined under this definition has commenced if the owner or operator has:

(a) Begun or caused to begin as part of a continuous on-site construction program, any placement, assembly or installation of facilities or equipment, or significant site preparation work including clearing, excavation or removal of existing buildings, structures or facilities which is necessary for the placement, assembly or installation of new source facilities or equipment; or

(b) Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering and design studies do not constitute a contractual obligation under this division.

NON-CATEGORICAL INDUSTRY. Any industry not classified by the Environmental Protection Agency as a categorical industry.

NORMAL STRENGTH SEWAGE. A sanitary wastewater flow containing an average daily BOD of not more than 200 mg/l or an average daily suspended solids concentration of not more than 250 mg/l.

NPDES PERMIT. Stands for the national pollution discharge elimination system permit. According to the Water Pollution Control Act, being 33 U.S.C. §§ 1251 *et seq*., as amended, it prohibits any person from discharging pollutants into a waterway from a point source unless the discharge is authorized by a permit issued either by the United States Environmental Protection Agency or by an approved state agency. The term shall also mean the permit issued pursuant to the national pollution discharge elimination system for the discharge of wastewater into the waters of the state.

OPERATION AND MAINTENANCE (O and M) COSTS. All costs, direct and indirect (other than debt service), necessary to ensure adequate wastewater treatment on a continuing basis, to conform with all related federal, state and local requirements, and to assure optimal long-term facility management. O and M costs include depreciation and replacement costs.

PASS THROUGH. A discharge which exits the POTW in quantities or concentrations which, alone or in conjunction with discharges from other sources, is a cause of a violation of any requirement of the POTW's NPDES permit, including an increase in the magnitude or duration of a violation.

PERSON. Any individual, firm, company, association, society, corporation or group.

pH. The logarithm of the reciprocal of the concentration of hydrogen ions in grams per liter of solution.

PPM. Parts per million.

PRETREATMENT. The treatment of extra strength wastewater flows in privately owned pretreatment facilities prior to discharge into publicly owned sewage works.

PRIVATE WASTEWATER DISPOSAL SYSTEM. A cesspool, septic tank or similar device which discharges to a suitable drainage field.

PROPERLY SHREDDED GARBAGE. The wastes from the preparation, cooking and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the low conditions normally prevailing in public sewers, with no particle greater than 1/2-inch in dimension.

PROPERTY DAMAGE, SEVERE. Substantial physical damage to property, or damage to treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. It does not mean an economic loss caused by delays in production.

PUBLIC SEWER. A sewer in which all owners of abutting properties have equal rights, and which is controlled by public authority.

PUBLICLY OWNED TREATMENT WORKS (POTW). The treatment works as defined by § 212 of the Act, being 33 U.S.C. § 1292, which is owned by the Kalamazoo Lake, Sewer and Water Authority. This definition includes any devices and systems used in the storage, treatment, recycling and reclamation of municipal sewage or industrial wastes of a liquid nature. It also includes sewers, pipes and other conveyances only if they convey wastewater to the POTW treatment plant. The term also means the municipality which has jurisdiction over the indirect discharges to and the discharges from such a treatment works.

REPLACEMENT. Necessary expenditures made during the service life of the treatment works to replace equipment and plant appurtenances required to maintain the intended performance of the treatment works.

SANITARY SEWER. A sewer which carries sewage and to which storm, surface and groundwaters are not intentionally admitted.

SEWAGE. A combination of the water carried wastes from residences, business buildings, institutions and industrial establishments, together with the ground, surface and storm water as may be present. The three most common types of sewage are:

(1) ***COMBINED SEWAGE.*** Wastes including sanitary sewage, industrial sewage, storm water, and infiltration and inflow carried to the wastewater treatment facilities by a combined sewer;

(2) ***INDUSTRIAL SEWAGE.*** A combination of liquid and water carried wastes discharged from any industrial establishment and resulting from any trade or process carried on in that establishment. This shall include the wastes from pretreatment facilities and polluted cooling water; and

(3) ***SANITARY SEWAGE.*** The combination of liquid and water carried wastes discharged from toilet and other sanitary plumbing facilities.

SEWAGE TREATMENT FACILITY. Any arrangement of devices and structures used for treating sewage.

SEWAGE WORKS. All facilities for collecting, pumping, treating and disposing of sewage.

SHALL is mandatory.

SIGNIFICANT INDUSTRIAL USER.

(1) All dischargers subject to United States Environmental Protection Agency's categorical pretreatment standards.

(2) All non-categorical dischargers that, in the opinion of the Authority, have a reasonable potential to adversely affect the POTW operation, or which discharge a waste stream making up 5% of the dry weather hydraulic or organic capacity of the POTW, or discharge greater than 25,000 gallons per day into the POTW.

SIGNIFICANT NON-COMPLIANCE.

(1) Chronic violations of local discharge limits, defined as those in which 66% or more of all the samples and measurements collected during any 6-month period exceed the daily maximum limit or the average limit for the same pollution parameter.

(2) Technical review criteria (TRC) violations in which 33% or more of all samples or measurements for each pollutant parameter taken during any 6-month period equal or exceed the product of the daily maximum limit or the average limit multiplied by the applicable TRC (1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH.)

(3) Any other violation of a pretreatment effluent limit (daily maximum or long-term average) which, in the opinion of the Manager, has caused interference, pass through, or endangered the health of POTW personnel or the general public, alone or in combination with other discharges.

(4) Any discharge which presents an imminent danger to human health, welfare or to the environment, or has resulted in the Manager's exercise of his or her emergency authority to halt or prevent such a discharge.

(5) Failure to meet, within 90 days of the scheduled date, a compliance milestone or enforcement order for starting construction, completing construction, or attaining final compliance.

(6) Failure to provide, within 30 days of the due date, required compliance reports, self-monitoring reports, base line monitoring reports, or other reports required by this chapter.

(7) Failure to accurately report noncompliance.

(8) Any other violations which the Manager determines will adversely affect the operation or implementation of the local pretreatment program.

SLUDGE. Accumulated solid material separated from liquid waste as a result of the wastewater treatment process.

SLUG. Any discharge of water, wastewater or industrial wastewater which, in concentration of any given constituent, is more than five times the average 24 hours concentration of flows during normal operation.

STORM DRAIN or ***STORM SEWER.*** A sewer which carries storm and surface waters and drainage, but excludes sewage and industrial wastes, other than unpolluted cooling water.

SUSPENDED SOLIDS. Solids that either float on the surface of, or in suspension in, water, sewage or other liquids and which can be removed by laboratory filtering.

TOWNSHIP. Saugatuck Township, as represented by the Township Board.

UG/L. Micrograms per liter.

USER DEBT RETIREMENT CHARGE. The charge levied on all users of the sewage works for the cost of any bond debt of which debt repayment is to be met from the revenues of the works.

USER O&M CHARGE. The charge levied on all users of the sewage works for the cost of operation and maintenance, including replacement and depreciation of the treatment works.

VILLAGE. The Village of Douglas, Allegan County, Michigan, as represented by the Douglas Village Council.

WASTEWATER. A combination of the water-carried wastes from residences, business buildings, institutions, and industrial establishments, together with the ground, surface and storm waters as may unintentionally be present.

WASTEWATER TREATMENT PLANT. Any arrangement of devices and structures used for treating wastewater.

WATERCOURSE. A channel in which a flow of water occurs, either continuously or intermittently.

WYE BRANCH. A local service connection to the sewer that is made at an angle similar to a “wye” so that a sewer cleaning rod will not come into the sewer at a right angle and penetrate the far side, but will travel down the course of the sewer.

(Ord. passed 4-24-1995)

§ 51.003 DEPOSITS OF WASTE ONTO PROPERTY PROHIBITED.

It shall be unlawful for any person to place, deposit or permit to be deposited, in an unsanitary manner, upon public or private property within the system or in any area under the jurisdiction of the Authority, any human or animal excrement, garbage or other objectionable waste which ordinarily would be regarded as sewage or industrial wastes.

(Ord. passed 4-24-1995) Penalty, see § 51.999

§ 51.004 DISCHARGE INTO NATURAL OUTLETS PROHIBITED.

It shall be unlawful to discharge to any natural outlet within the system, or in any area under the jurisdiction of the Authority, any sanitary sewage, industrial waste or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this chapter.

(Ord. passed 4-24-1995) Penalty, see § 51.999

§ 51.005 CONNECTION TO SEWER REQUIRED.

(A) The owner of any house, building or property used for human occupancy, employment, recreation or other purposes, situated within the system and abutting on any street, alley or right-of-way, in which there is located, or may in the future be located, a public sewer or combined sewer of the authority, is hereby required, at his or her expense, to install suitable toilet facilities therein, and to connect the facilities directly with the proper public sewer in accordance with the provision of this chapter when given official notice to do so; provided, that the connection shall not be required to be made less than six months after the sewer is made available for connection thereto.

(B) Notwithstanding the provisions of division (A) of this section, the City Council may approve the installation and use of a septic disposal system and drain field following receipt of a recommendation from the City Engineer and a determination that all of the following conditions would be met:

(1) The premises is located within a critical dunes area as defined by the Department of Natural Resources;

(2) The premises is part of a residential development greater than ten acres with an average density less than one dwelling per two acres; and

(3) Installation of a septic disposal system and drain field is approved by applicable county, state, and federal agencies.

(4) Such other factors as determined reasonable and necessary by the Council.

(5) Any costs for outside professional reviews shall be covered directly by the developer or as part of an escrow account in conformance with § 154.175.

(Ord. passed 4-24-1995; Am. Ord. passed 10-23-1995; Am. Ord. 150309-1, passed 3-9-2015) Penalty, see § 51.999

§ 51.006 PRIVATE WASTEWATER DISPOSAL RESTRICTED.

(A) Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool or other facility intended or used for disposal of sewage.

(B) Where a public sanitary or combined sewer is not available under the provisions of § 51.005, the building sewer shall be connected to a private sewage disposal system complying with all requirements of the Allegan County Health Department.

(C) At such time as a public sewer becomes available to a property served by a private sewage disposal system, as provided in § 51.005, a direct connection shall be made to the public sewer in compliance with this chapter, and any septic tanks, cesspools and similar private sewage disposal facilities shall be abandoned and filled with suitable material.

(D) The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to the Authority.

(E) No statement contained in this section shall be construed to interfere with any additional requirements that may be imposed by the Michigan Department of Public Health.

(F) The type, capacities, location and layout of a private wastewater disposal system shall comply with all local, county, state and federal requirements. No permit shall be issued for any private wastewater disposal systems employing subsurface soil absorption facilities where the area of the lot is less than 3/4 acres. No septic tank or cesspool shall be permitted to discharge to any public sewer or natural outlet.

(Ord. passed 4-24-1995) Penalty, see § 51.999

§ 51.007 CONDITIONS OF SERVICE.

(A) At the time of original construction of the public sewer, the Authority shall install that portion of the building sewer from the public sewer to the lot or easement line off all occupied premises. The Authority shall maintain, at its expense, the public sewer. Those customers making connections at the time of original construction of the public sewer shall install, at their expense, that portion of the building sewer from the lot or easement line to their premises. The customer shall maintain, at his or her expense, the building sewer.

(B) Those customers making connections subsequent to the time of original construction of the public sewer shall install, at their expense, that portion of the building sewer from the public sewer to the lot or easement line in addition to that portion of the building sewer from the lot or easement line to their premises.

(C) The Authority 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; and no person shall be entitled to damages nor have any portion of a payment refunded for any interruption.

(D) The premises receiving sanitary sewer service shall, at all reasonable hours, be subject to inspection by duly authorized personnel of the Authority.

(E) These rules may be changed or amended.

(Ord. passed 4-24-1995) Penalty, see § 51.999

§ 51.008 PROTECTION FROM DAMAGE.

No unauthorized person shall maliciously, willfully or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is a part of the sewage works. Any person violating this provision shall be subject to immediate punishment as provided herein.

(Ord. passed 4-24-1995) Penalty, see § 51.999

BUILDING SEWERS AND CONNECTIONS

§ 51.025 PERMIT CLASSES; APPLICATION; FEE.

There shall be three classes of building sewer permits: residential, commercial and industrial. In any case, the owner or his or her agent shall make application on a special form furnished by the Authority. The permit application shall be supplemented by any plans, specifications or other information considered pertinent in the judgement of the Authority Manager. The fees for the permits shall be as set forth in the city schedule of fees, and the fees shall be paid to the authority at the time the application is filed.

(Ord. passed 4-24-1995) Penalty, see § 51.999

§ 51.026 EXPENSE OF CONNECTION.

(A) All costs and expenses incidental to the installation and connection of the building sewer shall be borne by the owner.

(B) The owner or the person installing the building sewer for the owner shall indemnify the Authority from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

(Ord. passed 4-24-1995)

§ 51.027 BUILDING SEWERS.

A separate and independent building sewer shall be provided for every building, except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer. Other exceptions will be allowed only by special permission granted by the Authority.

(Ord. passed 4-24-1995) Penalty, see § 51.999

§ 51.028 OLD BUILDING SEWERS.

Old building sewers or portions thereof may be used in connection with new buildings only when they are found, on examination and testing by the Inspector or his or her representative, to meet all requirements of this chapter.

(Ord. passed 4-24-1995) Penalty, see § 51.999

§ 51.029 CONSTRUCTION SPECIFICATIONS FOR BUILDING SEWERS.

(A) (1) The building sewer shall be constructed of either of the following types of pipe meeting the current ASTM specifications:

(a) Plastic (ABS) ASTM D 1527 SDR 35;

(b) Plastic (PVC) ASTM D 1785 SDR 35;

(c) Asbestos-Cement (AC) ASTM C-428 C1-2400;

(d) Cast Iron Extra Heavy ASTM A-74; or

(e) Non-reinforced concrete ASTM C-14 Extra Strength.

(2) If installed in filled or unstable ground, the building sewer shall be of cast iron extra heavy pipe, except that other types of pipe may be used if laid on a suitable improved bed or cradle as approved by the Inspector.

(B) All building sewer joints and connections shall be made gas tight and water tight and shall conform to the requirements of the current building and plumbing codes. Asbestos cement or concrete sewer pipe joints shall be of rubber ring, flexible compression type, similar and equal to joints specified for vitrified clay pipe. The joints and connections shall conform to the manufacturer's recommendations.

(C) The size and slope of the building sewer shall be subject to the approval of the Inspector, but in no event shall the diameter be less than four inches. Minimum grade shall be as follows:

(1) Six-inch pipe: one-eighth inch per foot or one inch per eight feet: 1%; and

(2) Four-inch pipe: one-fourth inch per foot or two inches per eight feet: 2%.

(D) Whenever possible, the building sewer shall be brought to the buildings at an elevation below the basement floor. No building sewer shall be laid parallel to or within three feet of any bearing wall which might thereby be weakened. The depth shall be sufficient to afford protection from frost. All excavations required for the installation of a building sewer shall be open trench work unless otherwise approved by the Inspector. Pipe laying and backfill shall be performed in accordance with current ASTM specifications, except that no backfill shall be placed until the work has been inspected by the Inspector or his or her representative.

(E) In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by the drains shall be lifted by artificial means and discharged to the building sewer, subject to approval by the Inspector

(F) The connection of the building sewer into the public sewer shall be made at the wye branch designated for the property if the branch is available at a suitable location. Any connection not made at the designated wye branch in the main sewer shall be made only as directed by the Inspector.

(Ord. passed 4-24-1995) Penalty, see § 51.999

§ 51.030 INSPECTION OF WORK; CONNECTION TO SEWER.

(A) The applicant for the building sewer shall notify the Inspector when the building sewer is ready for inspection and connection to the public sewer.

(B) The connection shall be made under the supervision of the Inspector or his or her representative.

(Ord. passed 4-24-1995) Penalty, see § 51.999

§ 51.031 EXCAVATIONS; RESTORATION OF PROPERTY.

(A) All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard.

(B) Streets, sidewalks, parkways and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the authority.

(Ord. passed 4-24-1995) Penalty, see § 51.999

§ 51.032 CONNECTION MAY BE PROHIBITED.

No connection will be allowed unless there is capacity available in downstream sewers, pump stations, interceptors, force mains and treatment plant including capacity for BOD and suspended solids in the treatment plant as determined by the Authority.

(Ord. passed 4-24-1995) Penalty, see § 51.999

INDUSTRIAL USER REGULATIONS

§ 51.050 REPORT REQUIRED; CONTENTS.

(A) Within 180 days after the effective date of a categorical pretreatment standard applicable to an industrial user, or 180 days after the final administrative decision made upon a category determination submission, whichever is later, industrial users subject to the categorical pretreatment standards which are discharging to or which are scheduled to discharge to the POTW shall be required to submit to the Authority Manager a report which contains the information listed in this section.

(B) Where reports containing this information already have been submitted to the appropriate state or federal agency in compliance with the federal requirements, the industrial user will not be required to submit this information.

(C) In addition, at least 90 days prior to commencement of discharge, any industry or structure planning to discharge industrial wastes to the sanitary sewer shall file the material listed below with the Authority Manager. The authority may also require each person who applies for sewer service, receives sewer service, or through the nature of the enterprise creates a potential environmental problem to file the material listed below.

(D) Required information:

(1) *General statement*. A written statement setting forth the name and address of the facility, including the name of the operator and owners, the nature of the enterprise, the source and amount of water used, and the amount of water to be discharged, with the present or expected bacterial, physical, chemical, radioactive or other pertinent characteristics of the wastes;

(2) *Permits*. The user shall submit a list of any environmental control permits held by or for the facility;

(3) *Description of operations*. The user shall submit a brief description of the nature, average rate of production, and standard industrial classification (SIC) of the operations carried out by the industrial user. This description should include a schematic process diagram which indicates points of discharge to the POTW from the regulated processes;

(4) *Flow measurement*. The user shall submit information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from each of the following: regulated process streams and other streams as necessary to allow use of the combined waste stream formula set forth in the applicable federal regulations. The Authority Manager may allow for verifiable estimates of these flows where justified by cost or feasibility considerations;

(5) *Measurement of pollutants*. All measurements, tests and analyses of the characteristics of water and wastes to which reference is made in this chapter shall be determined in accordance with methods listed in 40 C.F.R. § 136 or the laboratory procedure set forth in the latest edition, at the time of analysis, of *Standard Methods for the Examination of Water and Sewage*; provided, in the event of any conflict, 40 C.F.R. § 136 shall be followed. These measurements shall be determined at the control manhole provided for, or upon suitable samples taken at, the control manhole. In the event that no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected. The following requirements shall also apply to all users:

(a) The user shall identify the categorical pretreatment standards applicable to each regulated process;

(b) In addition, the user shall submit the results of sampling and analysis identifying the nature and concentration (or mass, where required by the standard or Authority Manager) of regulated pollutants in the discharge from each regulated process. Both daily maximum and average concentration (or mass, where required) shall be reported. The sample shall be representative of daily operations;

(c) A minimum of four grab samples must be used for pH, cyanide, total phenols, oils and grease, sulfide and volatile organics. For all other pollutants, 24-hour composite samples must be obtained through flow-proportional composite sampling techniques where feasible. The Authority Manager may waive flow-proportional composite sampling for any industrial user that demonstrates that flow-proportional sampling is infeasible. In such cases, samples may be obtained through time-proportional composite sampling techniques or through a minimum of four grab samples where the user demonstrates that this will provide a representative sample of the effluent being discharged;

(d) The user shall take a minimum of one representative sample to compile that data necessary to comply with the requirements of this division;

(e) Samples should be taken immediately downstream from pretreatment facilities if such exist or immediately downstream from the regulated process if no pretreatment exists. If other wastewaters are mixed with the regulated wastewater prior to pretreatment, the user should measure the flows and concentrations necessary to allow use of the combined waste stream formula in order to evaluate compliance with the categorical pretreatment standards;

(f) Where 40 C.F.R. § 136 or the most recent edition of *Standard Methods for the Examination of Water and Sewage* do not contain sampling or analytical techniques for the pollutant in question, or where the Authority Manager determines that the 40 C.F.R. § 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analysis shall be performed by using validated analytical methods or any other applicable sampling and analytical procedures, including procedures suggested by the POTW or other parties, approved by the Authority Manager;

(g) The Authority Manager may allow the submission of a baseline report which utilizes only historical data so long as the data provides information sufficient to determine the need for industrial pretreatment measures;

(h) The baseline report shall indicate the time, date and place, of sampling, and methods of analysis, and shall certify that the sampling and analysis is representative of normal work cycles and expected pollutant discharges to the POTW; and

(i) Sampling shall be carried out by methods listed in 40 C.F.R. § 136 to reflect the effect of constituents upon the sewage works and to determine the existence of hazards to life, limb and property. The particular analyses involved will determine whether a 24-hour composite of all outfalls of a premise is appropriate or whether grab sample or samples should be taken. All costs incurred in either industrial self-monitoring or compliance monitoring by the Authority shall be borne by the owner, including fees for inspection and surveillance.

(6) *Certification*. A statement, reviewed by an authorized representative of the user and certified to by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O and M) or additional pretreatment is required for the industrial user to meet the pretreatment standards and requirements; and

(7) *Compliance schedule*. If additional pretreatment or O and M will be required to meet the categorical pretreatment standards, the shortest schedule by which the industrial user will provide the additional pretreatment or O and M is required. The completion date in this schedule shall not be later than the compliance date established for the applicable categorical pretreatment standard.

(Ord. passed 4-24-1995) Penalty, see § 51.999

§ 51.051 DISCHARGING INDUSTRIAL OR SIMILAR WASTES; REQUIRED PROCEDURES.

Any industry or structure discharging industrial wastes to the sanitary sewer, and any other person who applies for sewer service, receives sewer service, or through the nature of the enterprise creates a potential environment problem shall, unless otherwise authorized by the Authority Manager:

(A) Provide a plan map of the building, works or complex, with each outfall to the surface waters, sanitary sewer, storm sewer, natural watercourse, or groundwaters noted, described, and the waste stream identified;

(B) Sample, test and file reports with the Authority Manager and the appropriate state agencies on appropriate characteristics of wastes on a schedule, at locations, and according to methods outlined in § 51.050(D)(5);

(C) Provide an affidavit placing waste treatment facilities, process facilities, waste streams or other potential waste problems under the specific supervision and control of persons properly qualified to supervise the facilities;

(D) Provide a report on raw materials entering the process or support system, intermediate materials, final product, and waste by-products as those factors may affect waste control;

(E) Maintain records and file reports on the final disposal of specific liquid, solids, sludge, oil, radioactive material, solvent or other waste;

(F) If any industrial process is to be altered so as to include or negate a process waste or potential waste, written notification shall be given to the Authority Manager subject to approval;

(G) Submit annual progress reports to the Authority Board outlining progress towards compliance with categorical pretreatment requirements developed by the Environmental Protection Agency;

(H) Within 90 days following the date for final compliance with the pretreatment standards set forth in this chapter or within 90 days following commencement of discharge by a new discharger, any discharger subject to this chapter shall, in addition to the information required by § 51.050 and this section, report whether applicable pretreatment standards are being met on a consistent basis. If not, the discharger shall indicate what additional operation and maintenance or pretreatment is necessary to insure compliance. This statement shall be signed by an authorized representative of the discharger and certified to by a qualified engineer;

(I) If the sampling performed by an industrial user indicates a violation of this chapter, the user shall notify the wastewater plant within 24 hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and report the results to the Authority within 30 days of the initial violation unless the Authority agrees to perform the sampling within the 30-day deadline; and

(J) New sources, when subject to a national categorical pretreatment standard, shall submit a base line report at least 90 days prior to commencement of discharge to the POTW.

(Ord. passed 4-24-1995) Penalty, see § 51.999

§ 51.052 CONDITIONS FOR COMPLIANCE SCHEDULES.

The following conditions shall apply to the compliance schedule required by § 51.050(D)(7):

(A) The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the industrial user to meet the applicable pretreatment standards (for example, hiring an engineer, completing preliminary plans, completing final plans, executing contract for major components, commencing construction, completing construction and the like);

(B) No increment referred to in division (A) shall exceed nine months; and

(C) Not later than 14 days following each date in the schedule and the final date for compliance, the industrial user shall submit a progress report to the Authority Manager, including, at a minimum, whether or not it complied with the increment of progress to be met on such date and, if not, the date on which it expects to comply with this increment of progress, the reason for delay, and the steps being taken by the industrial user to return the construction to the schedule established. In no event shall more than nine months elapse between the progress reports to the Authority Manager.

(Ord. passed 4-24-1995) Penalty, see § 51.999

§ 51.053 REPORT REQUIRED AFTER DATE FOR FINAL COMPLIANCE.

Within 90 days following the date for final compliance with applicable pretreatment standards or, in the case of a new source, following commencement of the introduction of wastewater into the POTW, any industrial user subject to pretreatment standards and requirements shall submit to the Authority Manager a report containing the information described in § 51.050(D)(4), (5) and (6). This report shall include the user’s actual production during the appropriate sampling period.

(Ord. passed 4-24-1995) Penalty, see § 51.999

§ 51.054 RETENTION OF RECORDS.

(A) All dischargers subject to this chapter shall retain for no less than three years any records, books, documents, memoranda, reports, correspondence and any summaries thereof, relating to monitoring, sampling and chemical analysis of its discharge, whether or not the records are required by this chapter.

(B) All the records shall be made available for inspection and copying by the Department of Natural Resources and the Environmental Protection Agency, and the Authority in the case of an industrial user.

(C) All records which pertain to matters which are the subject of administrative action, enforcement or litigation shall be maintained and preserved until all enforcement limitation with respect to any and all appeals have expired.

(Ord. passed 4-24-1995) Penalty, see § 51.999

§ 51.055 RESPONSIBILITY FOR NOTIFYING INDUSTRIAL USERS OF APPLICABLE STANDARDS.

The Authority assumes the responsibility of notifying industrial users of applicable pretreatment standards and any applicable requirements under the general federal pretreatment regulations and Subtitles C and D of the Resource Conservation and Recovery Act, being generally 42 U.S.C. §§ 6921 *et seq*.

(Ord. passed 4-24-1995)

§ 51.056 ADJUSTMENT OF CATEGORICAL PRETREATMENT STANDARDS.

Categorical pretreatment standards may be adjusted to reflect the presence of pollutants in the industrial user's intake water if the industrial user meets the requirements outlined in 40 § C.F.R. § 403.15.

(Ord. passed 4-24-1995)

§ 51.057 REPORTS, MONITORING AND ANALYSIS OF CONTINUED COMPLIANCE.

(A) *Periodic reports on continued compliance.*

(1) Any industrial user subject to a categorical pretreatment standard, and all non-categorical industries, when required by the Authority Board, shall submit to the Authority during the months of June and December, unless required more frequently in the pretreatment standard or by the Authority or the Authority Manager, a report indicating the nature and concentration of pollutants in the effluent which are limited by the categorical pretreatment standards, and as further required by the permit. In addition, this report shall include a record of measured or estimated average and maximum daily flows for the reporting period for the discharge reported in §§ 51.050 or 51.051 except that the Authority may require more detailed reporting of flows. At the discretion of the Authority and in consideration of such factors as local high or low flow rates, holidays, budget cycles and the like, the Authority may agree to alter the months during which the above reports are to be submitted.

(2) Where the Authority has imposed mass limitations on industrial users as provided for by 40 C.F.R. § 403.6, the report required by division (A)(1) shall indicate the mass of pollutants regulated by pretreatment standards in the discharge from the industrial user.

(3) For industrial users subject to equivalent mass or concentration limits established by the authority in accordance with 40 C.F.R. § 403.6, the report required by division (A)(1) shall contain a reasonable measure of the user's long-term production rate. For all other industrial users subject to categorical pretreatment standards expressed only in terms of allowable pollutant discharge per unit of production (or other measure of operation), the report required by division (A)(1) shall include the user's actual average production rate for the reporting period.

(B) *Notice of potential problems, including slug loading*. All categorical and non-categorical industrial users shall notify the POTW immediately of all discharges that could cause problems to the POTW, including any slug loadings, as defined in § 51.002, by the industrial user.

(C) *Monitoring and analysis to demonstrate continued compliance.*

(1) The reports required in §§ 51.050, 51.053 and 51.057 shall contain the results of sampling and analysis of the discharge, including the flow and the nature and concentration, or production and mass, where requested by the Authority, of pollutants contained therein which are limited by the applicable pretreatment standards. This sampling and analysis may be performed by the Authority in lieu of the industrial user. Where the Authority performs the required sampling and analysis in lieu of the industrial user, the user shall not be required to submit the compliance certification required under 40 C.F.R. § 403.12(b)(6) and 40 C.F.R. § 403.12(d). In addition, where the Authority itself collects all the information required for the report, including flow data, the industrial user will not be required to submit the report.

(2) If sampling performed by an industrial user indicates a violation, the user shall notify the Control Authority within 24 hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the Control Authority within 30 days after becoming aware of the violation, except the industrial user is not required to resample if:

(a) The Authority performs sampling at the industrial user at a frequency of at least once per month; or

(b) The Authority performs sampling at the user between the time when the user performs its initial sampling and the time when the user receives the results of this sampling.

(3) The reports required in division (A)(1) shall be based upon data obtained through appropriate sampling and analysis performed during the period covered by the report, which data is representative of conditions occurring during the reporting period. The Authority shall require that frequency of monitoring necessary to assess and assure compliance by industrial users with applicable categorical pretreatment standards and requirements.

(4) All analyses shall be performed in accordance with procedures established pursuant to § 51.050(D)(5).

(5) If an industrial user subject to the reporting requirement in division (A)(1) monitors any pollutant more frequently than required by the Authority, using the procedures prescribed above, the results of this monitoring shall be included in the report.

(Ord. passed 4-24-1995) Penalty, see § 51.999

§ 51.058 REPORTS REQUIRED OF SIGNIFICANT NON-CATEGORICAL INDUSTRIAL USERS.

(A) Significant non-categorical industrial users shall submit to the Authority Manager at least once every six months (on dates specified by the Authority Manager) a description of the nature, concentration and flow of the pollutants required to be reported by the Authority.

(B) These reports shall be based on sampling and analysis performed in the period covered by the report, and performed in accordance with the techniques described in § 51.050(D)(5). This sampling and analysis may be performed by the authority in lieu of the significant non-categorical industrial user.

(C) Where the Authority itself collects all the information required for the report, the significant non-categorical industrial user will not be required to submit the report.

(Ord. passed 4-24-1995) Penalty, see § 51.999

§ 51.059 REPORTS TO INCLUDE CERTIFICATION STATEMENT.

(A) The reports required by this chapter of significant industrial users and others as required by the Manager shall include the certification statement set forth at 40 C.F.R. § 403.6(a)(2)(ii), as amended.

(B) The certification statement shall be signed as follows:

(1) By a responsible corporate officer, if the user submitting the reports required by this chapter is a corporation. For the purpose of this section, a ***RESPONSIBLE CORPORATE OFFICER*** means a president, secretary, treasurer or vice president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or the manager of one or more manufacturing, production or operation facilities employing more than 250 persons or having gross annual sales or expenditures exceeding $25 million (in second quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;

(2) By a general partner or proprietor if the user submitting the required reports is a partnership or sole proprietorship, respectively;

(3) By a duly authorized representative of the individual designated in division (B)(1) or (B)(2) if:

(a) The authorization is made in writing by the individual described in division (B)(1) or (B)(2);

(b) The authorization specifies either an individual or a position having responsibility for the overall operation of the facility from which the discharge originates, such as the position of plant manager, operator of a well, or well field superintendent, or a position of equivalent responsibility, or having overall responsibility for environmental matters for the company; and

(c) The written authorization is submitted to the Authority.

(4) If an authorization under division (B)(3) is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, or overall responsibility for environmental matters for the company, a new authorization satisfying the requirements of division (B)(3) must be submitted to the Authority prior to or together with any reports to be signed by an authorized representative.

(Ord. passed 4-24-1995) Penalty, see § 51.999

§ 51.060 COMPLIANCE SCHEDULES.

(A) In addition to the base line monitoring reports required by this chapter, compliance schedules are required of industrial dischargers not in compliance with federal categorical limits or local discharge limits. These schedules must indicate the major milestones, with dates, that will lead the industry into compliance. Industries not in compliance with federal or local discharge limits are required to submit progress reports no later than 14 days following each date in their compliance schedule. Progress reports shall indicate if the compliance schedule is being met and, if not, reasons for noncompliance must be provided. In addition, steps being taken by the industry to return to the established schedule must also be indicated.

(B) The authority shall require the development of a compliance schedule by each industrial user for the installation of technology to meet applicable pretreatment standards and other requirements set forth herein.

(Ord. passed 4-24-1995) Penalty, see § 51.999

§ 51.061 PERMITS REQUIRED FOR SIGNIFICANT INDUSTRIAL USERS; CONTENTS.

(A) It shall be unlawful for significant industrial users to discharge wastewater to the KLSWA sanitary system without first obtaining a permit from the Authority regulating the discharges.

(B) The permits will be enforceable and will contain, at minimum, these elements:

(1) A statement of duration which will in no case exceed five years;

(2) A statement of non-transferability without a minimum of prior notification to the POTW and provisions for copies of the existing permit to the new owner or operator;

(3) Effluent limits based on applicable pretreatment standards as outlined in 40 C.F.R. § 403, or local limits as contained in this chapter; and

(4) Industrial discharge permits will include specific self-monitoring, sampling, reporting, notification and record keeping requirements. Permits shall contain the following:

(a) Limits on the maximum rate of discharge;

(b) Limits on the concentration of identified wastewater constituents;

(c) Requirements for the installation of appropriate technology to prevent the introduction of pollutants to the treatment works;

(d) Requirements for spill control plans;

(e) Requirements for the installation of inspection and sampling facilities;

(f) Specifications for monitoring programs including frequency of sampling and specification of parameters;

(g) Compliance schedules;

(h) Requirements for submission of reports;

(i) Requirements for retaining records;

(j) Requirements for notification of accidental or slug discharges;

(k) Other requirements or conditions deemed appropriate by the Manager to ensure compliance with this chapter and state or federal laws, rules and regulations regarding industrial discharges to local sanitary systems; and

(l) A statement of applicable civil and criminal penalties for violation of pretreatment standards, regulations and applicable compliance schedules. In no instance may compliance schedules extend beyond applicable federal guidelines.

(Ord. passed 4-24-1995) Penalty, see § 51.999

§ 51.062 PERMITS; REQUIRED FOR EXISTING CONDITIONS AND NEW CONNECTIONS.

(A) *Existing conditions*. Any significant industrial user which discharges non-domestic waste into the sanitary sewer system prior to the effective date of this section and who wishes to continue the discharges in the future shall, within 90 days after such date, apply to the Authority Board for an industrial discharge permit and shall not cause or allow discharges to the POTW after 180 days from the effective date of this section except in accordance with a permit issued by the Authority.

(B) *New connections*. Any significant industrial user proposing to begin discharge of non-domestic waste into the KLSWA system must obtain an industrial discharge permit prior to beginning the discharge. An application for this permit must be filed at least 60 days prior to the anticipated start-up date.

(Ord. passed 4-24-1995) Penalty, see § 51.999

§ 51.063 CONDITIONS IN PERMITS.

(A) Industrial discharge permits shall include such conditions as are reasonably deemed necessary by the Manager of the KLSWA wastewater plant to prevent pass through or interference, protect water quality in the Kalamazoo River, protect worker health and safety, facilitate sludge management and disposal, protect ambient air quality, and protect against damage to the POTW and the KLSWA collection system.

(B) Permits shall contain but shall not necessarily be limited to the elements contained in § 51.061.

(Ord. passed 4-24-1995)

§ 51.064 NOTICE OF INTENT TO ISSUE A PRETREATMENT PERMIT.

The Authority Manager shall publish in the local newspaper a notice of intent to issue a pretreatment permit at least 14 days prior to issuance. The notice will indicate a location where a draft permit may be reviewed and an address where written comments may be submitted.

(Ord. passed 4-24-1995)

§ 51.065 PERMIT APPEALS.

(A) The Authority Manager will provide all interested persons with notice of final permit decisions. Upon notice by the Authority Manager, any person, including the industrial user, may petition to appeal the terms of the permit within 30 days of the notice. Failure to submit a timely petition for review shall be deemed a waiver of appeal. In its petition the appealing party must indicate the permit provisions objected to, the reasons for the objection, and the alternative condition, if any, which they seek to place in the permit.

(B) The Authority Board may, after considering this petition and any arguments by the Authority Manager, determine that reconsideration is proper. It shall then remand the permit back to the Authority Manager for re-issuance. The permit provisions being reconsidered by the Authority Manager shall be stayed pending re-issuance.

(C) The Authority Board's decision not to reconsider a final permit shall be considered the final administrative action for purposes of judicial review.

(Ord. passed 4-24-1995)

§ 51.066 MODIFICATION AND TERMINATION OF PERMITS.

(A) *Modification*. The Authority Manager may modify a permit for good cause including:

(1) Incorporation of new federal, state or local standards; and

(2) Material or substantial alteration of the discharger's operation.

(B) *Termination*. Pretreatment permits may be terminated for the following reasons:

(1) Falsifying self-monitoring reports;

(2) Tampering with monitoring equipment;

(3) Refusing to allow timely access to facility premises and records;

(4) Failure to meet effluent limitations or causing the POTW to violate its NPDES permit;

(5) Failure to pay fines;

(6) Failure to pay sewer charges; and/or

(7) Failure to meet compliance schedule.

(Ord. passed 4-24-1995)

§ 51.067 EFFLUENT DATA AVAILABLE TO THE PUBLIC.

Information and data provided to the Authority or Authority Manager pursuant to this chapter which is effluent data shall be available to the public without restriction.

(Ord. passed 4-24-1995)

DISCHARGE REGULATIONS

§ 51.080 STORM WATER AND UNPOLLUTED DRAINAGE.

(A) No person shall discharge, or cause to be discharged, any storm water, surface water, groundwater, roof runoff, subsurface drainage, uncontaminated cooling water, or unpolluted industrial process waters to any sanitary sewer, unless approved in writing by the Manager.

(B) Storm water and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as combined sewer or storm sewers, or to a natural outlet approved by the

appropriate state agency. Industrial cooling water or unpolluted process waters may be discharged, upon approval of the appropriate state agency, to a storm sewer or natural outlet.

(Ord. passed 4-24-1995) Penalty, see § 51.999

§ 51.081 PROHIBITED DISCHARGES.

(A) Except as hereinafter provided in § 51.086, no person shall discharge any of the following described waters or wastes to any public sewers:

(1) BOD in excess of 200 mg/l;

(2) COD in excess of 450 mg/l;

(3) Chlorine demand in excess of 15 mg/l;

(4) Any pollutant, including oxygen demanding pollutants (BOD and the like) released in a discharge at a flow rate or pollutant concentration which will cause interference with the POTW;

(5) Color (as from, but not limited to, dyes, inks or vegetable tanning solutions) shall be controlled to prevent light absorbency which would interfere with treatment plant processes or that prevent analytical determinations;

(6) Explosive liquid, solid or gas, gasoline, benzene, naphtha, fuel oil or other flammable waste;

(7) Garbage not properly shredded (no particle size greater than 1/2-inch);

(8) Petroleum oil, nonbiodegradable cutting oil, products of mineral oil origin, or grease, oil, wax or fat, whether emulsified or not, in amounts that will cause interference or pass through, or in excess of 50 mg/l, or other substances which may solidify or become viscous at temperatures between 32°F and 150°F;

(9) Industrial wastes in concentrations above those listed below:

Copper (Cu)	1.0 mg/l
Cadmium (Cd)	1.0 mg/l
Chromium Total	0.8 mg/l
Chromium Hexavalent	0.2 mg/l
Lead (Pb)	0.2 mg/l
Nickel (Ni)	1.0 mg/l
Zinc (Zn)	2.6 mg/l/day maximum
	1.48 mg/l/month average
Silver (Ag)	0.1 mg/l
Phosphorus (P)	6.5 mg/l
Cyanide (Cn)	0.5 mg/l
Total Phenol	0.2 mg/l
Or any other metallic compounds in sufficient quantity to impair the operations of the sewage treatment processes.	

(10) Inert suspended solids (such as, but not limited to, Fullers earth, lime slurries, and lime residues) or dissolved solids (such as, but not limited to, sodium chloride and sodium sulfate) in unusual concentrations;

(11) Solid insoluble or viscous substances in amounts which will cause obstruction to the flow in the POTW resulting in interference (such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, tar, feathers, plastics, wood, hair, fleshings and the like);

(12) Noxious or malodorous gas (such as, but not limited to, hydrogen sulfide, sulphur dioxide or oxides of nitrogen) and other substances capable of public nuisance;

(13) Pollutants which will cause corrosive structural damage to the POTW, but in no case discharges with pH lower than 6.5 and greater than 9.5;

(14) Radioactive wastes or isotopes of such half-life or concentration which may exceed limits established by state and federal regulations;

(15) Suspended solids in excess of 250 mg/l;

(16) Heat in amounts which will inhibit biological activity in the POTW resulting in interference, but in no case heat in such quantities that the temperature at the POTW treatment plant exceeds 40°C (104°F);

(17) Water or wastes containing substances which are not amenable to treatment or reduction by the sewage treatment processes employed, or are amenable to treatment to only such degree that the sewage treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters;

(18) Discharges that would result in excess foaming during the treatment process. Excess foaming is any foam which, in the opinion of the Authority Manager, is a nuisance in the treatment process;

(19) Any pollutants which causes pass through or interference;

(20) Pollutants which create a fire or explosion hazard in the POTW, including, but not limited to, waste streams with a closed cup flash point of less than 140°F or 60°C using test methods specified in the latest edition of *Standard Methods*; or

(21) Pollutants which result in the presence of toxic gases, vapors or fumes within the POTW in a quantity which may cause acute health and safety problems.

(B) In addition to the foregoing, the following requirements shall apply:

(1) No slug loads, as defined in § 51.002, shall be permitted;

(2) New sources shall install, have in operation and start up all pollution control equipment necessary to meet applicable pretreatment standards before beginning discharge. Within the shortest feasible time (not to exceed 90 days) new sources must be in compliance with all pretreatment standards;

(3) All categorical and non-categorical users of the sewer system shall immediately notify the wastewater plant of all discharges that could cause problems with plant operations, including any slug loads. A written report is required within five days detailing conditions which caused the slug load to be discharged and steps taken to eliminate reoccurrence of the slug loading. Immediate notice shall be provided to the authority at 857-2709 with a follow-up report sent to the Authority at P.O. Box 789, Saugatuck, MI, 49453; and

(4) No trucked or hauled pollutants may be discharged to the POTW except at points designated by the POTW.

(Ord. passed 4-24-1995) Penalty, see § 51.999

§ 51.082 CONSEQUENCES OF UNLAWFUL DISCHARGES OR PROPOSED DISCHARGES.

(A) If any waters or wastes are discharged, or are proposed to be discharged, to the public sewer, which waters contain the substances or possess the characteristics enumerated in § 51.081, and which in the judgement or the Authority Manager may have a deleterious effect upon the sewage works, processes, equipment or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the Authority may:

(1) Reject the wastes;

(2) Require pretreatment to acceptable condition for discharge to the public sewers. Requirements for pretreatment are to be developed, pursuant to Section 307 of the Clean Water Act, being 33 U.S.C. § 1317, by the Environmental Protection Agency. When pretreatment is necessary, construction to achieve pretreatment requirements is to be initiated within three years after the date of promulgation of the pretreatment standards;

(3) Require pretreatment to an acceptable level (other than normal strength sewage) for discharge to the public sewers; and/or

(4) Require new industrial customers or industries with significant changes in strength or flow to submit prior information to the Authority concerning the proposed flows.

(B) If the authority permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the Authority Manager and subject to the requirements of all applicable codes, ordinances and laws.

(Ord. passed 4-24-1995) Penalty, see § 51.999

§ 51.083 INTERCEPTORS.

(A) Grease, oil and sand interceptors shall be provided when, in the opinion of the Authority, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand or other harmful ingredients, except that the interceptors shall not be required for private living quarters or dwelling units.

(B) All interceptors shall be of a type and capacity approved by the Authority, and shall be located as to be readily and easily accessible for cleaning and inspection.

(C) Where preliminary treatment or flow equalizing facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at his or her expense.

(Ord. passed 4-24-1995) Penalty, see § 51.999

§ 51.084 CONTROL MANHOLES.

(A) When required by the Authority, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable control manhole together with the necessary meters and other appurtenances in the building sewer to facilitate observation, sampling and measurement of the wastes. The manhole, when required, shall be accessibly and safely located, and shall be constructed in accordance with plans approved by the Authority.

(B) The manhole shall be installed by the owner at his or her expense, and shall be maintained by him or her so as to be safe and accessible at all times.

(Ord. passed 4-24-1995) Penalty, see § 51.999

§ 51.085 SPECIAL AGREEMENTS.

(A) No statement contained in this subchapter shall be construed as preventing any special agreement or arrangement between the Authority and any industrial concern after recommendation by

the Authority whereby an industrial waste of unusual strength or character may be accepted by the Authority for treatment, subject to payment therefor, by the industrial concern.

(B) The municipalities specifically exclude the waiver of federal pretreatment regulations and national categorical standards. Specifically excluded are “heavy” metals, PCBs and any pollutant that will likely contribute to or cause operational or sludge disposal problems or unacceptable discharges to the receiving waters.

(Ord. passed 4-24-1995)

§ 51.086 COOLING WATERS.

Industrial cooling water containing such pollutants as insoluble oils or grease, or other suspended solids, shall be treated for removal of the pollutants and then discharged to the storm sewer. All discharges of cooling water to the storm water system require an NPDES permit issued by the state prior to initiation of the discharge.

(Ord. passed 4-24-1995) Penalty, see § 51.999

§ 51.087 RIGHT OF ENTRY.

Agents of the Authority, the Michigan Department of Natural Resources, or the United States Environmental Protection Agency shall have the right to enter all properties for the purpose of inspecting, measuring, sampling and testing the wastewater discharge, and inspecting and copying all records which are required to be kept pursuant to this chapter.

(Ord. passed 4-24-1995)

§ 51.088 CONFIDENTIALITY OF INFORMATION.

The Authority agrees to regard information submitted by industrial users during the pretreatment program’s development and implementation as confidential. Effluent data furnished by industries shall, however, be available without restriction as per 40 C.F.R. § 2.302.

(Ord. passed 4-24-1995)

§ 51.089 RIGHT TO REVISE STANDARDS RESERVED.

The Authority reserves the right to revise the standards contained in this subchapter consistent with the requirements outlined in 40 C.F.R. § 403 and the state pretreatment program. Specific effluent limits shall not be developed and enforced without individual notice to persons or groups who have requested the notice and an opportunity to respond.

(Ord. passed 4-24-1995)

§ 51.090 DILUTION AS SUBSTITUTE FOR TREATMENT RESTRICTED.

Except where expressly permitted to do so by an applicable categorical pretreatment standard, no industrial user shall ever increase the use of process water or in any other way attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with a pretreatment standard. The Authority may impose mass limitations on industrial users which are using dilution to meet applicable pretreatment standards.

(Ord. passed 4-24-1995)

§ 51.091 CHOICE OF MONITORING LOCATION.

(A) Where a treated regulated process waste stream is combined prior to treatment with wastewaters other than those generated by the regulated process, the industrial user may monitor either the segregated process waste stream or the combined waste streams for the purpose of determining compliance with applicable pretreatment standards. If the industrial user chooses to monitor the segregated process waste stream, it shall apply the applicable categorical pretreatment standard. If the user chooses to monitor the combined waste stream, it shall apply an alternative discharge limit calculated using the combined waste stream formula as provided by federal regulations.

(B) The industrial user may change monitoring points only after receiving approval from the Authority.

(C) The Authority shall ensure that any change in an industrial user's monitoring points will not allow the user to substitute dilution for adequate treatment to achieve compliance with applicable standards.

(Ord. passed 4-24-1995)

§ 51.092 SPILL PREVENTION PLAN.

(A) Industrial users determined to be storing toxic or hazardous wastes or other pollutants in quantities that when spilled could adversely impact the wastewater treatment plant will be required to develop a spill prevention plan.

(B) The spill prevention plan shall include:

(1) A description of any facilities to be constructed to prevent a spill from reaching the sewage collection system;

(2) A description of procedures to be used in the event of a spill, including instructions for notifying the Authority Manager or his or her representative, and a description of emergency clean-up procedures; and

(3) A description of the type of surveillance the industrial user intends to employ in order to detect and prevent pollutant discharges.

(C) The completed spill prevention plan shall be submitted to the Authority for approval. The access to the property of industrial users, for spill containment inspection, shall be granted to municipal, state and federal agents during normal business hours.

(Ord. passed 4-24-1995) Penalty, see § 51.999

§ 51.093 MORE STRINGENT REQUIREMENTS AND LIMITATIONS TO BE MET.

Local limits and requirements shall be met by all dischargers to the POTW. Applicable national categorical pretreatment standards and state limitations and requirements shall be met where they are more stringent than local requirements and limitations.

(Ord. passed 4-24-1995) Penalty, see § 51.999

§ 51.094 POLLUTION DISCHARGE LIMITS TO BE EXPRESSED AS EITHER CONCENTRATION OR MASS LIMITS.

(A) Pollution discharge limits in categorical pretreatment standards will be expressed as either concentration or mass limits.

(B) Whenever concentration limits are specified, equivalent mass limits will be provided wherever possible.

(C) In the regulation of industrial discharges, the Authority may use either concentration or mass limits.

(Ord. passed 4-24-1995)

§ 51.095 ADVANCE NOTIFICATION TO AUTHORITY OF SUBSTANTIAL CHANGES.

All industrial dischargers shall notify the Authority in advance of any substantial changes in the volume or character of the pollutants in their discharge, including listed or characteristic hazardous waste for which the industrial user has submitted notification under 40 C.F.R. § 403.12.

(Ord. passed 4-24-1995) Penalty, see § 51.999

§ 51.096 NOTIFICATION REQUIRED FOR DISCHARGE OF HAZARDOUS WASTES.

(A) The industrial user shall notify the POTW, the Environmental Protection Agency Regional Waste Management Division Director, and state hazardous waste authorities in writing of any discharge into the POTW of a substance which, if otherwise disposed of, would be a hazardous waste under 40 C.F.R. § 261. The notification must include the name of the hazardous waste as set forth in 40 C.F.R. § 261, the Environmental Protection Agency hazardous waste number, and the type of discharge (continuous, batch or other). If the industrial user discharges more than 100 kilograms of the waste per calendar month to the POTW, the notification shall also contain the following information to the extent the information is known and readily available to the industrial user: an identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of the constituents in the waste stream discharged during that calendar month, and an estimation of the mass of constituents in the waste stream expected to be discharged during the following 12 months. All notifications must take place within 180 days of the effective date of this section. Industrial users who commence discharging after the effective date of this section shall provide the notification no later than 180 days after the discharge of the listed or characteristic hazardous waste. Any notification under this division (A) need be submitted only once for each hazardous waste discharged. However, notifications of changed discharges must be submitted under 40 C.F.R. § 403.12(j). The notification requirement in this section does not apply to pollutants already reported under the self-monitoring requirements of 40 C.F.R. § 403.12(b), (d) and (e).

(B) Dischargers are exempt from the requirements of division (A) during a calendar month in which they may discharge no more than 15 kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 C.F.R. §§ 261.30(d) and 261.33(e). Discharge of more than 15 kilograms of non-acute hazardous wastes in a calendar month, or of any quantity of acute hazardous wastes as specified in 40 C.F.R. §§ 261.30(d) and 261.33(e), requires a 1-time notification. Subsequent months during which the industrial user discharges more than the quantities of any hazardous waste do not require additional notification.

(C) In the case of any new regulation under § 3001 of the RCRA, being 42 U.S.C. § 6921, identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the industrial user must notify the POTW, the Environmental Protection Agency Regional Waste Management Waste Division Director, and state hazardous waste authorities of the discharge of the substance within 90 days of the effective date of the regulations.

(D) In the case of any notification made under this section, the industrial user shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.

(Ord. passed 4-24-1995) Penalty, see § 51.999

SEWER RATES AND CHARGES

§ 51.110 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

AUTHORITY. The Kalamazoo Lake, Sewer and Water Authority.

CITY. The City of Saugatuck, Michigan, as represented by the City Council.

REVENUES and ***NET REVENUES.*** Shall be understood to have the meanings as defined in Public Act 94 of 1933, § 3, being M.C.L.A. § 141.103, as amended.

THE SYSTEM. The term shall be understood to mean all facilities of the city and all subsequent additions, including all sewers, pumps, lift stations and all other facilities used or useful in the collection, treatment and disposal of domestic, commercial or industrial wastes, including all appurtenances thereto and including all extensions and improvements thereto which may hereafter be acquired.

§ 51.111 OPERATION, MAINTENANCE, REPAIR AND MANAGEMENT OF THE SYSTEM.

The operation, maintenance, repair and management of the system shall be under the supervision and control of the Kalamazoo Lake, Sewer and Water Authority. The Authority may employ such person or persons in such capacities as it deems advisable to carry on the efficient management and operations of the system and may make such rules, orders and regulations as it deems advisable and necessary to assure the efficient management and operation of the system.

§ 51.112 SEWER USER AND CONNECTION CHARGES.

(A) All premises connected directly or indirectly to the sanitary sewers of the city, except as hereinafter provided, shall be charged and shall make payments to the Authority in amounts computed on the basis of the actual flow where a certified meter exists or a residential user equivalent in all other cases.

(B) The sewer user charges shall consist of a “user operation and maintenance charge” billable quarterly for residential users and monthly for commercial and industrial users so designated by the Authority.

(C) Rates to be charged for service furnished by the system shall be as follows.

(1) *Sewer use charges*. Sewer use charges shall be at a rate established by the City Council and set in the city’s schedule of fees. Premises outside city limits shall pay a rate established by the City Council and set in the city’s schedule of fees. Any additional revenue generated from the use charge shall be allocated to the capital funds of the city.

(2) *Connection charge.*

(a) *Direct connection*. For each direct connection to the lines of the system, there shall be charged a fee established by the City Council and set in the city’s schedule of fees per single-family residence equivalent, except for premises outside the city limits, whose connection charge shall be established by the City Council and set in the city’s schedule of fees per single-family residence equivalent.

(b) *Indirect connection*. In order to defray the proportional share of treatment works and the necessary oversizing of trunks and pumping stations, for each indirect connection to the system, there shall be charged a fee established by the City Council and set in the city’s schedule of fees per single-family residence equivalent, except for premises outside the city limits, whose connection charge shall be established by the City Council and set in the city’s schedule of fees per single-family residence equivalent. An ***INDIRECT CONNECTION*** shall be defined as one made to lines added to the system after its original construction, the cost of which is paid from special assessments or private funds.

(c) *Equivalent user factor*. Each premises, other than a single-family residence, shall pay either a direct or indirect connection charge multiplied by a factor representing a ratio of sewer use by such class of premises to normal single-family residential use, as reflected in section § 51.113 or the schedule of fees or rates determined by the City Council.

(Ord. passed 5-23-1994; Am. Ord. passed 8-23-1995)

§ 51.113 USER CHARGE UNITS.

User Charge Units		
Occupation Use	***Units***	***Unit Factor***
User Charge Units		
Occupation Use	***Units***	***Unit Factor***
Residential I		
Single-family residence	1.00	Per dwelling unit
Two-family residence	1.00	Per dwelling unit
Mobile home (free-standing)	1.00	Per dwelling unit
Mobile home (in park)	1.00	Per dwelling unit
Duplex or row house	1.00	Per dwelling unit
Apartment building	1.00	Per dwelling unit
Condominium	1.00	Per dwelling unit
Residential II		
Hotel	1.00	Per building; plus 0.30 per bedroom*
Motel	1.00	Per building; plus 0.30 per bedroom*
Sorority or fraternity house	1.00	Per building; plus 0.30 per bedroom*
Boarding house or inn	1.00	Per building; plus 0.30 per bedroom*
Convalescent home (sheltered home)	1.00	Per building; plus 0.30 per bedroom*
Convent	1.00	Per building; plus 0.30 per bedroom*
Other		
Church	0.25	Per 1,000 square feet
School	1.00	Per classroom
Public building, municipal	0.75	Per 1,000 square feet
Public building, federal and state	1.00	Per 1,000 square feet

User Charge Units		
Occupation Use	***Units***	***Unit Factor***
User Charge Units		
Occupation Use	***Units***	***Unit Factor***
Commercial and Industrial		
Athletic club	1.50	Per 1,000 square feet of building*

Auto dealer	1.00	Per building plus 0.25 per 1,000 square feet of building area including service area
Auto repair/collision service	1.00	Per building plus 0.25 per 1,000 square feet of building area including service area
Auto wash; automatic or mechanical, fresh or recycled water		
Under 20 gallons per car	1.00	Per car capacity of wash line or per stall
20 to 40 gallons per car	1.50	Per stall
40 to 70 gallons per car	3.00	
Auto wash; coin operated, manual	1.00	Per stall
Bar	3.00	Per 1,000 square feet*
Barber shop	1.00	Per premise plus 0.10 per station after two stations
Beauty shop	1.00	Per premise plus 0.10 per station after two stations
Bowling alley	1.00	Per premise plus 0.20 per alley*
Cleaners (drop-off and pick-up only)	1.00	Per building
Cleaners (with cleaning and pressing)	1.00	Per building plus 0.50 per 500 square feet
Clinic (medical or dental)	1.00	Per premise plus 0.50 per exam room
Country club	1.50	Per 1,000 square feet of clubhouse*
Drive-in restaurant	2.00	Per 1,000 square feet
Dry goods; retail store	1.00	Per premise plus 0.10 per 1,000 square feet
Drug store	1.00	Per premise*
Factory; dry process; office and production area	0.75	Per 1,000 square feet
Factory; wet process; office and production area	1.50	Per 1,000 square feet
Funeral home	1.50	Per 1,000 square feet*
Grocery store; food market	1.00	Per premise plus 0.50 per 1,000 square feet
Hospital or skilled nursing care	1.10	Per bed
Laundry (self-serve)	1.00	Per premise, plus 0.25 per standard washing machine, plus 0.35 per large capacity washing machine

User Charge Units		
Occupation Use	***Units***	***Unit Factor***
User Charge Units		
Occupation Use	***Units***	***Unit Factor***

Marina	1.00	Per building plus 0.08 per boat slip*
Professional office building	0.75	Per 1,000 square feet
Restaurant (meals only)	2.00	Per 1,000 square feet
Restaurant (with bar)	5.00	Per 1,000 square feet
Service station	1.00	Per 1,000 square feet of building area
Snack bar	2.00	Per 1,000 square feet
Theater	0.03	Per seat or car space
Veterinarian facility	1.50	Per premise plus 0.10 per kennel
Warehousing; storage	0.20	Per 1,000 square feet
* Additional fees for bars, laundry facilities, snack bars and restaurant facilities.		
Water-cooled air conditioning, refrigeration, freezing compressors to be evaluated and charged according to formula.		
Minimum connection fees of 1.00 unit applies in cases where square footage criteria amounts to less than one unit.		

§ 51.114 PAYMENT OF CONNECTION CHARGE.

Connection charges, as set forth in § 51.112, shall be due and payable in cash upon application for connection to the system.

§ 51.115 CHARGES CONSTITUTE LIEN.

(A) The charges for services which are under the provisions of Public Act 94 of 1933, § 21, being M.C.L.A. § 141.121, as amended, made a lien on all premises served thereby, and are hereby recognized to constitute the lien, and whenever any such charge against any piece of property shall be delinquent for six months, the Authority Manager or his or her representative in charge of collection thereof shall certify annually, on August 1 of each year, to the tax assessing officer of the city, the facts of the delinquency, whereupon the charge shall be entered upon the next tax roll by him or her as a charge against the premises and shall be collected and the lien thereof enforced in the same manner as general city taxes against the premises are collected and the lien thereof enforced.

(B) Provided, however, when a tenant (and not the owner of the property) is the customer receiving the service, and will be responsible for the charges for the service, then prior to furnishing of the service, either the tenant or the property owner shall notify the City Council (or its agent, the Kalamazoo Lake, Sewer and Water Authority) in writing of the fact of the tenancy and that the tenant will be responsible for the payment of the services. The tenant or the property owner shall further provide a copy of the lease, if there is one, and the term of the tenancy. The tenant or the landlord shall further deposit with the City Council (or its agent, the Kalamazoo Lake, Sewer and Water Authority) a cash deposit equal to the average annual charges to the premises based on the three preceding calendar years. The cash deposit shall be made prior to the furnishing of service to the premises. If the notice and cash security deposit is provided as set forth above, then the charges shall not become a lien on the premises, where the customer receiving the service is a tenant and not the property owner.

(Ord. passed 10-22-1987)

§ 51.116 CHANGE IN CHARGES.

The city shall have the right to adjust the user charge based on an annual audit review of the sewage works operation and maintenance costs. Such an audit review shall be conducted annually by

the Authority.

§ 51.117 USER CLASSES.

(A) All customers of the sewage works will be included in a user class and each user class will pay for its proportionate use of the sewage works in terms of volume and pollutant loading. Sewer user charges are levied to defray the cost of operation and maintenance (including replacement and depreciation).

(B) The classes of users of the sewage works, for the purpose of determining the user charges, shall be as follows.

(1) Class I - Residential shall include those customers which discharge only segregated domestic wastes or wastes from sanitary conveniences and are defined as “Residential Users” in § 51.002.

(2) Class II - Commercial shall include those customers which did charge only segregated domestic wastes or wastes from sanitary conveniences and are defined as “Commercial Users” in § 51.002.

(3) Class III - Institutional shall include those customers which discharge only segregated domestic wastes or wastes from sanitary conveniences and are defined as “Institutional Users” in § 51.002.

(4) Class IV - Governmental shall include those customers which discharge only segregated domestic wastes or wastes from sanitary conveniences and are defined as “Governmental Users” in § 51.002.

(5) Class V - Industrial shall include those customers which discharge industrial sewage and are defined as “Industrial Users” in § 51.002.

§ 51.118 INDUSTRIAL USER CHARGES.

(A) *Industrial users defined.*

(1) Any non-governmental user of publicly owned treatment works which discharges more than 25,000 gallons per day of sanitary waste, or a volume of process waste, or combined process and sanitary waste, equivalent to 25,000 gallons per day of sanitary waste.

(2) Any non-governmental user of a publicly owned treatment works which discharges wastewater to the treatment works which contains toxic pollutants or poisonous solids, liquids or gases in sufficient quantity either singly or by interaction with other wastes, to injure or interfere with and sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in, or have any adverse effect on, the waters receiving any discharge from the treatment works.

(3) All commercial users of an individual system constructed with grant assistance under § 201(h) of the Act, being 33 U.S.C. § 1281(h), and this section.

(B) *Industrial user charges.*

(1) Each industrial user, as defined in division (A), shall pay their share of the operation, maintenance, replacement and depreciation costs for treatment of the industrial sewage.

(2) 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 Authority in amounts based on the actual volume and strength of the flow from the premises.

(3) 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 provide satisfactory pretreatment to reduce the strength of the wastewater to “normal strength sewage” or pay a surcharge determined by the relative concentration of BOD, suspended solids or other pollutant as compared to “normal strength sewage.”

(4) Prior to discharging to the system, process wastewater which exceeds the limits of “normal strength sewage,” a permit must be obtained from the city through the Kalamazoo Lake, Sewer and Water Authority.

§ 51.119 SEWER CONNECTION CHARGES IN SPECIAL ASSESSMENT DISTRICTS.

(A) All premises connected directly or indirectly to the sanitary sewers of the city and being located on land included within the boundaries of a sanitary sewer special assessment district shall be charged an assessment fee in accordance with the provisions of the special assessment district. In addition, where no lateral stub exists, the actual cost of the installation of the stub, along with the service lateral, will be borne entirely by the property owner.

(B) Where a sewer already exists, each person desiring to tap a single-family residential premises into the system shall pay in cash at the time of application for a tap permit a charge for the privilege of using the facility and receiving the service of the system. The amount of the charge for premises other than single-family residential shall be determined by the City Council.

§ 51.120 PAYMENTS AND COLLECTIONS.

(A) Bills for sewage disposal service are due and payable at the business office of the Authority or to any designated agent on their date of issue and, if not paid by the thirtieth day thereafter, shall be deemed delinquent and shall be subject to a penalty of 5% thereof. Bills shall be dated and mailed quarterly and shall cover one quarter’s (three months’) service in advance. If a bill is not paid within 30 days after its date of issuance, the Authority shall serve upon the customer a written notice of delinquency, and if it is not paid within 60 days after date of issuance, the Authority may discontinue sewer service to the premises and take such other measures as are permitted by state law.

(B) All bills and notices relating to the conduct of the business of the Authority and of the sewage works will be mailed to the customer at the address listed on the application for the connection permit, unless a change of address has been filed in writing at the business office of the Authority. It shall not otherwise be responsible for delivery of any bill or notice, nor will the customer be excused from nonpayment of a bill or from any performance required in the notice.

(C) Applications for connection permits may be cancelled and sewer service disconnected by the Authority for any violation of any rule, regulation or condition of service, and especially for any of the following reasons:

(1) Misrepresentation in the permit application as to the property or residential equivalents to be serviced by the sewage works;

(2) Nonpayment of bills; or

(3) Improper or imperfect service pipes and fixtures or failure to keep the same in a suitable state of repair.

(D) Where the sewer service supplied to a customer has been discontinued for nonpayment of delinquent bill, the Authority reserves the right to request a nominal sum be placed on deposit with the Authority for the purpose of establishing or maintaining any customer’s credit. Service shall not be reestablished until all delinquent charges and penalties, and a turn-on charge to be specified by the City Council, have been paid. Further, such charges and penalties may be recovered by the city by court action.

(E) The Authority shall make all reasonable efforts to eliminate interruptions of service and, when such interruptions occur, will endeavor to reestablish service with the shortest possible delay. Whenever service is interrupted for the purpose of working on the sewage works, all customers affected by the interruption will be notified in advance whenever it is possible to do so.

§ 51.121 DISCONNECTION FOR LATE PAYMENT; PROCEDURES.

(A) It is the policy of the city to discontinue utility service to customers by reason of nonpayment of bills only after notice and a meaningful opportunity to be heard on disputed bills. The city's form for application for utility service and all bills shall contain, in addition to the title, address, room number and telephone number of the official in charge of billing, clearly visible and easily readable provisions to the effect:

(1) That all bills are due and payable on or before the date set forth on the bill;

(2) That if any bill is not paid by or before that date, a second bill will be mailed containing a cutoff notice that if the bill is not paid within ten days of the mailing of the second bill, service will be discontinued for nonpayment; and

(3) That any customer disputing the correctness of his or her bill shall have a right to a hearing at which time he or she may be represented in person and by counsel or any other person of his or her choosing and may present orally or in writing his or her complaint and contentions to the city official in charge of utility billing. This official shall be authorized to order that the customer's service not be discontinued and shall have the authority to make a final determination of the customer's complaint.

(B) Requests for delays or waiver of payment will not be entertained; only questions of proper and correct billing will be considered. In the absence of payment of the bill rendered or resort to the hearing procedure provided herein, service will be discontinued at the time specified, but in no event until the charges have been due and unpaid for at least 30 days.

(C) When it becomes necessary for the city to discontinue utility service to a customer for nonpayment of bills, service will be reinstated only after all bills for service then due have been paid, along with a turn-on charge to be established by the City Council.

ADMINISTRATION AND ENFORCEMENT

§ 51.135 RIGHT OF ENTRY FOR INSPECTION, OBSERVATION, MEASUREMENT, SAMPLING AND TESTING.

(A) The Authority Manager and other duly authorized employees or representatives of the Authority, bearing proper credentials and identification, shall be permitted to enter upon all properties for the purpose of inspection, observation, measurement, sampling and testing in accordance with the provision of this chapter.

(B) The Authority Manager or his or her 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 sewers and waterways of facilities for waste treatment.

(C) The Authority reserves the right inspect and copy any and all such records as are required to be kept under this chapter and those records deemed necessary to enforce the industrial pretreatment sections of this chapter.

(Ord. passed 4-24-1995)

§ 51.136 OBSERVATION OF SAFETY RULES.

While performing the necessary work on private properties referred to in § 51.135 above, the Authority Manager or duly authorized employees of the Authority shall observe all safety rules applicable to the premises established by the company, and the company shall be held harmless for injury or death to the employees, and the Authority shall indemnify the claims and demands for personal injury or property damage asserted against the company and growing out of the gaging and sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions as required by this chapter.

(Ord. passed 4-24-1995)

§ 51.137 NONCOMPLIANCE DEEMED A NUISANCE.

Noncompliance with pretreatment standards, industrial user discharge permits or other state, federal or local requirements by any industrial user is hereby deemed a nuisance, the arrest and prevention of which shall be specifically enforceable by the Authority. The Authority shall have the power and authority to seek an injunction where necessary to prevent or remedy noncompliance with this chapter.

(Ord. passed 4-24-1995)

§ 51.138 NOTIFICATION OF IMMINENT ENDANGERMENT; ABATEMENT; EMERGENCY AUTHORITY.

(A) If, in the opinion of the Authority or the Authority Manager, any discharge of pollutants to the POTW reasonably appears to present an imminent endangerment to the health or welfare of persons, the Authority or the Authority Manager shall notify the user responsible for the discharge that it must take immediate action to abate the risk, including the cessation of the discharge endangering the health or welfare of persons.

(B) If the user does not immediately respond to the notice, the Authority or the Authority Manager shall be authorized to take such actions as are necessary to halt or prevent any such discharge, including emergency suspension of service. This shall be known as the Authority's Emergency Authority.

(Ord. passed 4-24-1995)

§ 51.139 REVOCATION OF TREATMENT SERVICES.

The Authority reserves the right to revoke treatment services to any industrial user that:

(A) Fails to report factually the characteristics of its discharge;

(B) Fails to report changes in discharge characteristics or constituents;

(C) Refuses access to its premises by duly authorized Authority representatives; or

(D) Violates other conditions of this chapter.

(Ord. passed 4-24-1995)

§ 51.140 ENFORCEMENT REMEDIES.

(A) *Generally*. When a violation of this chapter, industrial user permit, order or compliance schedule is not corrected in a timely manner, or when, in the opinion of the Authority, any discharge presents or may present an endangerment to the environment or threatens to interfere with the operation of the POTW, the Authority shall have recourse to the administrative enforcement remedies set forth below.

(B) *Notification of violation*. Whenever the POTW finds that any industrial user has violated or is violating this chapter, or industrial user discharge permit, or order issued hereunder, the Manager or his or her agent may serve upon the user written notice of the violation. Within ten days of the receipt date of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific requirement actions, shall be submitted to the Manager. Submission of this plan in no way relieves the user of liability for any violations for any violations occurring before or after receipt of the notice of violation.

(C) *Consent orders*. The Manager is hereby empowered to enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with the industrial user responsible for the noncompliance. These orders will include compliance schedules, stipulated fines or remedial actions, and signatures of the Manager and industry representatives. Consent orders shall have the same force and effect as administrative orders issued pursuant to division (E) of this section.

(D) *Show cause order*. The Manager may order any user which causes or contributes to violation of this chapter, industrial user discharge permit, or order issued hereunder, to show cause why a proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least ten days prior to the hearing. The notice may be served on any principal executive, general partner or corporate officer. Whether or not a duly notified industrial user appears as noticed, enforcement action may be pursued as appropriate.

(E) *Compliance order*. When the Manager finds that an industrial user has violated or continues to violate this chapter, an industrial user discharge permit or order issued thereunder, he or she may issue an order to the industrial user responsible for the discharge directing that, following a specified time period, sewer service shall be discontinued unless adequate treatment facilities, devices or other related appurtenances have been installed and are properly operated, and compliance is achieved. Orders may also contain such other requirements as might be reasonable, necessary and appropriate to address the noncompliance, including the installation of pretreatment technology, additional self-monitoring, and management practices.

(F) *Cease and desist orders*. When the Manager finds that an industrial user has violated or continues to violate this chapter or any permit or order issued hereunder, the Manager may issue an order to cease and desist all illegal or unauthorized discharges immediately.

(1) In an emergency, the order to cease and desist may be given by telephone.

(2) In non-emergency situations, the cease and desist order may be used to suspend or permanently revoke industrial user discharge permits.

(3) The cease and desist order may order the industrial user to take the appropriate remedial or preventative action as may be needed to properly address a continuing or threatened violation, including halting operations and terminating the discharge.

(G) *Administrative fines*. Notwithstanding any other section of this chapter, any user who is found to have violated any provision of this chapter, or permits and orders issued hereunder, shall be fined in an amount not to exceed $500 per violation. Each day on which noncompliance shall occur or continue shall be deemed a separate and distinct violation. The assessments may be added to the user’s next scheduled sewer service charge and the Manager shall have such other collection remedies, as he or she has, to collect other service charges. Unpaid charges, fines and penalties shall constitute a lien against the individual user’s property. Industrial users desiring to dispute the fines must file a request for the Manager to reconsider the fine within ten days of being notified of the fine. Where the Manager believes a request has merit, he or she shall convene a hearing on the matter within 15 days of receiving the request from the industrial user.

(H) *Emergency suspensions.*

(1) The Manager may suspend the wastewater treatment service and industrial user discharge permit of an industrial user whenever the suspension is necessary in order to stop an actual or threatened discharge presenting or causing an imminent or substantial endangerment to the health or welfare of persons, the POTW, or the environment.

(2) Any user notified of a suspension of the wastewater treatment service and the industrial user discharge permit shall immediately stop or eliminate its contribution. In the event of a user's failure to immediately comply voluntarily with the suspension order, the Manager shall take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW, its receiving stream, or endangerment to any individuals. The Manager shall allow the user to recommence its discharge when the endangerment has passed unless the termination proceedings set forth in division (I) below are initiated against the user.

(3) An industrial user which is responsible, in whole or in part, for imminent endangerment shall submit a detailed written statement describing the causes of the harmful contribution and the measures taken to prevent any future occurrence to the Manager prior to the date of the hearing described in division (H)(2) above.

(I) *Termination of permit.*

(1) Significant industrial users proposing to discharge into the POTW must first obtain an industrial user discharge permit from the Control Authority. Any user who violates any one of the following conditions of this chapter or an industrial user discharge permit or order, or any applicable or state and federal law, is subject to termination:

(a) Violation of industrial user discharge permit conditions;

(b) Failure to accurately report the wastewater constituents and characteristics of its discharge;

(c) Failure to report significant changes in operations or wastewater constituents and characteristics; or

(d) Refusal of reasonable access to the user's premises for the purpose of inspection, monitoring or sampling.

(2) Noncompliant industrial users will be notified of the proposed termination of their industrial user discharge permit and be offered an opportunity to show cause under division (D) above why the proposed action should not be taken.

(Ord. passed 4-24-1995) Penalty, see § 51.999

§ 51.141 ACTION FOR APPROPRIATE LEGAL RELIEF.

Following the entry of any order by the Authority regarding the conduct of a discharger contrary to the provisions of § 51.139, the attorney for the Authority may, following authorization by the Authority, commence an action for appropriate legal relief in the local court. The Authority shall also be authorized to take such actions as are necessary to halt or prevent any discharge which presents or may present an endangerment to persons, to the environment, or which threatens to interfere with the operation of the POTW.

(Ord. passed 4-24-1995)

§ 51.142 RIGHT TO REQUEST AN INTERPRETATION OR RULING; STAYS OF ENFORCEMENT; APPEALS.

(A) Any discharger shall have the right to request in writing an interpretation or ruling by the Authority on any matter covered by this chapter and shall be entitled to a prompt written reply. In the event that such an inquiry deals with matters of compliance with this chapter, for which enforcement

activity relating to alleged violation is the subject of the discharger's request, the request may stay all enforcement proceedings pending receipt of the aforesaid written reply.

(B) Stays shall not be granted where such action results in a threat to the environment, the POTW, or to public health and safety.

(C) Appeal of any final judicial order entered pursuant to this chapter may be taken in accordance with local and state law.

(Ord. passed 4-24-1995)

§ 51.143 UPSET DEFINED; AFFIRMATIVE DEFENSE.

(A) For the purpose of this section, ***UPSET*** means an exceptional incident in which there is unintentional and temporary non-compliance with categorical pretreatment standards because of factors beyond the reasonable control of the user. An ***UPSET*** does not include non-compliance caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventative maintenance or careless or improper operation.

(B) An upset shall constitute an affirmative defense to an action brought for non-compliance with categorical pretreatment standards if the requirements met by division (C) below are met.

(C) A user who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

(1) An upset occurred and the user can identify the cause of the upset;

(2) The facility was, at the time, being operated in a prudent and workman-like manner and in compliance with applicable operation and maintenance procedures; or

(3) The user has submitted the following information to the Authority Manager within 24 hours of becoming aware of the upset. (If this information is provided orally, a written submission must be provided within five days):

(a) A description of the indirect discharge and cause of the non-compliance;

(b) The period of non-compliance, including exact dates and times, or, if not corrected, the anticipated time the non-compliance is expected to continue; and

(c) Steps being taken or planned to reduce, eliminate and prevent recurrence of the non-compliance.

(D) In any enforcement proceeding, the user seeking to establish the occurrence of an upset shall have the burden of proof.

(E) No determination made in the course of the review of the alleged upset shall constitute final agency action subject to judicial review. Users will have the opportunity for a judicial determination on any claim of upset only in enforcement action brought for non-compliance with categorical pretreatment standards.

(F) Users shall control production of all discharges subject to categorical pretreatment standards upon reduction, loss or failure of its treatment system. This requirement applies in situations where, among other things, the primary source of power to the treatment facility is reduced, lost or fails.

(Ord. passed 4-24-1995)

§ 51.144 PASS THROUGH OR INTERFERENCE; RELATED AFFIRMATIVE DEFENSES.

A user shall have an affirmative defense in any action brought against it alleging a violation of § 51.081 above which results in pass through of pollutants or interference with POTW operations where

the user can demonstrate that:

(A) It did not know or have reason to know that its discharge, alone or in conjunction with discharges from other sources, would cause pass through or interference; and

(B) A local limit designed to prevent pass through or interference, as the case may be, was developed in accordance with this chapter for each pollutant in the user's discharge that caused pass through or interference, and the user was in compliance with each such local limit directly prior to and during the pass through or interference; or

(C) If a local limit designed to prevent pass through or interference, as the case may be, has not been developed for the pollutants that caused the pass through or interference, the user's discharge directly prior to and during the pass through or interference did not change substantially in nature or constituents from the user's prior discharge activity when the POTW was regularly in compliance with the POTW's NPDES permit requirements and, in the case of interference, applicable requirements for sewage sludge use or disposal.

(Ord. passed 4-24-1995)

§ 51.145 BYPASS REGULATIONS.

(A) *Definitions*. For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

BYPASS. The intentional diversion of waste streams from any portion of a user's treatment facility.

SEVERE PROPERTY DAMAGE. Substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

(B) *When permitted.* A user may allow any bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of divisions (C) and (D) of this section.

(C) *Notice.*

(1) If a user knows in advance of the need for a bypass, it shall submit prior notice to the Authority Manager, if possible at least ten days before the date of the bypass.

(2) A user shall submit oral notice of an unanticipated bypass that exceeds applicable pretreatment standards to the Authority Manager within 24 hours from the time the user becomes aware of the bypass. A written submission shall also be provided within five days of the time the user becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause, the duration of the bypass, including exact dates and time, and, if the bypass has not been corrected, the anticipated time it is expected to continue, and steps taken or planned to reduce, eliminate and prevent reoccurrence of the bypass. The Authority Manager may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.

(D) *Prohibition of bypass.*

(1) Bypass is prohibited, and the Authority may take enforcement action against a user for a bypass, unless:

(a) Bypass is unavoidable to prevent loss of life, personal injury, or severe property damage;

(b) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventative maintenance; and

(c) The user submitted notices as required under division (C).

(2) The Authority Manager may approve an anticipated bypass, after considering its adverse affects, if the Authority Manager determines that it will meet the three conditions listed in division (D)(1) of this section.

(Ord. passed 4-24-1995) Penalty, see § 51.999

§ 51.999 PENALTY.

(A) Any person found to be violating any provision of this chapter, industrial user discharge permit, orders or compliance schedules shall be served a written notice stating the nature of the violation.

(B) Any person convicted of a violation of any provision of this chapter, industrial user discharge permit, orders or compliance schedules shall be punished as provided in § 10.99. Each day in which any such violation shall continue shall be deemed a separate offense.

(C) Any business, industry or person violating any of the provisions of this chapter, industrial user discharge permit, orders or compliance schedules, which results in fines or penalties being levied against the Authority, shall become liable for the fine or penalty, plus any expenses, loss or damage occasioned by the violation. This fine or penalty would be levied in addition to the fine identified in division (B) of this section.

(D) Any industry having been determined to have falsified or misrepresented any application or report required by this chapter shall be guilty of a misdemeanor and shall be subject to the penalties outlined in division (B) of this section.

(E) The Authority, in compliance with the federal requirements, will annually notify the public of all industrial users who have significantly violated applicable pretreatment standards or other pretreatment requirements.

(Ord. passed 4-24-1995)

CHAPTER 52: WATER REGULATIONS

Section

General Provisions

Private Water Connections and Water Meters

Restrictions on the Use of the Public Water System

Water Service Rates and Connections

Cross-reference:

Fire hydrants, see § 92.23

Flood damage prevention, see Chapter 151

Sewer regulations, see Chapter 51

GENERAL PROVISIONS

§ 52.01 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

DEPARTMENT. The Kalamazoo Lake, Sewer and Water Authority.

WATER CONNECTION. That part of the water distribution system connecting the water main with the premises served.

WATER MAIN. That part of the water distribution system located within the easement lines of streets designed to supply more than one water connection.

§ 52.02 SERVICE CONNECTIONS.

(A) Application for water connections shall be made to the department on forms prescribed and furnished by it. Water connections and water meters shall be installed in accordance with rules and regulations of the department and upon payment of the required connection fee and meter installation fee. All meters and water connections shall be the property of the city. Connection fees and meter installation charges shall not be less than the cost of materials, installation and overhead attributable to the installations.

(B) Each and every house shall have a single water service connection. All single and multiple-family structures, businesses and industries located in the corporate limits of the city shall be connected to the municipal water system in accordance with the Kalamazoo Lake, Sewer and Water Authority regulations.

(Ord. passed 10-23-1995) Penalty, see § 52.99

§ 52.03 TURNING ON WATER SERVICE.

No person, other than an authorized employee of the department, shall turn on or off any water service, except that a licensed plumber may turn on water service for testing his or her work, after which it must be immediately turned off, or upon receiving a written order from the department; provided, that upon written permit from the department, water may be turned on for construction purposes only, prior to the granting of a certificate of occupancy for the premises, and upon payment of the charges applicable thereto.

Penalty, see § 52.99

§ 52.04 WATER METERS.

All premises using water shall be metered, except as otherwise provided in this code. No person except a department employee shall break or injure the seal or change the location of, alter or interfere in any way with any water meter.

Penalty, see § 52.99

§ 52.05 ACCESS TO METERS.

The department shall have the right to shut off the supply of water to any premises where the department is not able to obtain access to the meter. Any qualified employee of the department shall at all reasonable hours have the right to enter the premises where the meters are installed for the purpose of reading, testing, removing or inspecting same and no person shall hinder, obstruct or interfere with the maintenance and reading of the water meter.

Penalty, see § 52.99

§ 52.06 REIMBURSEMENT FOR DAMAGE TO METERS.

Any damage which a meter may sustain resulting from carelessness of the owner, agent or tenant or from neglect of either of them to properly secure and protect the meter, as well as any damage which may be wrought by frost, hot water or steam backing from a boiler, shall be paid by the owner of the property to the Department on presentation of a bill therefor, and in cases where the bill is not paid, the water shall be shut off and shall not be turned on until all charges have been paid to the department.

Penalty, see § 52.99

§ 52.07 METER FAILURE.

If any meter shall fail to register properly, the department shall estimate the consumption on the basis of former consumption and bill accordingly.

§ 52.08 INACCURATE METERS.

(A) A consumer may require that the meter be tested. If the meter is found accurate, a reasonable charge for inspection will be assessed, based on actual cost to remove, ship and test the meter.

(B) This charge will be assessed against the consumer. If the meter is found defective, it shall be repaired or an accurate meter installed and no charge shall be made.

§ 52.09 ACCURACY REQUIRED.

(A) A meter shall be considered accurate if when tested it registers not to exceed 2% more or 2% less than the actual quantity of water passing through it.

(B) If a meter registers in excess of 2% more than the actual quantity of water passing through it, it shall be considered “fast” to that extent. If a meter registers in excess of 2% less than the actual quantity of water passing through it, it shall be considered “slow” to that extent.

§ 52.10 BILL ADJUSTMENT FOR INACCURATE METERS.

(A) If a meter has been tested at the request of a consumer and shall have been determined to register “fast,” the Department shall credit the consumer with a sum equal to the percent “fast” multiplied by the amount of all bills incurred by the consumer within the six months prior to the test, and if a meter so tested is determined to register “slow,” the Department may collect from the consumer a sum equal to the percent “slow” multiplied by the amount of all the bills incurred by the consumer for the prior six months.

(B) When the Department on its own initiative makes a test of a water meter, it shall be done without cost to the consumer, other than the consumer paying the amount due to the city for water used by him or her as above provided, if the meter is found to be “slow.”

§ 52.11 ADDITIONAL REGULATIONS.

(A) The Department may make and issue additional rules and regulations concerning the water distribution system, connection thereto, meter installations and maintenance, connection and meter installation fees, hydrants and water mains and the appurtenances thereto, not inconsistent herewith.

(B) The rules and regulations shall be effective upon approval by the City Council.

(C) The rules and regulations now in effect shall continue until changed in accordance with this section.

§ 52.12 INJURY TO FACILITIES.

No person, except an employee of the Department in the performance of his or her duties, shall willfully or carelessly break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is a part of the city water distribution system.

Penalty, see § 52.99

§ 52.13 CROSS CONNECTIONS.

(A) It shall be the duty of the Department to cause inspections to be made of all properties served by the public water supply where cross connections with the public water supply is deemed possible. The frequency of inspections and reinspections based on potential health hazards involved shall be as established by the City Manager, or as required by the Michigan Department of Public Health.

(B) The Department Inspector shall have the right to enter at any reasonable time any property served by a connection to the public water supply system of the city for the purpose of inspecting the piping system or systems thereof for cross connections. On request the owner, lessees or occupants of any property so served shall furnish to the inspection agency any pertinent information regarding the piping system or systems on the property. The refusal of the information or refusal of access, when requested, shall be deemed evidence of the presence of cross connections.

(C) The Department is hereby authorized and directed to discontinue water service after reasonable notice to any property wherein any connection in violation of this section exists, and to take such other precautionary measures deemed necessary to eliminate any danger of contamination of the public water supply system. Water service to the property shall not be restored until the cross connections have been eliminated in compliance with the provisions of this section.

(D) The potable water supply made available on the properties served by the public water system shall be protected from possible contamination as specified by this section and by the state Plumbing Code. Any water outlet which could be used for potable or domestic purposes and which is not supplied by the potable system must be labeled in a conspicuous manner as:

WATER UNSAFE FOR DRINKING

(E) This section does not supersede the State Plumbing Code or other provisions of this code relating to plumbing.

(F) Any person or customer found guilty of violating any of the provisions of this section, or any written order of the City Manager, in pursuance thereof, shall be deemed guilty of a violation of this code, punishable as prescribed in § 10.99.

PRIVATE WATER CONNECTIONS AND WATER METERS

§ 52.30 PURPOSE.

(A) Over many years, private individuals have, from time to time, installed private water supplying pipes on public or private property, or a combination of both, for the purpose of connecting their private property to the existing watermain in the public right-of-way.

(B) Some of these private water lines have, over the years, been installed upon formal request to and permission granted by the City Council, while others have been installed without such formality.

(C) In some cases, private supplying water pipes have been used as feeder lines for additional individuals who sought to hook onto the private supplying line in order to obtain water from the city water system.

(D) The end result of the above, over many years, is that there are numerous undersized private water lines existing in the city which serve various residents of the city, and it has been unclear as to who has the responsibility for maintaining and repairing these above-described water lines.

(E) The city is in need of clarifying and defining for itself and for the Kalamazoo Lake, Sewer and Water Authority which water lines shall be the responsibility of the municipality to repair and maintain, and which water lines shall be considered to be private connecting and supplying lines which are the responsibility of the private property owners utilizing the lines.

(Ord. passed 4-27-1987)

§ 52.31 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

CONNECTING OR SUPPLYING PIPE. A water pipe, regardless of size, which is situated primarily on private property and which lies between the curb box (or where the curb box would usually be located) and the premises, building or yard being served by the municipal water service.

CURB BOX. The control valve owned by the municipality which controls the service of water to the premises being served and is usually located near the right-of-way line adjacent to the premises being served.

DISTRIBUTING PIPE. A water pipe lying completely within the public right-of-way or on an easement granted to the municipality or its agents for locating a distributing pipe.

MUNICIPALITY. The City of Saugatuck and its agent, the Kalamazoo Lake, Sewer and Water Authority, which agent has been charged with the operation and maintenance of the municipal water system.

(Ord. passed 4-27-1987)

§ 52.32 RESPONSIBILITY FOR INSTALLATION, MAINTENANCE AND REPAIR.

(A) Water connecting or supplying pipes leading from buildings or yards to the curb box (or at the public right-of-way location where the curb box would usually be located if there is not one presently existing) shall be inserted and kept in repair at the expense of the owner or occupant of the building or yard being served, and shall not be inserted or connected with the main distributing pipe (watermain) until a permit therefor shall be obtained from the City Council or from its authorized agent.

(B) It shall be the responsibility of the private property owners and not the city or the Kalamazoo Lake, Sewer and Water Authority to fairly apportion and divide the expense of maintaining and repairing existing connecting and supplying pipes, as those pipes are defined in § 52.31 above, where a connecting or supplying pipe is providing water to more than one premises.

(Ord. passed 4-27-1987) Penalty, see § 52.99

§ 52.33 ENTRY UPON PRIVATE PREMISES.

Should a private property owner fail, refuse or neglect to replace, repair or maintain an existing supplying or connecting water pipe, as those pipes are defined in § 52.30, and should such failure and neglect cause, or have the potential to cause, damage to the water system of the city, loss of water from the city water system, or otherwise result in a danger to the health, welfare and safety of the public, or the municipally owned water system, then the municipality shall have the authority to enter upon the private premises of the property owner and to make such repairs as may be necessary to eliminate the hazard to the water system and the health, welfare and safety of the public.

(Ord. passed 4-27-1987)

§ 52.34 LIENS.

Charges for repairs made by the municipality to a connecting or supplying water pipe, made pursuant to the provisions of § 52.33 above, shall be a lien on the premises which is served by the connecting or supplying water pipe and whenever any such charge against any piece of property or premises shall be delinquent for six months, the city official in charge of the collection thereof shall certify annually, on August 1 of each year, to the tax assessing officer of the city the facts of the delinquency, whereupon the charge shall be entered upon the next tax roll by him or her as a charge against the premises, and shall be collected and the lien thereof in force in the same manner as general taxes against the premises are collected and the lien thereof enforced.

(Ord. passed 4-27-1987)

§ 52.35 METER INSTALLATION AND MAINTENANCE.

(A) All water meters shall be installed only by an authorized employee of the municipality. All water meters shall be located inside the building on the premises, in a place easily accessible for purposes of reading, repair and maintenance. Turn off valves shall be located in the house on the water line immediately before and after the water meter.

(B) The location of a water meter outside of a building shall be only upon written consent of the municipality.

(Ord. passed 4-27-1987) Penalty, see § 52.99

§ 52.36 POLICY AND PROCEDURES.

(A) The city hereby delegates to the Kalamazoo Lake, Sewer and Water Authority Board the power to promulgate rules and regulations governing the operation and maintenance of the city water system, which rules and regulations shall be consistent with the ordinances of the city and state statutes.

(B) These rules and regulations, once adopted by the Board of the Kalamazoo Lake, Sewer and Water Authority, must be approved by resolution of each governing board of the member municipality of the Kalamazoo Lake, Sewer and Water Authority, and those rules and regulations shall not take effect unless and until so approved.

(Ord. passed 4-27-1987)

§ 52.37 VIOLATION AS A NUISANCE PER SE.

The violation of any provision of this subchapter shall be deemed to be a nuisance per se and shall constitute a basis for the abatement thereof by the municipality by the obtaining of injunctive relief in a

court of competent jurisdiction.

(Ord. passed 4-27-1987)

Cross-reference:

Nuisances generally, see Chapter 94

RESTRICTIONS ON THE USE OF THE PUBLIC WATER SYSTEM

§ 52.50 WATER SCARCITY GENERALLY.

(A) Whenever the City Manager determines that the demand for water from the city distribution system is such that unless the usage is regulated, the public health, safety and general welfare is likely to be endangered, the City Manager shall prescribe rules and regulations to regulate the water usage in the city during such emergency.

(B) Before any such rule or regulation shall become effective, it shall be published in one issue of a newspaper of general circulation in the city.

(C) Any person violating any such rule or regulation shall, upon conviction thereof, be punished as prescribed in § 52.99.

§ 52.51 RESOLUTION TO PROHIBIT OR RESTRICT THE USE OF THE PUBLIC WATER SYSTEM FOR OUTDOOR WATERING.

(A) *Generally*. The City Council, upon a finding the there is presently a water shortage or that such a water shortage may be imminent in the city public water system, shall have the power to pass a resolution totally prohibiting or restricting the use of the public water system for outdoor watering within the city limits. The resolution shall state the finding mentioned above, and shall state the date the prohibition or restriction shall take effect.

(B) *Publication of resolution*. Upon the passing of a resolution as described in division (A), the City Clerk shall cause to be published, in a newspaper of general circulation within the city, a copy of the resolution, and the resolution shall constitute notice to the public of the ban on watering outdoors through use of the public water system.

(Ord. passed 7-13-1987)

§ 52.52 REVOCATION OF BAN.

The resolution imposing the outdoor watering restrictions may be lifted upon written order of the Mayor, filed with the City Clerk, after consultation with the Manager of the Kalamazoo Lake, Sewer and Water Authority, or by a vote of the City Council; provided, that in each case, a finding is made that the water emergency no longer exists.

(Ord. passed 7-13-1987)

§ 52.53 WARNING NOTICE.

Any person, corporation, partnership, group or other association of persons who violate the water restrictions set forth in the resolution provided for in § 52.51 above shall first be given a written notice by the police with a request to cease the violation. A second violation of the restrictions provided for in the resolution described in § 52.51 above may result in prosecution under § 52.99.

(Ord. passed 7-13-1987)

WATER SERVICE RATES AND CONNECTIONS

§ 52.70 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

AUTHORITY. The Kalamazoo Lake, Sewer and Water Authority.

CITY. The City of Saugatuck, Michigan, as represented by the City Council.

REVENUES and ***NET REVENUES.*** Shall be understood to have the meanings as defined in Public Act 94 of 1933, § 3, being M.C.L.A. § 141.103, as amended.

THE SYSTEM. The term shall be understood to mean all facilities of the city and all subsequent additions, including all wells, pumps, reservoirs, water lines, and all other facilities used or useful in the water supply system to domestic, commercial or industrial users, including all appurtenances thereto and including all extensions and improvements thereto which may hereafter be acquired.

§ 52.71 OPERATION, MAINTENANCE, REPAIR AND MANAGEMENT OF THE SYSTEM.

The operation, maintenance, repair and management of the system shall be under the supervision and control of the Kalamazoo Lake, Sewer and Water Authority. The Authority may employ such person or persons in such capacities as it deems advisable to carry on the efficient management and operations of the system and may make such rules, orders and regulations as it deems advisable and necessary to assure the efficient management and operation of the system.

§ 52.72 WATER SERVICE USER CHARGE SYSTEM.

(A) All premises connected directly or indirectly to the water service system of the city, except as hereinafter provided, shall be charged and shall make payments to the Authority in amounts computed on the basis of the actual flow where a certified meter exists or a residential user equivalent in all other cases.

(B) The water service user charges shall consist of a “user operation and maintenance charge” billable quarterly for residential users and monthly for commercial and industrial users so designated by the Authority.

(C) Rates to be charged for service furnished by the system shall be as follows.

(1) *Water service use charges.*

(a) The charges for water service in the city shall be established by the City Council and set in the city’s schedule of fees. Charges for water service shall be adjusted as needed by the City Council.

(b) The charges for water service to premises outside the city limits shall be established by the City Council and set in the city schedule of fees. Charges for water service shall be adjusted as needed by the City Council and in accordance with state laws governing water sales to other municipalities.

(c) The city shall have the right to adjust the user charge by resolution of a majority vote of the City Council based on an annual audit review of the water system operation and maintenance costs of the system. The city shall have the right to adjust the user charge at any time when the adjustment is in the best interest of the system and will protect the reliability of the system. All rate adjustments shall be made in the city’s schedule of fees.

(2) *Connection charge.*

(a) *Direct connection*. For each direct connection to the lines of the system, there shall be charged a fee established by the City Council and set in the city’s schedule of fees per single-family residence equivalent, except for premises outside the city limits, whose connection charge shall be

established by the City Council and set in the city's schedule of fees per single-family residence equivalent.

(b) *Indirect connection*. In order to defray the proportional share for each indirect connection to the system, there shall be charged a fee established by the City Council and set in the city's schedule of fees per single-family residence equivalent, except for premises outside the city limits, whose connection charge shall be established by the City Council and set in the city's schedule of fees per single-family residence equivalent. An ***INDIRECT CONNECTION*** shall be defined as one made to lines added to the system after its original construction, the cost of which is paid from special assessments or private funds.

(c) *Equivalent user factor*. Each premises, other than a single-family residence, shall pay either a direct or indirect connection charge multiplied by a factor representing a ratio of water use by the class of premises to normal single-family residential use, as reflected in § 52.73 or the schedule of fees set by the City Council.

(Ord. passed 5-23-1994; Am. Ord. passed 8-23-1995)

§ 52.73 WATER CONNECTION EQUIVALENT USER FACTORS.

Water Connection Equivalent User Factor		
Occupation Use	***Units***	***Unit Factor***
Water Connection Equivalent User Factor		
Occupation Use	***Units***	***Unit Factor***
Residential I		
Single-family residence	1.00	Per dwelling unit
Two-family residence	1.00	Per dwelling unit
Mobile home (free-standing)	1.00	Per dwelling unit
Mobile home (in park)	1.00	Per dwelling unit
Duplex or row house	1.00	Per dwelling unit
Apartment building	1.00	Per dwelling unit
Condominium	1.00	Per dwelling unit
Residential II		
Hotel	1.00	Per building; plus 0.30 per bedroom*
Motel	1.00	Per building; plus 0.30 per bedroom*
Sorority or fraternity house	1.00	Per building; plus 0.30 per bedroom*
Boarding house or inn	1.00	Per building; plus 0.30 per bedroom*
Convalescent home (sheltered home)	1.00	Per building; plus 0.30 per bedroom*
Convent	1.00	Per building; plus 0.30 per bedroom*
Other		
Church	0.25	Per 1,000 square feet
School	1.00	Per classroom

Water Connection Equivalent User Factor		
Occupation Use	***Units***	***Unit Factor***

Water Connection Equivalent User Factor		
Occupation Use	***Units***	***Unit Factor***
Public building, municipal	0.75	Per 1,000 square feet
Public building, federal and state	1.00	Per 1,000 square feet
Commercial and Industrial		
Athletic club	1.50	Per 1,000 square feet of building*
Auto dealer	1.00	Per building plus 0.25 per 1,000 square feet of building area including service area
Auto repair/collision service	1.00	Per building plus 0.25 per 1,000 square feet of building area including service area
Auto wash; automatic or mechanical, fresh or recycled water		
Under 20 gallons per car	1.00	Per car capacity of wash line or per stall
20 to 40 gallons per car	1.50	Per stall
40 to 70 gallons per car	3.00	
Auto wash; coin operated, manual	1.00	Per stall
Bar	3.00	Per 1,000 square feet*
Barber shop	1.00	Per premise plus 0.10 per station after two stations
Beauty shop	1.00	Per premise plus 0.10 per station after two stations
Bowling alley	1.00	Per premise plus 0.20 per alley*
Cleaners (drop-off and pick-up only)	1.00	Per building
Cleaners (with cleaning and pressing)	1.00	Per building plus 0.50 per 500 square feet
Clinic (medical or dental)	1.00	Per premise plus 0.50 per exam room
Country club	1.50	Per 1,000 square feet of clubhouse*
Drive-in restaurant	2.00	Per 1,000 square feet
Dry goods; retail store	1.00	Per premise plus 0.10 per 1,000 square feet
Drug store	1.00	Per premise*
Factory; dry process; office and production area	0.75	Per 1,000 square feet
Factory; wet process; office and production area	1.50	Per 1,000 square feet
Funeral home	1.50	Per 1,000 square feet*
Grocery store; food market	1.00	Per premise plus 0.50 per 1,000 square feet

Water Connection Equivalent User Factor		
Occupation Use	***Units***	***Unit Factor***
Water Connection Equivalent User Factor		

Occupation Use	*Units*	*Unit Factor*
Hospital or skilled nursing care	1.10	Per bed
Laundry (self-serve)	1.00	Per premise, plus 0.25 per standard washing machine, plus 0.35 per large capacity washing machine
Marina	1.00	Per building plus 0.08 per boat slip*
Professional office building	0.75	Per 1,000 square feet
Restaurant (meals only)	2.00	Per 1,000 square feet
Restaurant (with bar)	5.00	Per 1,000 square feet
Service station	1.00	Per 1,000 square feet of building area
Snack bar	2.00	Per 1,000 square feet
Theater	0.03	Per seat or car space
Veterinarian facility	1.50	Per premise plus 0.10 per kennel
Warehousing; storage	0.20	Per 1,000 square feet
*Additional fees for bars, laundry facilities, snack bars and restaurant facilities.		
Water-cooled air conditioning, refrigeration, freezing compressors to be evaluated and charged according to formula.		
Minimum connection fees of 1.00 unit applies in cases where square footage criteria amounts to less than one unit.		

§ 52.74 CERTIFIED METER AGREEMENT FOR WATER CONNECTIONS.

(A) All commercial and industrial users shall have the option to prove their residential equivalency and connection charge to the system by readings taken from a certified water meter.

(B) The agreement shall read as follows:

I/we hereby agree that I/we choose to prove my/our residential equivalency and connection charge to the city water system by readings taken from a certified water meter.

I/we understand that I/we will purchase the necessary water meter from the Kalamazoo Lake, Sewer and Water Authority and I/we will pay for the installation costs of the meter if there are installation costs resulting from any necessary re-plumbing.

I/we understand that after the certified water meter is installed, the water flow to the property shall be accurately recorded for a period of two years. At the end of the two-year period, the property owner’s residential equivalency will be determined by dividing the average annual water purchased by 58,765 gallons. The resulting number will be the residential equivalency.

(C) Until the 2-year proving period has expired, the residential equivalency as determined by the Authority Manager will be correct until proven different. After the 2-year period the connection charge will be readjusted accordingly.

(D) After the 2-year period, the water meter shall become the property of the Kalamazoo Lake, Sewer and Water Authority.

§ 52.75 PAYMENT OF CONNECTION CHARGES.

Connection charges, as established in § 52.72 above, shall be due and payable in cash upon application for connection to the system. In addition, the cost of labor, connecting pipe, fittings and

appurtenances and installation, plus 30% of these costs, shall also be paid by the prospective user. Applications for service connections shall be made to the Authority prior to making the connection, upon forms furnished by the Authority at which time the applicant shall pay the connection charge, as established in § 52.73, plus the estimated cost of the actual connection thereof subject to refund or additional charge after the actual cost has been determined.

§ 52.76 CONNECTION FEE ACCOUNT.

(A) All revenues received from connection fees and their income shall be set aside in a special account designated “City of Saugatuck water service connection fees.”

(B) Such revenues shall be used as follows subject to the discretion and approval of the City Council:

(1) To extend, enlarge, improve or maintain the water system; and

(2) To retire any bond indebtedness incurred by the city to improve or expand the water system.

§ 52.77 CHARGES CONSTITUTE LIEN.

(A) The charges for services which are under the provisions of Public Act 94 of 1933, § 21, being M.C.L.A. § 141.121, as amended, made a lien on all premises served thereby, and are hereby recognized to constitute the lien, and whenever any such charge against any piece of property shall be delinquent for six months, the Authority Manager or his or her representative in charge of collection thereof shall certify annually, on August 1 of each year, to the tax assessing officer of the city, the facts of the delinquency, whereupon the charge shall be entered upon the next tax roll by him or her as a charge against the premises and shall be collected and the lien thereof enforced in the same manner as general city taxes against the premises are collected and the lien thereof enforced.

(B) Provided, however, when a tenant (and not the owner of the property) is the customer receiving the service, and will be responsible for the charges for the service, then prior to furnishing of the service, either the tenant or the property owner shall notify the City Council (or its agent, the Kalamazoo Lake, Sewer and Water Authority) in writing of the fact of the tenancy and that the tenant will be responsible for the payment of the services. The tenant or the property owner shall further provide a copy of the lease, if there is one, and the term of the tenancy. The tenant or the landlord shall further deposit with the City Council (or its agent, the Kalamazoo Lake, Sewer and Water Authority) a cash deposit equal to the average annual charges to the premises based on the three preceding calendar years. The cash deposit shall be made prior to the furnishing of service to the premises. If the notice and cash security deposit is provided as set forth above, then the charges shall not become a lien on the premises, where the customer receiving the service is a tenant and not the property owner.

(Ord. passed 10-22-1987)

§ 52.78 RENEWAL OF EXISTING WATER SERVICES.

The cost of the renewal of obsolete water services from the water main to the property right-of-way shall be apportioned as follows: the Authority shall provide labor and Authority-owned equipment at no cost to the user. The user shall pay for the actual cost of materials used and any outside services which may be required to complete the renewal.

§ 52.79 SHUTOFF AND DISCONTINUATION OF SERVICE.

In addition to the other remedies provided, the Authority, as agent for the city, shall have the right to shut off and discontinue the supply of water to any premises for the non-payment of water charges when due. Bills for water service are due and payable at the business office of the Kalamazoo Lake, Sewer and Water Authority or to any designated agent on their date of issue. Any person or entity

receiving service who fails to pay their bill within the period up to and including 30 calendar days following the due date will be considered delinquent accounts, and will be allowed ten working days following the mailing of date of the shut-off notice in which to collect the arrearage. Failure to comply will result in the water service being shut off.

(Ord. passed 8-22-1994)

§ 52.80 DISCONNECTION FOR LATE PAYMENT; PROCEDURES.

(A) It is the policy of the city to discontinue utility service to customers by reason of nonpayment of bills only after notice and a meaningful opportunity to be heard on disputed bills. The city's form for application for utility service and all bills shall contain, in addition to the title, address, room number and telephone number of the official in charge of billing, clearly visible and easily readable provisions to the effect:

(1) That all bills are due and payable on or before the date set forth on the bill;

(2) That if any bill is not paid by or before that date, a second bill will be mailed containing a cutoff notice that if the bill is not paid within ten days of the mailing of the second bill, service will be discontinued for nonpayment; and

(3) That any customer disputing the correctness of his or her bill shall have a right to a hearing at which time he or she may be represented in person and by counsel or any other person of his or her choosing and may present orally or in writing his or her complaint and contentions to the city official in charge of utility billing. This official shall be authorized to order that the customer's service not be discontinued and shall have the authority to make a final determination of the customer's complaint.

(B) Requests for delays or waiver of payment will not be entertained; only questions of proper and correct billing will be considered. In the absence of payment of the bill rendered or resort to the hearing procedure provided herein, service will be discontinued at the time specified, but in no event until the charges have been due and unpaid for at least 30 days.

(C) When it becomes necessary for the city to discontinue utility service to a customer for nonpayment of bills, service will be reinstated only after all bills for service then due have been paid, along with a turn-on charge to be established by the City Council.

§ 52.99 PENALTY.

Whoever violates any provision of this chapter for which no other penalty has been provided shall be punished as provided in § 10.99.

TITLE VII: TRAFFIC CODE

Chapter

CHAPTER 70: GENERAL PROVISIONS

Section

§ 70.01 MICHIGAN VEHICLE CODE ADOPTED.

Pursuant to the provisions of the Home Rule Cities Act, Public Act 279 of 1909, being M.C.L.A. §§ 117.1 *et seq*., as amended, the Michigan Vehicle Code, Public Act 300 of 1949, being M.C.L.A. §§ 257.1 *et seq*., as amended, is adopted by reference, as if fully set forth herein.

(Ord. 03-01, passed 5-27-2003)

§ 70.02 REFERENCES IN MICHIGAN VEHICLE CODE.

References in the Michigan Vehicle Code to ***LOCAL AUTHORITIES*** shall mean the City of Saugatuck, Allegan County, Michigan.

(Ord. 03-01, passed 5-27-2003)

§ 70.03 ENFORCEMENT OF MICHIGAN VEHICLE CODE; SANCTIONS.

(A) The Michigan Vehicle Code may be enforced by any Allegan County Sheriff's deputy or by any police officer or other employee of the city authorized to enforce criminal ordinances or authorized to issue civil infractions.

(B) The penalties provided by the Michigan Vehicle Code are adopted by reference, provided, however, that the city may not enforce any provision of the Michigan Vehicle Code for which the maximum period of imprisonment is greater than 93 days.

(C) When any person is found guilty of a misdemeanor or responsible for a civil infraction pursuant to this section, the judge or magistrate shall summarily determine and tax the costs of the action which shall include all expenses, direct and indirect, to which the city has been put in connection with the violation or infraction up to the entry of judgment.

(Ord. 03-01, passed 5-27-2003)

§ 70.04 UNIFORM TRAFFIC CODE ADOPTED.

The Uniform Traffic Code for cities, townships and villages as promulgated by the Director of the Michigan Department of State Police pursuant to the Administrative Procedures Public Act of 1969, Public Act 306 of 1969, being M.C.L.A. §§ 24.201 to 24.328 and made effective October 30, 2002 is adopted by reference, as if fully set forth herein.

(Ord. 03-01, passed 5-27-2003)

§ 70.05 REFERENCES IN UNIFORM TRAFFIC CODE.

References in the Uniform Traffic Code to ***GOVERNMENTAL UNIT*** or ***MUNICIPALITY*** shall mean the City of Saugatuck, Allegan County, Michigan.

(Ord. 03-01, passed 5-27-2003)

§ 70.06 ENFORCEMENT OF UNIFORM TRAFFIC CODE; SANCTIONS.

(A) The Uniform Traffic Code may be enforced by any police officer or other employee of the city authorized to enforce criminal ordinances or authorized to issue civil infractions.

(B) The penalties provided by the Uniform Traffic Code are adopted by reference, provided, however, that the city may not enforce any provision of the Uniform Traffic Code for which the maximum period of imprisonment is greater than 93 days.

(C) When any person is found guilty of a misdemeanor or responsible for a civil infraction pursuant to this section, the judge or magistrate shall summarily determine and tax the costs of the action which shall include all expenses, direct and indirect, to which the city has been put in connection with the violation or infraction up to the entry of judgment.

(Ord. 03-01, passed 5-27-2003)

§ 70.07 TRUCKS AND TRAILERS; PARKING RESTRICTED.

(A) From May 1 through and including September 30 of each year, it shall be unlawful to park any boat trailer of any length, or to park any motor vehicle in excess of 20 feet in length, on Water, Butler and Griffith Streets between Francis Street to the north and the Kalamazoo River to the south, and on Francis, Mary, Main, Hoffman, Mason and Culver Streets, between Griffith Street to the east and the Kalamazoo River to the west.

(B) From May 1 through and including September 30 of each year, it shall be unlawful to park any motor vehicle in excess of 20 feet in length on the north side of Culver Street from Griffith Street easterly 132 feet to the streets on which the parking of motor vehicles is prohibited under division (A).

(Ord. 03-01, passed 5-27-2003) Penalty, see § 10.99

§ 70.08 ALTERNATE PARKING REQUIRED.

(A) Between November 1 and the following April 1 of each year, the owner, operator or person having control of any motor or engine powered or horse drawn vehicle shall park the vehicle on the below designated public streets in the city as follows: from 3:00 a.m. to 6:00 a.m. on even numbered

calendar dates, all the vehicles shall be parked on the side of the designated public streets on which even numbered buildings are located; and from 3:00 a.m. to 6:00 a.m. on odd numbered calendar dates, all the vehicles shall be parked on the side of the designed public streets on which odd numbered buildings are located. These requirements may be waived by the Chief of Police or the City Manager based on weather conditions, disaster, fire, earthquake or act of God.

(B) The above parking restrictions shall be effective on the following streets:

(1) Butler Street from Culver Street to Lucy Street;

(2) Culver Street from Water Street to Lake Street;

(3) Francis Street from Butler Street to Water Street;

(4) Griffith Street from Mason Street to Culver Street;

(5) Hoffman Street from Griffith Street to Water Street;

(6) Main Street from Butler Street to Water Street;

(7) Mary Street from Water Street to Butler Street;

(8) Mason Street from Griffith Street to Water Street;

(9) Water Street from Culver Street to Lucy Street.

(Ord. 03-01, passed 5-27-2003; Am. Ord. 101213-1, passed 12-13-10)

§ 70.09 TIME ZONES.

Parking on both sides of Butler Street between the Kalamazoo River on the south end to Main Street on the north end; and both sides of Culver Street from Butler Street on the west end to 350 feet east of Griffith Street on the east end shall be restricted to 3-hour parking.

(Ord. 03-01, passed 5-27-2003)

§ 70.10 HANDICAP SPACES.

(A) The following handicap parking areas are designated:

(1) Two spaces on the west side of Butler Street immediately south of Culver Street;

(2) One space on the south side of Mason Street immediately east of Butler Street;

(3) One space on the north side of Mason Street immediately west of Butler Street;

(4) One space on the south side of Hoffman Street immediately west of Butler Street;

(5) Two spaces on the east side of Water Street immediately south of Mary Street;

(6) One space on the west side of Water Street immediately south of Mary Street;

(7) One space on the east side of Water Street immediately south of Spear Street;

(8) Two spaces on the west side of Water Street, the first and second spaces south of Mason Street;

(9) One space on the north side of Mary Street, the first space east of Butler Street; and

(10) One space on the west side of Griffith Street immediately south of Culver Street.

(B) Use of a handicap parking area designated by this section in violation of the provisions of the Michigan Vehicle Code shall be punishable in accordance with the provisions of the Michigan Vehicle Code.

(Ord. 03-01, passed 5-27-2003)

§ 70.11 OVAL BEACH/SAUGATUCK HARBOR NATURAL AREA PARKING.

Each and every motor vehicle parking on Oval Beach/Saugatuck Harbor Natural Area property during posted hours of operation must have affixed to its windshield, in a manner as prescribed on the daily pass, a daily pass bearing the date on which the vehicle is parked or a current season pass affixed in a permanent manner.

(Ord. 03-01, passed 5-27-2003; Am. Ord. 130325-1, passed 3-25-2013)

§ 70.12 VIOLATIONS.

Any owner, operator or person having control of a vehicle parked in violation of a provision of §§ 70.07, 70.08, 70.09 or 70.11 above shall be subject to a fine as established by resolution of the City Council. Additionally the vehicle shall be subject to impoundment and the owner, operator or person having control of the vehicle so impounded shall be responsible to pay any and all costs of impoundment, including any charge for towing related thereto.

(Ord. 03-01, passed 5-27-2003)

§ 70.13 CURRENT REGULATIONS.

All intersection stops and yield right-of-way requirements, regulations on stopping, standing or parking; 1-way streets, roadways and alleys, cross-walks; restricted turns; through streets, play streets; angle parking zones; parking restrictions; curb loading zones; public carrier stands; parking meter zones and spaces; weight restrictions; no passing zones; speed limits and traffic control devices heretofore established and effective on the effective date of this code shall be deemed established hereunder and shall remain effective until rescinded or modified as herein provided.

(Ord. 03-01, passed 5-27-2003)

§ 70.14 PENDING PROCEEDINGS.

All proceedings pending and all rights and liabilities existing at the time this chapter takes effect are saved and may be consummated or continued according to the law in force when they were commenced. No prosecution initiated prior to the effective date of this chapter or initiated after the effective date of this chapter for an offense committed prior to the effective date shall be affected by this chapter.

(Ord. 03-01, passed 5-27-2003)

§ 70.15 COMMERCIAL TOUR VEHICLE PERMIT.

(A) The City Council finds that sightseeing and similar commercial vehicle tour operations enhance the vibrancy of the city and are a source of economic development. The City Council further recognizes that such operations may, if not reasonably regulated, interfere with the use of the city's limited public spaces and rights-of-way. The intent of this section is to reasonably regulate those vehicles and operations which utilize city spaces to operate, stage, or display their business so as to limit their adverse impacts on the city's infrastructure and on the general public.

(B) Consistent with the terms of this section, the City Council may issue up to three commercial touring vehicle permits entitling a permittee to operate, stage, and display a commercial touring

vehicle on city streets and other public places as provided for in this section.

(C) No person or entity may operate, stage, or display a commercial touring vehicle utilizing the Coghlin Park cut out, as provided for in division (H)(1), without first obtaining a permit as provided for in this section. For purposes of this section, a ***COMMERCIAL TOURING VEHICLE*** means any vehicle operated for conducting sightseeing or similar tours for the general public and which have seating capacity in excess of eight passengers.

(D) Permits for the operation, staging, or display of a commercial touring vehicle may be issued by the City Council in accordance with the following provisions:

(1) *Application*. Application for a permit shall be made to the City Clerk on forms supplied by the city. The application shall contain the following information:

(a) Name and address of applicant. If applicant is an individual, his/her name and address; if applicant is a corporation or other type of entity, its name, address of principal place of business, name and address of registered agent (if any), state of formation, evidence of its qualification to do business in the state, and evidence of the entity's good standing.

(b) Proposed location of place(s) of business in the city.

(c) Identification of the year, model, make, unit number, serial number, and passenger (excluding driver) seating capacity of each vehicle that will be utilized.

(d) Relative to each driver who will be operating a commercial touring vehicle pursuant to the permit, evidence of current drivers license issued by the state and the class and type of vehicle authorized to be operated.

(e) Evidence that the applicant owns or leases the vehicle(s).

(f) Evidence of insurance coverage consistent with the terms of this section.

(g) Any trade name under which applicant proposes to operate.

(h) Applicant's previous experience in transportation of passengers including any government which has authorized applicant to operate motor vehicles for hire, whether such authority has ever been suspended or revoked, whether a request for issuance of such authority has ever been denied, and the reason for such suspension, revocation, or denial.

(i) Any other information requested by the City Manager or City Council.

(2) *Application fee.* Each application shall be accompanied by payment of a non-refundable fee in such amount as established by resolution of the City Council to defray the expense of administering, processing, and regulating the permit.

(3) *Process.* Following receipt of a completed application and the fee provided for in this section, the application shall be submitted to the City Council for review and action. In making its determination, the City Council shall consider compliance with the provisions of this section.

(E) No permit issued hereunder may be transferred, sold, or assigned without approval of the City Council pursuant to the same procedure as a new permit application.

(F) Any permit issued hereunder may be suspended or revoked by the City Council, following notice and a hearing before the City Council, if the City Council finds that any permit holder has violated any provision of this section or the City Code, has otherwise engaged in or allowed conduct not in the public interest, has violated any other law, has failed to maintain the insurance required by this section, or has failed to provide the service represented in his/her/its application.

(G) The permit holder shall obtain and maintain for the duration of the permit commercial liability insurance coverage at all times when the commercial touring vehicle is operated, naming the city and

its officers and employees as additional insured parties. The insurance shall be written on an occurrence policy basis in a form satisfactory to the city. The permit holder shall provide the city, prior to the issuance of the permit, and from time to time thereafter at the request of the city, proof acceptable to the City Manager of the existence of such coverage and compliance with the terms of this paragraph. Such insurance shall have limits of not less than $1,000,000 per each accident, property damage, or personal injury/death. The insurance must contain comprehensive coverage to insure against any and all claims arising out of or attributable to the presence or encroachment of the commercial touring vehicle in, upon, or over the public rights-of-way, Coughlin Park curb cut-out, or other city public property, regardless of whether the permit holder or any of its officers, employees, or agents are negligent in any manner, and also contractual liability coverage to insure that the indemnity obligations of the permit holder to the city pursuant to the permit are met. The certificate of insurance must contain an unqualified guarantee that the city will be provided with 30 days prior written notice of cancellation, termination, non-renewal, or a material change in coverage of the insurance policy provided. Nothing herein shall waive the permit holder's obligation to otherwise comply with state insurance requirements, if any.

(H) *General requirements.*

(1) *Operation locations.* Commercial touring vehicles may only be operated, staged, or displayed from the principal place of business as identified in the permit and at the city-designated Coghlin Park curb cut located at Culver Street. With respect to the Coghlin Park curb cut, permit holders shall mutually agree to schedules applicable to their respective use of the curb cut. Commercial touring vehicles may, however, occupy any otherwise lawful parking space while on tour, if necessary, for the conduct of the tour.

(2) *Scope.* During its regular business hours the permit holder may, pursuant to the permit and this section, pick up and drop off customers and stage the commercial touring vehicle for tours, all in compliance with the laws, ordinances, and rules of the city and the state, and subject to the general use of these rights-of-way and property by the general public. The city makes no representations or warranties as to the condition of the public rights-of-way or other public places, the suitability of these public places for the permit holder's use, or any physical or other condition. The city will have no liability or responsibility for additional upkeep, maintenance, scheduling, or any other duty with respect to the permit holder or its property as a result of the permit. The permit holder may not install or utilize any signage on or in the public places except with the written consent of the city; provided, however, any permit holder's sign previously located at the Coghlin Park curb cut-out as of the effective date of this section is expressly permitted without further action of the city for the duration of that permit.

(3) *Authorized operation.* No permit issued pursuant to this section shall be utilized by any person other than the owner of such vehicle or his/her duly licensed authorized agent.

(4) *Public liability and indemnity.* The permit holder will hold the city and its officers, employees, and agents harmless from, and defend and indemnify them against, any and all claims or lawsuits seeking recovery for damage or injury, including death, and against any other legal proceedings instituted against any of them, directly or indirectly, arising from the design, construction, or physical existence of the commercial touring vehicle or the operations of the permit holder on, within, and over any public right of way or other city public property.

(5) *Passengers limited.* No vehicle operating pursuant to this section shall be operated with more passengers than the stated seating capacity of the vehicle.

(6) *Compliance with traffic laws.* All vehicles licensed pursuant to this section shall comply with and be subject to the traffic laws, rules, and regulations of the city and the state. In this regard, said vehicles shall be operated with due respect for the safety, comfort, and convenience of passengers and for the safe and careful transportation of property of passengers and the safety of the general public, and all reasonable efforts shall be made to promote such safety at all times and under all conditions. In addition, commercial touring operators shall operate their vehicles in a manner which

maintains a speed consistent with the normal flow of traffic upon the streets of the city so as not to restrict such traffic flow; provided, further, that commercial touring operators shall have no authority to stop, block, direct, or otherwise inhibit the flow of traffic when entering or departing a public street or highway.

(7) *Loading or unloading passengers.* No driver of any vehicle for hire shall stop to load or unload any passenger while situated in an intersection or crosswalk or in such manner as to interfere with the orderly flow of traffic. Operators of such vehicles shall not receive or discharge passengers in the street but shall pull up to the sidewalk or, in the absence of a sidewalk, to the extreme right side of the street, except on one-way streets, and there receive or discharge passengers. Double-parking for the purpose of loading or unloading passengers is prohibited.

(Ord. 100809-1, passed 8-9-2010; Am. Ord. 180514-1, passed 5-14-2018)

CHAPTER 71: SNOWMOBILES

Section

§ 71.01 VIOLATION OF STATE STATUTES PROHIBITED.

(A) No person shall violate any provision of M.C.L.A. §§ 324.82101 *et seq*., as amended.

(B) Terms used in this chapter which are defined in M.C.L.A. §§ 324.82101 *et seq*., as amended, shall have the same meaning herein as defined in such statute.

Penalty, see § 71.99

§ 71.02 REGISTRATION WITH CITY.

Every resident of the city who owns a snowmobile shall record with the Police Department his or her name, address, telephone number, snowmobile registration number and such additional relevant information as the Chief of Police shall require, prior to operating the snowmobile in the city.

Penalty, see § 71.99

§ 71.03 SPEED LIMITED.

No person shall operate a snowmobile on or across a city street at a speed in excess of 15 mph, except where a different speed may be fixed and posted; provided, however, that if existing conditions render the speed unreasonable, the operator shall not travel at a speed greater than is reasonable and proper having due regard for the conditions then existing.

Penalty, see § 71.99

§ 71.04 STOPPING AT STREETS.

No operator of a snowmobile shall enter or cross a city street without first having come to a complete stop.

Penalty, see § 71.99

§ 71.05 RIGHT-OF-WAY.

Snowmobiles being operated on any street, alley, sidewalk, park or public place shall yield the right-of-way to motor vehicles and to pedestrians.

Penalty, see § 71.99

§ 71.06 USE ON PUBLIC WAYS AND PLACES LIMITED.

Except as otherwise provided in M.C.L.A. § 324.82119, no person shall operate a snowmobile on any city street, sidewalk, park or property except when necessary to cross a street or sidewalk, or except when traveling along a snowmobile route designated and posted as such by the city.

Penalty, see § 71.99

§ 71.07 CARELESS OPERATION.

No person shall operate a snowmobile within the city carelessly, negligently or heedlessly, in disregard of the rights or safety of others, or at a speed or in a manner so as to endanger or to be likely to endanger any person or property.

Penalty, see § 71.99

§ 71.08 HOURS OF OPERATION.

No snowmobile shall be operated in the city between the hours of 11:00 p.m. and 7:00 a.m.

Penalty, see § 71.99

§ 71.09 LEAVING SNOWMOBILE UNATTENDED.

No operator shall leave a snowmobile unattended on a public street, park or property while the motor is running, or with keys in the ignition switch.

Penalty, see § 71.99

§ 71.10 SNOWMOBILE ROUTES.

The City Council may by resolution recognize and regulate the use of snowmobile routes. Violation of a Council approved and posted regulation shall constitute a violation of this code.

Penalty, see § 71.99

§ 71.11 PRIVATE PROPERTY.

No person shall operate a snowmobile on private property other than his or her own without the permission of the owner or occupant thereof.

Penalty, see § 71.99

§ 71.99 PENALTY.

Each violation of any provision of this chapter shall constitute a misdemeanor and shall be punishable in accordance with § 10.99.

(Ord. passed 1-9-1989; Am. Ord. passed 3-27-1989)

CHAPTER 72: TOY VEHICLES

Section

Skateboards

SKATEBOARDS

§ 72.01 FINDINGS.

The City Council has determined that the use of skateboards on certain public streets and sidewalks within the city has created a hazard for pedestrian traffic, motor vehicular traffic, and to the individuals themselves who are using skateboards, especially on certain streets within the city as hereinafter designated which have heavy vehicular and pedestrian traffic. The City Council further finds that in order to avoid this hazardous condition and to eliminate as soon as possible the potential for accidents and serious injury to the public and to skateboarders themselves, it is necessary to adopt this subchapter.

§ 72.02 SKATEBOARDING PROHIBITED IN CERTAIN PLACES.

The use of skateboards is hereby prohibited in the city on the following designated streets and adjacent sidewalks:

(A) Butler Street between Lake Kalamazoo and Lucy Street;

(B) Water Street between Culver Street and Lucy Street;

(C) Lucy Street between Water Street and Holland Street;

(D) Spear Street from Kalamazoo River to Holland Street;

(E) Francis Street between Water Street and St. Joseph Street;

(F) Mary Street from Water Street to Griffith Street;

(G) Main Street from Kalamazoo River to Griffith Street;

(H) Hoffman Street from Kalamazoo River to Griffith Street;

(I) Mason Street from Kalamazoo River to Griffith Street;

(J) Griffith Street between Francis Street and Lake Kalamazoo;

(K) Holland Street between Francis Street and the north city limits;

(L) Lake Street from Culver Street to the Blue Star Highway;

(M) Allegan Street from Lake Street to east city limits;

(N) Culver Street from Water Street to Lake Street;

(O) Park Street and thereafter north to the city limits on the public right-of-way and Park Street south to the city limits on the public right-of-way; and

(P) Perryman Street from Park Street to the Oval Beach and including Oval Beach parking lot.

Penalty, see § 72.99

§ 72.99 PENALTY.

(A) Any person, firm, corporation, trust, partnership or other legal entity which violates or refuses to comply with any provision of this chapter shall be responsible for a municipal civil infraction and shall be punished by a civil fine in accordance with § 10.21 of this code and shall further be liable for the payment of the costs of prosecution in an amount of not less than $9 and not more than $500.

(B) Each day that a violation continues to exist shall constitute a distinct and separate offense, and shall make the violator liable for the imposition of fines for each day.

(C) The foregoing penalties shall be in addition to the abatement of the violating condition and injunctive or other relief which may be ordered by the court as prescribed by the laws of the State of Michigan for the abatement of a city ordinance designated as a municipal civil infraction.

(Ord. passed 8-9-1999)

CHAPTER 73: WATERCRAFT

Section

Cross-reference:

Prohibited deposit of refuse into water, see § 50.04

§ 73.01 WATERCRAFT DEFINED.

For the purpose of this chapter, the following definition shall apply unless the context clearly indicates or requires a different meaning.

WATERCRAFT. Any contrivance used or designed for navigation on water including but not limited to any vessel, ship, boat, motor vessel, steam vessel, vessel operated by machinery either permanently or temporarily affixed, motorboat, sailboat, barge, tugboat and rowboat.

§ 73.02 OPERATING UNDER INFLUENCE.

(A) It shall be unlawful for any person who is under the influence of intoxicating liquor or a controlled substance to operate, propel or be in actual physical control of any watercraft upon any waterway of this city.

(B) It shall be unlawful for the owner of any watercraft or any person having watercraft in charge or in control thereof to authorize or knowingly permit the same to be propelled or operated by any person who is under the influence of any intoxicating liquor or controlled substance.

Penalty, see § 10.99

Statutory reference:

Operating vessel under the influence, penalties, procedures, see M.C.L.A. §§ 324.80176 et seq.

§ 73.03 SPEED.

(A) Any person operating or propelling a watercraft upon any waters of this city shall operate the same in a careful and prudent manner, and at such rate of speed so as not to endanger the life or property of any person, nor in any case at a speed greater than eight mph.

(B) No person shall operate any watercraft at a rate of speed greater than will permit him or her, in the exercise of reasonable care, to bring the watercraft to a stop within the assured clear distance ahead.

(C) No person shall operate a watercraft in a manner so as to unreasonably interfere with the lawful use by others of any waters.

(D) (1) It is unlawful for the operator of a vessel exceed a slow no wake speed in the following area: on the waters of the Kalamazoo River, all within the city, starting at a point from the water's edge, 342 feet from the center of the Sergeant's Marina Dock, as it extends 250 feet in all directions.

(2) The boundaries of the line described in division (D)(1) shall be marked with signs and with buoys. All buoys must be placed as provided in a permit issued by the Department of Natural Resources and be in conformance with the State Uniform Waterway Marking System.

(Ord. passed 6-24-1992; Am. Ord. passed 8-22-1994; Am. Ord. passed 3-10-1998) Penalty, see § 10.99

Statutory reference:

Similar law, see M.C.L.A. § 324.80145

§ 73.04 RECKLESS OPERATION.

Any person who operates any watercraft, or who navigates, steers or controls himself or herself while being towed on water skis, water sleds, surfboards or similar contrivances, upon any of the waterways of this city carelessly and heedlessly in disregard of the rights or safety of others, or without due caution and circumspection and at a speed or in a manner so as to endanger or be likely to endanger any person or property, shall be guilty of reckless operation of a watercraft.

Penalty, see § 10.99

Statutory reference:

Similar law, see M.C.L.A. § 324.80147

§ 73.05 OPERATION AT NIGHT RESTRICTED.

(A) No person shall operate or propel any watercraft upon the waters of this city during the period one hour after sunset to one hour prior to sunrise without proper lighting as prescribed by federal or state law or regulation.

(B) All watercraft, other than vessels whose lighting requirements are covered by state or federal laws or regulations, used on the waters of Saugatuck Harbor shall, during hours of darkness or low visibility, display one white light visible through an arc of 360 degrees and of such intensity as to be visible on a dark night with a clear atmosphere at a distance of at least one1 mile.

Penalty, see § 10.99

§ 73.06 ACCIDENTS.

(A) The operator of any watercraft involved in any accident shall report the same and render to any person injured in the accident reasonable assistance, in accordance with the Marine Safety Act and specifically M.C.L.A. §§ 324.80132 *et seq*.

(B) In any case, the operator shall notify any peace officer of the city.

Penalty, see § 10.99

§ 73.07 ANCHORAGE.

Except in an emergency, no person shall anchor a watercraft in the channel of the Kalamazoo River within the corporate limits of the city.

Penalty, see § 10.99

§ 73.08 SURFBOARDING; WATER SKIING.

(A) No operator of any watercraft shall have in tow or shall otherwise be assisting in the propulsion of a person on water skis, water sled, surfboard or other similar contrivance within 500 feet of the east shore of the Kalamazoo River within the corporate limits of the city, or on any waters during the period one hour after sunset to one hour prior to sunrise.

(B) Any person permitting himself or herself to be towed on water skis, water sleds, surfboards or similar contrivances in violation of any of the provisions of this chapter shall be guilty of a violation of this code.

Penalty, see § 10.99

Statutory reference:

Hours restricted, see M.C.L.A. § 324.80151

§ 73.09 OWNER'S LIABILITY.

(A) The owner of a watercraft shall be liable for any injury occasioned by the negligent operation of the watercraft, whether the negligence consists of a violation of the provisions of this code, or in the failure to observe such ordinary care in the operation as the rules of the common law required.

(B) The owner of any watercraft operated upon any waterway of this city shall be personally responsible for any damage to life or property resulting from a wake or swell created by the negligent operation or propulsion of the watercraft.

(C) Under this section, the owner shall not be liable unless the watercraft is being used with his or her express or implied consent, but it shall be presumed that the watercraft is being operated with the knowledge and consent of the owner if it is driven at the time of the injury by his or her son, daughter, spouse, father, mother, brother, sister or other immediate family member of the owner's family.

Statutory reference:

Similar law, see M.C.L.A. §§ 324.80157 and 324.80158

CHAPTER 74: PARKING REGULATIONS

Section

Parking Violations Bureau

PARKING VIOLATIONS BUREAU

§ 74.01 PARKING VIOLATIONS BUREAU ESTABLISHED.

(A) Pursuant to M.C.L.A. §§ 600.8395 *et seq*. (part of the Revised Judicature Act), as amended, a Parking Violations Bureau for the purpose of handling alleged parking violations within the city is hereby established.

(B) The Parking Violations Bureau shall be under the supervision and control of the Chief of Police.

§ 74.02 LOCATION.

The Chief of Police shall, subject to the approval of the City Council, establish a convenient location for the Parking Violations Bureau, appoint qualified city employees to administer the Bureau and adopt rules and regulations for the operation thereof.

§ 74.03 VIOLATIONS HANDLED.

Only violations scheduled in § 74.07 hereof shall be disposed of by the Parking Violations Bureau.

§ 74.04 PROCEDURE.

(A) (1) No violation may be settled at the Parking Violations Bureau except at the specific request of the alleged violator.

(2) In no case shall the person who is in charge of the Bureau determine or attempt to determine the truth or falsity of any fact or matter relating to the alleged violation.

(B) (1) No person shall be required to dispose of a parking violation at the Parking Violations Bureau and all persons shall be entitled to have any such violation processed before a court having jurisdiction thereof if they so desire.

(2) The unwillingness of any person to dispose of any violation at the Parking Violations Bureau shall not prejudice him or her or in any way diminish the rights, privileges and protection accorded to him or her by law.

§ 74.05 VIOLATION NOTICE.

(A) The issuance of a parking summons, ticket or notice of violation by a police officer shall be deemed an allegation of a parking violation.

(B) The parking summons, ticket or notice of violation shall indicate the nature of the parking violation, the length of time in which the person to whom the same was issued must respond before the Parking Violations Bureau and shall also indicate the address of the Bureau, the hours during which the Bureau is open, the amount of the penalty scheduled for the offense for which the ticket was issued, and advise that a warrant for the arrest of the person to whom the ticket was issued will be sought if such a person fails to respond within the time limit.

§ 74.06 SETTLEMENT OF VIOLATIONS.

The Parking Violations Bureau shall be authorized to accept pleas of guilty in parking violations cases and to collect and retain the fines and costs therefor as set forth in the schedule in § 74.07. Appearance, plea and payment to the Bureau shall constitute satisfaction of the parking violations.

§ 74.07 SCHEDULE OF PARKING OFFENSES AND FINES.

(A) There is hereby established the following schedule of parking offenses and fines:

Offense	***Uniform Traffic Code Section***	***Penalty***
Offense	***Uniform Traffic Code Section***	***Penalty***
Parking too far from curb	M.C.L.A. 257.675	$25
Prohibited parking (other violations listed in M.C.L. 257.674)	M.C.L.A. 257.674	$25
Obstructing traffic	M.C.L.A. 257.676b	$25
In fire lane	M.C.L.A. 257.674	$50
Within 15 feet of a fire hydrant	M.C.L.A. 257.674	$50

In alley	M.C.L.A. 257.674	$25
Blocking driveway, loading zone or handicapped ramp	M.C.L.A. 257.674	$25
Loading zone violation	M.C.L.A. 257.674	$25
All night parking (alternate streets)	M.C.L.A. 257.674	$25
Between sidewalk and curb	M.C.L.A. 257.674	$25
Handicapped space	M.C.L.A. 257.674	$100
Failure to purchase or display a valid daily or season pass to the Oval Beach	M.C.L.A. 257.674	$25

(B) All illegally parked vehicles are subject to towing, in which case an administrative fee of $50 will be charged in addition to any towing or impound fees charged by the towing company.

(Ord. passed 5-13-1996; Am. Ord .170508-1, passed 5-8-2017)

TITLE IX: GENERAL REGULATIONS

Chapter

CHAPTER 90: ALCOHOLIC BEVERAGES

Section

General Provisions

Cross-reference:

Intoxicating beverages in parks prohibited, see § 95.02

GENERAL PROVISIONS

§ 90.01 DEFINITIONS.

The following words, terms and phrases, when used in this chapter, shall generally have the same meaning provided in the Michigan Liquor Control Code where not in conflict with the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

ALCOHOLIC BEVERAGE. Includes any spirituous, vinous, malt or fermented liquor, liquid or compound, whether or not medicated, proprietary, patented and by whatever name called, containing one-half of one percent or more of alcohol by volume and which is fit for use for beverage purposes.

APPLICANT. Any person who seeks approval from the City Council to sell alcoholic beverages for consumption on the premises.

LICENSEE. Any person who has been granted a license to sell alcoholic beverages in the city by the state liquor control commission.

RESTAURANT. An establishment in which food or beverages are prepared, served, and consumed either on or off the premises, directly to the public for compensation.

SALE. Includes the exchange, barter, traffic or furnishing of any alcoholic beverage.

(Ord. 140908-1, passed 9-8-2014)

§ 90.02 POSSESSION OR CONSUMPTION IN PUBLIC PLACE.

(A) No person in the public streets, sidewalks, parks, buildings, beaches or other public places shall possess any alcoholic beverage in any unsealed container of any kind or material.

(B) No person shall consume any alcoholic beverage on public streets, sidewalks, parks, buildings, beaches or other public places, or on areas adjoining any such public place.

(C) The prohibitions set forth in this section shall not prevent the possession or consumption of alcoholic beverages in or on public places where such activities have been affirmatively permitted by state and local licensing and where, relative to such use on public property, a license or other permit has been issued by the city allowing for the sale, possession, and/or consumption in or on such public places.

(Am. Ord. 180709-1, passed 7-9-2018) Penalty, see § 10.99

Statutory reference:

Authority to prohibit, see M.C.L.A. § 436.1915

§ 90.03 PERSONS UNDER 21 IN CERTAIN ESTABLISHMENTS RESTRICTED.

(A) After the hours of 9:00 p.m., no person under the age of 21 years shall be allowed to remain in any bar or establishment within the city which establishment is licensed by the Liquor Control Commission and the city to sell alcoholic beverages for consumption on the premises, except that this provision shall not apply to those establishments whose primary business is that of serving regular meals.

(B) The presence of legally employed persons while in the course of their employment in establishments licensed by the Liquor Control Commission shall not be considered a violation of this section.

(C) A copy of this section shall be posted in all licensed establishments. A complete copy of this code is available for public use and inspection at the office of the City Clerk.

Penalty, see § 10.99

Statutory reference:

Minors in places where liquor is sold, see M.C.L.A. § 750.141

§ 90.04 AGE OF PURCHASER.

(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 violation of this code. 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 Liquor Control Commission.

(B) If a violation occurs in an establishment that is licensed by the Liquor Control Commission for consumption of alcoholic liquor on the licensed premises, a person who is a licensee or the clerk,

agent or employee of a licensee shall not be charged with a violation of division (A) unless the licensee or the clerk, agent or employee of the licensee knew or should have reasonably known with the exercise of due diligence that a person less than 21 years of age possessed or consumed alcoholic liquor on the licensed premises and the licensee or clerk, agent or employee of the licensee failed to take immediate corrective action.

(C) If the enforcing agency involved in the violation is the state police or the city's Police Department, a licensee shall not be charged with a violation of division (A) unless the enforcement action under § 90.05 is taken against the person less than 21 years of age who purchased or attempted to possess alcoholic liquor and, if applicable, enforcement action is taken under this section against the person 21 years of age or older who sold or furnished the alcoholic liquor to the person who is less than 21 years of age. If the enforcing agency is the Liquor Control Commission, then the Liquor Control Commission shall recommend to the Police Department that enforcement action be taken against a violator of this section or § 90.05 who is not a licensee. However, this division (C) does not apply under any of the following circumstances:

(1) The person against whom enforcement action is taken under § 90.05 or the person 21 years of age or older who sold or furnished alcoholic liquor to the person less than 21 years of age is not alive or is not present in this state at the time the licensee is charged;

(2) The violation of division (A) is the result of an undercover operation in which the person less than 21 years of age purchased or received 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; or

(3) The violation of division (A) is the result of an undercover operation in which the person less than 21 years of age purchased or received alcoholic liquor under the direction of the state police, Liquor Control Commission, or a local police agency as part of an enforcement action. However, any initial or contemporaneous purchase or receipt of alcoholic liquor by the person less than 21 years of age shall have been under the direction of the state police, Liquor Control Commission, or the local police agency and shall have been part of the undercover operation.

(D) If a person less than 21 years of age participates in an undercover operation in which the person less than 21 years of age is to purchase or receive alcoholic liquor under the supervision of a law enforcement agency, his or her parents or legal guardians shall consent to the participation if that person is less than 18 years of age.

(E) In an action for a violation of this section, proof that the defendant or the defendant's agent or employee 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 brought under this section.

(F) As used in this section:

CORRECTIVE ACTION. The term means action taken by a licensee or a clerk, agent or employee of the licensee designed to prevent a person less than 21 years of age from further possessing or consuming alcoholic liquor on the licensed premises. The term includes but is not limited to contacting a law enforcement agency and ejecting the person less than 21 years of age and any other person suspected of aiding and abetting the person less than 21 years of age.

DILIGENT INQUIRY. The term means a diligent good faith effort to determine the age of a person, which includes at least an examination of an official state operator's license, an official state identification card, or any other bona fide picture identification which establishes the identity and age of the person.

(M.C.L.A. § 436.33) Penalty, see § 10.99

§ 90.05 PURCHASE, CONSUMPTION OR POSSESSION BY PERSON UNDER 21.

(A) A person less than 21 years of age shall not purchase or attempt to purchase alcoholic liquor, consume or attempt to consume alcoholic liquor, or possess or attempt to possess alcoholic liquor, except as provided in this section and in M.C.L.A. § 436.33a(1). Notwithstanding M.C.L.A. § 436.50, a person less than 21 years of age who violates this section is liable for the following fines and sanctions and shall not be subject to the penalties prescribed in § 10.99:

(1) For the first violation, a fine of not more than $100, and may be ordered to participate in a substance abuse prevention or substance abuse treatment and rehabilitation services as defined in M.C.L.A. § 333.6107 and designated by the Administrator of Substance Abuse Services, and may be ordered to perform community service and undergo substance abuse screening and assessment at his or her own expense as described in M.C.L.A. § 436.33b(3);

(2) For a second violation, a fine of not more than $200, and may be ordered to participate in a substance abuse prevention or substance abuse treatment and rehabilitation services as defined in M.C.L.A. § 333.6107 and designated by the Administrator of Substance Abuse Services, and may be ordered to perform community service and undergo substance abuse screening and assessment at his or her own expense as described in M.C.L.A. § 436.33b(3). The person is also subject to sanctions against his or her operator's license imposed in M.C.L.A. § 436.33b(4); and

(3) For a third or subsequent violation, a fine of not more than $500, and may be ordered to participate in a substance abuse prevention or substance abuse treatment and rehabilitation services as defined in M.C.L.A. § 333.6107 and designated by the Administrator of Substance Abuse Services, and may be ordered to perform community service and undergo substance abuse screening and assessment at his or her own expense as described in M.C.L.A. § 436.33b(3). The person is also subject to sanctions against his or her operator's license imposed in M.C.L.A. § 436.33b(4).

(B) A person who furnishes fraudulent identification to a person less than 21 years of age, or notwithstanding division (A) a person less than 21 years of age who uses fraudulent identification to purchase alcoholic liquor, is guilty of a violation of this code. The court shall order the Secretary of State to suspend, pursuant to M.C.L.A. § 257.319, for a period of 90 days, the operator's license of a person who is convicted of furnishing or using fraudulent identification in violation of this division (B), and the operator's license of that person shall be surrendered to the court. The court shall immediately forward the surrendered license and an abstract of conviction to the Secretary of State. A suspension ordered under this division (B) shall be in addition to any other suspension of the person's operator's license.

(C) A law enforcement agency, upon determining that a person less than 18 years of age who is not emancipated pursuant to M.C.L.A. §§ 722.1 to 722.6, allegedly consumed, possessed, purchased or attempted to consume, possess or purchase alcoholic liquor in violation of division (A) of this section shall notify the parent or parents, custodian or guardian of the person as to the nature of the violation if the name of the parent, custodian or guardian is reasonably ascertainable by the law enforcement agency. The notice required by this division (C) shall be made not later than 48 hours after the law enforcement agency determines that the person who allegedly violated division (A) of this section is less than 18 years of age and not emancipated pursuant to M.C.L.A. §§ 722.1 to 722.6. The notice may be made 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 a person less than 17 years of age is incarcerated for violating division (A), his or her parents or legal guardian shall be notified immediately as provided in this division (C).

(D) This section does not prohibit a person less than 21 years of age from possessing alcoholic liquor during regular working hours and in the course of his or her employment if employed by a person licensed pursuant to state law by the Liquor Control Commission, or by an agent of the Liquor Control Commission, if the alcoholic liquor is not possessed for his or her personal consumption.

(E) This section shall not be construed to limit the civil or criminal liability of the vendor or the vendor's clerk, servant, agent or employee for a violation of this chapter or state law.

(F) The consumption of alcoholic liquor by a person less than 21 years of age who is enrolled in a course offered by an accredited post secondary educational institution in an academic building of the institution under the supervision of a faculty member shall not be prohibited by this section if the purpose is solely educational and is a necessary ingredient of the course.

(G) The consumption by a person less than 21 years of age of sacramental wine in connection with religious services at a church, synagogue or temple is not prohibited by this section.

(H) Division (A) does not apply to a person less than 21 years of age who participates in either or both of the following:

(1) An undercover operation in which the person less than 21 years of age 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; or

(2) An undercover operation in which the person less than 21 years of age purchased or received alcoholic liquor under the direction of the state police, Liquor Control Commission, or a local police agency as part of an enforcement action, except that any initial or contemporaneous purchase or receipt of alcoholic liquor by the person less than 21 years of age shall have been under the direction of the state police, Liquor Control Commission, or the local police agency and shall have been part of the undercover operation. The state police, the Liquor Control Commission or a local law enforcement agency shall not recruit or attempt to recruit a person less than 21 years of age for participation in an undercover operation at the scene of a violation of division (A) of this section or § 90.04(A).

(M.C.L.A. § 436.33b(1), (2), (8) through (13))

§ 90.06 POSSESSION IN MOTOR VEHICLE BY PERSON UNDER 21.

A person less than 21 years of age shall not knowingly transport or possess, in a motor vehicle, alcoholic liquor unless the person is employed by a licensee under state law, a common carrier designated by the Liquor Control Commission pursuant to state law, the Liquor Control Commission, or an agent of the Liquor Control Commission, and is transporting or having the alcoholic liquor in a motor vehicle under the person's control during regular working hours in the course of the person's employment. This section does not prevent a person less than 21 years of age from knowingly transporting alcoholic liquor in a motor vehicle if a person at least 21 years of age is present inside the motor vehicle. A person who violates this section is guilty of a violation of this code. As part of the sentence, the person may be ordered to perform community service and undergo substance abuse screening and assessment at his or her own expense as described in § 90.05(A).

(M.C.L.A. § 257.624b(1)) Penalty, see § 10.99

§ 90.07 OPEN CONTAINERS: TRANSPORTING IN MOTOR VEHICLE.

(A) Except as otherwise provided in this division (A), a person shall not transport or possess alcoholic liquor in a container which is open, uncapped or upon which the seal is broken within the passenger compartment of a vehicle on any city street or alley, or within the passenger compartment of a moving vehicle in any place open to the general public or generally accessible to motor vehicles, including an area designated for the parking of vehicles in this city.

(B) A person may transport or possess alcoholic liquor in a container which is open, uncapped or upon which the seal is broken within the passenger compartment of a vehicle on any city street or alley, or other place open to the general public or generally accessible to motor vehicles, including an area designated for the parking of vehicles in this city, if the vehicle does not have a trunk or

compartment separate from the passenger compartment, the container is enclosed or encased, and the container is not readily accessible to the occupants of the vehicle.

(C) This section does not apply to a passenger in a chartered vehicle authorized to operate by the State Department of Transportation.

(M.C.L.A. § 257.624a(1), (2), (7)) Penalty, see § 10.99

SPECIAL EVENTS LICENSES

§ 90.20 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ALCOHOLIC BEVERAGES. Alcoholic liquor including beer, wine, and spirits as defined in the Liquor Control Act, Public Act 8 of 1933 (Extra Session) and all amendments thereto, and as specifically set forth in M.C.L.A. §§ 436.1101 *et seq*., which is incorporated herein and adopted by reference.

SALE. The providing of alcoholic beverages to a member of the public for consideration and shall include those events wherein a cover charge or entry charge is paid at the door by the public or at the point of entry of the event in exchange for alcoholic beverages supplied therein, or where tickets are pre-purchased by the public and then presented in exchange for alcoholic beverages provided for at the event.

§ 90.21 LICENSE REQUIRED.

No person, corporation, group, organization or other entity, whether organized for profit or otherwise, shall, within the city limits, offer alcoholic beverages for sale to the general public under the authority of a “special” 1-day liquor license or other “temporary” license obtained from the Liquor Control Commission without also obtaining a license to conduct the sale from the City Council in accordance with the procedures set forth herein.

Penalty, see § 10.99

§ 90.22 LICENSE APPLICATION.

(A) Any person or other organization desiring to conduct such a sale or event wherein alcoholic beverages will be sold to the public shall submit an application to the City Clerk.

(B) The person shall provide the following information:

(1) Name and address of applicant and, if an organization or corporation, the names of the officers or organizers;

(2) The location of the proposed sale;

(3) The date and hours the sale will be held;

(4) The type of alcoholic beverages which are proposed to be sold;

(5) The object or purpose of conducting the sale; and

(6) A statement as to whether or not entertainment will be provided at the proposed sale and, if so, a description of the entertainment.

(C) The application shall be signed by the applicant, or the authorized officer or organizer of the entity which is making the application.

Penalty, see § 10.99

§ 90.23 TIME FOR APPLICATION.

The application for the license shall be submitted to the City Clerk for transmittal to the City Council not less than 14 days prior to the planned sale; provided, however, that the City Council may, on its own motion, waive the 14-day requirement for good cause shown by the applicant.

§ 90.24 NUMBER OF LICENSES.

Not more than five such special licenses may be granted to any applicant, including any auxiliary thereof, within one calendar year.

§ 90.25 LICENSE FEE.

A license application fee in the amount as set forth in the city schedule of fees shall accompany the application when filed with the Clerk.

§ 90.26 LICENSE APPROVAL FROM STATE.

(A) The fact that a person or organization covered under this subchapter has obtained a special or temporary license to conduct the sale from the Liquor Control Commission or other appropriate state licensing agency will not relieve that party from obtaining the local license provided for herein.

(B) The obtaining of the local license provided for herein shall not relieve the applicant of obtaining the necessary license from the Liquor Control Commission or other appropriate state agency.

§ 90.27 DENIAL OR APPROVAL OF LICENSE WITH CONDITIONS.

(A) The City Council, in reviewing an application for a license provided for herein, shall have the power to issue the license with conditions, or to deny the application; provided, the City Council shall state the reasons therefor on the record and the reasons shall become a part of the minutes of the meeting. A refusal to grant a license, or to grant a license with conditions, shall be based on considerations affecting the general health, safety and welfare.

(B) Factors which may be considered by the City Council in reviewing an application shall include but shall not necessarily be limited to the following:

(1) Traffic problems, if any, which may be created;

(2) Number of persons expected to attend;

(3) Availability of police and fire protection, including considerations of crowd control;

(4) Parking considerations; and

(5) Objections, if any, of nearby property owners.

§ 90.28 CASH BOND.

If the City Council grants a license with certain conditions, it may require the posting of a cash bond in an amount which it deems sufficient to assure performance of those conditions by the applicant. Failure of the applicant to comply with the conditions of the license may result in the forfeiture of the cash bond by the City Council after notification and hearing to the applicant. If the licensee complies with the conditions of the license, the cash bond shall be returned by the Clerk within 48 hours following expiration of the license.

§ 90.29 TRANSFERABILITY.

No license issued hereunder shall be used by any person or organization except the applicant, and such license shall not be transferable or assignable to any third party.

§ 90.30 VIOLATIONS.

A violation of this subchapter shall be punished as prescribed in § 10.99. In the case of a corporation or other organization or associations, their duly elected or appointed officers or organizers shall be subject to prosecution under this code if a violation should occur.

LICENSE REQUIREMENTS

§ 90.45 INSPECTIONS.

(A) *Authority.* Inspections shall be made of all premises licensed under this chapter in order to safeguard the health, safety and welfare of the public. City officials conducting such inspections may enter any licensed premises during any hours in which the premises are open to the public for the purpose of conducting an inspection, and shall be entitled to inspect all portions of the premises, including, but not limited to, those portions used for storage, or food or beverage preparation. The licensee, as well as every employee or agent of the licensee, shall give the City official conducting such inspection free access to all areas of the licensed premises.

(B) *Basis.* An inspection shall be conducted in the manner best calculated to secure compliance with this code. Inspections may be on any one or more of the following basis:

(1) When any inspecting city official has reasonable cause to believe that a violation of this code has occurred or is occurring.

(2) Periodically and at such times deemed reasonable and appropriate by the city.

(C) *Administrative search warrant.* If any person shall deny access to a city official performing an inspection pursuant to this section, the city shall be entitled to the issuance of an administrative search warrant from a court of competent jurisdiction. The City Attorney or county prosecutor shall prepare the warrant application, which shall include the name of the business; the address of the building to be inspected; the nature of the inspection; and the facts attesting that access to the premises has been denied in contravention to this section. Upon a finding by the court that the warrant application is in proper form and in accord with this section, an administrative search warrant shall be issued forthwith. In the event of an emergency, or where probable cause exists to believe that evidence of criminal activity is present within the licensed premises, no such warrant shall be required.

(Ord. 140908-1, passed 9-8-2014)

§ 90.46 LAND USE APPROVAL REQUIRED.

Applicants seeking approval from the city for licenses to sell alcoholic beverages for on-premises consumption outside of a commercial zone district, being C-1 City Center Commercial District (CC), C-4 Resort District, C-2 Water Street East District (WSE), C-1 Water Street North District (WSN), and C-2 Water Street South (WSS), must first apply for and obtain special land use approval in accordance with Chapter 154.

(Ord. 140908-1, passed 9-8-2014; Am. Ord. 180529-2, passed 5-29-2018)

§ 90.47 REASONS FOR DENIAL.

(A) An applicant’s request for a license shall be denied:

(1) For any reason which would prohibit the applicant from obtaining a license from the Michigan Liquor Control Commission.

(2) For a person who does not own or have an option to purchase the location for which a license is sought or does not have a lease therefor for the full period for which the license is issued.

(3) For a location where there exists an uncorrected violation of the applicable construction, building, electrical, mechanical, plumbing or fire codes, applicable zoning requirements, applicable public health regulations or any violation of any ordinance or other applicable law, rule, regulation, order or directive.

(4) For a location where it is determined by the City Council that the premises does not or will not reasonably soon after commencement of operations have adequate off-street parking, lighting, refuse disposal facilities, screening, fire safety, or noise or nuisance control.

(5) Where the City Council determines that the proposed location is inappropriate considering the zoning of the location; the desirability of establishing a location in developed, commercial areas, in preference to isolated, undeveloped areas; the attitude of adjacent residents and property owners; traffic safety; accessibility to the site from abutting roads; capability of abutting roads to accommodate the commercial activity; distance from public or private schools for minors; proximity of an inconsistent zoning classification; accessibility from primary roads or state highways; or based on a recommendation from the Planning Commission to deny the request.

(6) For any person, partnership or corporation in default of any financial or contractual obligation to the city, including, but not limited to, the payment of any administrative fee, civil or criminal fine, real or personal property tax, special assessment or any city administered utility fee or the breach of any contract, pledge or similar binding commitment to which the city is a party.

(B) Nothing in this section or the City Code shall be construed to require the city or City Council to issue or approve the issuance of a license that may be available. The decision of whether a license should be issued shall be determined in the sole discretion of the City Council.

(Ord. 140908-1, passed 9-8-2014)

§ 90.48 RENEWAL AND REVOCATION.

(A) *Authority of City Council.* The City Council may, by resolution, recommend to the state liquor control commission the nonrenewal or revocation of an existing license governed by this chapter upon its determination, based upon evidence presented at a public hearing, that the licensee has violated any standard or prohibition referred to in this chapter.

(B) *Hearing notice; statement of findings.*

(1) Before filing an objection to a renewal or a request for revocation of a license with the state liquor control commission, the City Council shall hold a public hearing.

(2) The City Clerk shall cause a notice of hearing to be sent to the licensee, by first class mail, mailed not less than ten days prior to the hearing, which notice shall contain the following:

(a) A description of the action to be considered by the city;

(b) The reasons for the proposed action;

(c) The date, time and place of the hearing; and

(d) A statement that the licensee may present evidence and testimony at the hearing and may be represented by an attorney.

(3) Following the hearing the City Council shall make a determination.

(C) *Standards for recommendations.* The City Council may recommend to the state liquor control commission that a license not be renewed or that a license be revoked upon its determination, based

upon evidence presented at a public hearing, that any one or more of the following has been engaged in or has been permitted to occur on the licensed premises:

(1) A violation of any of the restrictions on licenses provided in this chapter;

(2) Maintenance of a public nuisance as regulated by city ordinance;

(3) The licensee has provided false, fraudulent or misleading information in an original license application or in an application for a license renewal;

(4) A violation of any provision of this code, or a violation of any statute or governmental code, regulation, standard or directive, or any violation of any order of any court, council or tribunal having jurisdiction of the premises of the licensee;

(5) Nonpayment or repeated delinquent payment of any local personal property or real property tax, special assessment, any civil or criminal fine, or any city administered utility bill or administrative service fee provided by or through the city;

(6) Failure by the licensee to obtain, or maintain as current, any license or permit required by the city or any unit of federal, state, or county government;

(7) Failure by the licensee to keep in good repair or maintain any portion of the licensed premises, including that portion of the premises used for the parking of motor vehicles, in full compliance with any law or standard promulgated by the city or any unit of federal, state or county government;

(8) Failure by the licensee, or any of the licensee's agents or employees, to cooperate with any federal, state, county or city official acting in the lawful performance of his or her duty;

(9) Failure by the licensee, or the licensee's agent or employee, to cooperate with any law enforcement officer in the lawful performance of his or her duty; and/or

(10) Breach by the licensee, its agents or officers of a contract to which the city is a party, or any partial breach of such a contract or similar obligation.

(Ord. 140908-1, passed 9-8-2014)

CHAPTER 91: ANIMALS

Section

§ 91.01 KEEPING OR HOUSING ANIMALS; RESTRICTIONS.

(A) No person shall keep, possess, or house any animal within the city except dogs, cats, canaries or other animals or birds which are commonly kept and housed inside dwellings as household pets. No person shall keep, house, or possess more than four dogs of licensable age (six months old or older) on any lot or parcel.

(B) Provided, that cows, horses, mules or fowl kept, fenced or housed more than 125 feet from any dwelling of any person other than the one upon whose premises they are kept or housed, and animals or fowl kept, fenced or housed on premises used and occupied as one parcel of land regularly devoted to or zoned for agricultural purposes and consisting of not less than ten acres shall be exempt from the provisions of this section.

(Am. Ord. 150126-1, passed 1-26-2015) Penalty, see § 10.99

§ 91.02 RUNNING AT LARGE.

No person shall permit any domestic animal, or any goose, chicken or other fowl, to run or be at large upon public streets, lanes, alleys, vacant lots or other open or public places, nor upon any private premises other than the premises of the owner or custodian of the domestic animal or fowl, without the consent of the owner or occupant of the private premises; provided, however, that any such domestic animal may be led about outside the premises of the owner thereof on a suitable leash in the immediate control of a competent person.

Penalty, see § 10.99

§ 91.03 SEIZURE AND IMPOUNDMENT.

(A) *Seizure.* Any city or county peace or dog control officer may seize any animal or fowl running at large in the city in violation of the provisions of this chapter.

(B) *Impoundment upon seizure.* Any animal or fowl seized under the provisions of this chapter shall be placed in a pound or delivered to the County Humane Society. All animals or fowl not claimed within 48 hours shall be disposed of by the custodial authority. It shall be lawful to kill any animal or fowl running at large in violation of this chapter which cannot be seized or captured in a reasonable manner. The city and the enforcing officer shall incur no liability in the lawful seizure or disposal of any animal or fowl.

§ 91.04 CRUELTY TO ANIMALS.

No person shall overwork, torture, torment, deprive of necessary sustenance, cruelly beat, mutilate or cruelly kill any animal. Any person having custody of any animal shall provide the same with proper food, drink, shelter or protection from the weather and elements.

Penalty, see § 10.99

Statutory reference:

Cruelty to animals, see M.C.L.A. § 750.50

§ 91.05 ABANDONMENT OF ANIMALS OR FOWL.

No person shall abandon any animal or fowl within the city.

Penalty, see § 10.99

Statutory reference:

Similar law, see M.C.L.A. § 750.50(2)(e)

§ 91.06 INTERFERING WITH ENFORCING OFFICER.

(A) No person shall hinder, obstruct or delay an officer or other person who is lawfully engaged in taking into custody any animal or fowl found running at large or being possessed or housed by any person contrary to the provisions of this chapter.

(B) It is a defense to prosecution under this section that the interference alleged consisted of constitutionally protected speech only.

Penalty, see § 10.99

§ 91.07 PRESUMPTION OF OWNERSHIP.

Every person in possession of any animal or fowl who shall allow the animal or fowl to remain about his or her premises for a period of five days shall be deemed to be the owner thereof for the purposes of this chapter.

§ 91.08 DOG LICENSING AND REGISTRATION.

(A) *Generally.* No resident person shall own, keep or house any dog within the city unless the person shall have complied with the laws of the state and county providing for the licensing and registration of the dog.

(B) *Collar and license tag to be worn.* No resident person shall own, keep or house any dog six months old or older that does not, at all times when the dog is off the premises of the owner, wear a collar or harness with a license tag issued pursuant to the laws of the state and county.

(C) *Licensing of impounded dog.* No dog shall be released from the pound unless the owner or person entitled to demand the same shall procure a license for the dog in the manner required by state law at the time in force and effect, in event that the dog shall not have already been legally licensed.

Penalty, see § 10.99

§ 91.09 VICIOUS AND DANGEROUS DOGS.

(A) No person shall own, keep, house or have charge of any dog which has an ugly or vicious disposition or is dangerous to persons or property. Any dog shall be deemed vicious which has bitten a person or domestic animal without provocation, or which by its actions gives indications that it is reasonably likely to bite any person or domestic animal without provocation. The owner, or any person entitled to possession or control of the dog, shall deliver same to the enforcing officer for confinement or disposal.

(B) Any dog or other animal that has bitten a person shall be held in confinement for a period of at least ten days from the date the person was bitten. If the animal dies during the period of confinement, the head shall be sent to a laboratory for examination for evidence of rabies in the manner specified by state regulations for the control of rabies as promulgated by the Health Department.

Penalty, see § 10.99

Statutory reference:

Dangerous animals; complaints, retention, destruction, court orders to protect the public, see M.C.L.A. §§ 287.321 and 287.322

§ 91.10 TRESPASSING AND DESTRUCTIVE ANIMALS.

No person shall own, keep or have charge of any dog or animal which by the destruction of property or trespassing on public or property of others becomes a nuisance.

Penalty, see § 10.99

§ 91.11 PERMITTING ANIMALS TO SOIL PUBLIC OR PRIVATE PROPERTY.

It shall be unlawful for any person owning or having charge, care or control of any dog or animal to allow, or permit the dog or animal to soil any public property or other improved private property other than that of the owner, keeper or custodian or person having control of the animal. However, this section shall not apply if the excrement is promptly removed from the public or private property and is properly disposed.

Penalty, see § 10.99

§ 91.12 DOGS BARKING, HOWLING AND THE LIKE.

No person shall own, keep, house or have charge of any dog which by loud and frequent barking, howling or yelping, interferes with the quiet enjoyment by others of their property or otherwise creates a nuisance.

Penalty, see § 10.99

Cross-reference:

Unlawful animal and bird noises, see § 94.04(A)(1)

§ 91.99 PENALTY.

(A) Any person, firm, corporation, trust, partnership or other legal entity which violates or refuses to comply with §§ 91.01, 91.02, 91.05, 91.08, 91.10, 91.11 or 91.12 of this chapter shall be responsible for a municipal civil infraction and shall be punished be a civil fine in accordance with § 10.21, and shall be liable for payment of the costs of prosecution in an amount of not less than $9 and not more than $500.

(B) Each day that a violation continues to exist shall constitute a distinct and separate offense, and shall make the violator liable for the imposition of fines for each day.

(C) The foregoing penalties shall be in addition to the abatement of the violating condition and injunctive or other relief which may be ordered by the court as prescribed by the laws of the State of Michigan for the abatement of a public nuisance or the violation of a city ordinance designated as a municipal civil infraction.

(Ord. passed 8-9-1999)

CHAPTER 92: FIREWORKS AND FIRE PREVENTION

Section

Fireworks

Fire Protection

Cross-reference:

Fire Prevention Code adopted, see § 150.01

Statutory reference:

False alarms, see M.C.L.A. § 750.240

FIREWORKS

§ 92.01 DEFINITION.

For the purpose of this subchapter the following definition shall apply unless the context clearly indicates or requires a different meaning.

ACT. The Michigan Fireworks Safety Act, Act 256 of the Public Acts of Michigan, being, M.C.L.A. §§ 28.451 et seq., as amended. All other terms used in this subchapter shall have the same meanings as defined or used in the Act.

(Ord. passed 5-10-2004; Am. Ord. 130909-1, passed 9-9-2013)

§ 92.02 USE OF CONSUMER FIREWORKS PROHIBITED.

(A) Except as provided in this section, a person shall not ignite, discharge, or use consumer fireworks at any time.

(B) A person may ignite, discharge, or use consumer fireworks in the city on the following days after 11:00 a.m.:

(1) December 31 until 1:00 a.m. on January 1;

(2) The Saturday and Sunday immediately preceding Memorial Day until 11:45 p.m. on each of those days;

(3) June 29 to July 4 until 11:45 p.m. on each of those days.

(4) July 5, if that date is a Friday or Saturday, until 11:45 p.m; and

(5) The Saturday and Sunday immediately preceding Labor Day until 11:45 p.m. on each of those days.

(C) A person who violates this section shall be responsible for a municipal civil infraction and subject to a civil fine of $1,000, with $500 remitted to the city for enforcing this section pursuant to M.C.L.A. § 28.457(3).

(Ord. 130909-1, passed 9-9-2013; Am. Ord. 190325-1, passed 3-25-2019)

§ 92.03 OFFENSES AGAINST PROPERTY.

No person shall at any time ignite, discharge or use consumer fireworks on public property, school property, church property, or the property of another person without that person or organization's express permission to use those fireworks on those premises, and no person shall cause or permit any debris, remnants, or unburned fragments of consumer fireworks or low impact consumer fireworks to remain on private or public property without the property owner's permission.

(Ord. 130909-1, passed 9-9-2013)

§ 92.04 USE OF FIREWORKS BY INDIVIDUALS UNDER THE INFLUENCE.

An individual shall not use consumer fireworks or low-impact fireworks while under the influence of alcoholic liquor, a controlled substance, or a combination or alcoholic liquor and a controlled substance as defined by M.C.L.A. §§ 257.1d and 257.8b, as amended.

(Ord. 130909-1, passed 9-9-2013)

§ 92.05 FIREWORKS SAFETY.

No person shall recklessly endanger the life, health, safety, or well-being of any person or property by the ignition, discharge, or use of consumer fireworks.

(Ord. 130909-1, passed 9-9-2013)

§ 92.06 SALE TO AND USE BY MINORS.

(A) No person shall sell consumer fireworks to a person under the age of 18 years.

(B) No person under the age of 18 years shall use, possess, explode or cause to explode any consumer fireworks within the city except while in the presence and under the control of a parent, guardian or other responsible adult.

(C) No person under the age of 18 years shall buy, purchase, acquire or obtain any consumer fireworks within the city.

(Ord. passed 5-10-2004; Am. Ord. 130909-1, passed 9-9-2013) Penalty, see § 10.99

§ 92.07 FIREWORKS DISPLAY.

A permit from the City Council is required for the possession, use, or discharge of display fireworks, articles pyrotechnic or special effects (collectively for purposes of this subchapter hereinafter "display fireworks") for public or private display within the city on terms and in a manner consistent with the Act. The storage of fireworks shall be prohibited in the city except in compliance with the Act. All permits shall be subject to compliance with this subchapter and the Act. In the event of any conflict between this subchapter and the Act, the more stringent provision shall control.

(Ord. passed 5-10-2004; Am. Ord. 130909-1, passed 9-9-2013) Penalty, see § 10.99

§ 92.08 PERMIT APPLICATION; FEE; DECISION OF CITY COUNCIL.

Application for permits shall be made in writing, on forms provided by the Michigan Department of Licensing and Regulatory Affairs, to the City Council at least 60 days in advance of the date of the display of fireworks. If an application for a permit is not timely filed as provided herein, the City Council may consider the application only if the applicant shows good cause for submitting a late application. The City Council may, by resolution, establish a nonrefundable fee schedule for the city's cost of reviewing and acting on the application. If such schedule is established by the City Council, the applicant shall submit the nonrefundable fee with the permit application. The City Council may grant, grant with conditions, or deny the permit in accordance with the Act and this subchapter. Notwithstanding any provision of this subchapter, no applicant has a right to issuance of a permit. Nothing in this subchapter shall be construed to limit or impair the discretion of the City Council to deny a permit pursuant to the Act or this chapter. If a permit is granted, the sale, possession, use, or discharge of fireworks for such display shall comply with all terms and conditions of the permit. A permit granted hereunder shall not be transferable, nor shall any such permit be extended beyond the dates set out therein. A permit for a particular display granted by the city under the Act's predecessor shall remain valid subject to its original terms.

(Ord. 130909-1, passed 9-9-2013)

§ 92.09 LIABILITY INSURANCE.

Before a permit for display fireworks is granted by the City Council, the applicant shall furnish to the city a liability insurance policy, in a form satisfactory to the city, in the amount of not less than $1,000,000 to satisfy claims for damages to property or personal injuries arising out of an act or omission on the part of the applicant, or an agent or employee thereof. The city shall be named as an additional insured on the insurance policy. Before a display fireworks permit is issued, the applicant shall furnish a certificate of insurance for the policy which shall provide for 30 days prior written notice to the city of cancellation or revocation of the policy.

(Ord. 130909-1, passed 9-9-2013)

§ 92.10 MISCELLANEOUS OFFENSES.

No person shall ignite, discharge, or use consumer fireworks within the city except of the type permitted and under the conditions permitted by state law and this chapter.

(Ord. 130909-1, passed 9-9-2013)

§ 92.11 VIOLATIONS.

Any person violating the provisions of §§ 92.03 through 92.10, inclusive, of this Code, shall be guilty of a misdemeanor, punishable by up to 90 days in jail and/or a fine up to $500.

(Am. Ord. 130909-1, passed 9-9-2013)

FIRE PROTECTION

§ 92.20 REFERENCES TO FIRE DEPARTMENT AND FIRE CHIEF.

All references to the Fire Department and the Fire Chief in this subchapter shall mean the Saugatuck Township Fire District and its Fire Chief.

§ 92.21 FIRE EXITS.

(A) The following rules relative to passageways, stairs and fire exits shall be applicable to all public buildings, places of assembly, commercial or business buildings, hotels, apartment buildings, lodging houses, tourist homes and all other buildings except private dwellings and except as otherwise expressly limited herein to a particular type of building.

(B) No fire escape, stairway, balcony or ladder on any building shall be obstructed, out of repair, or maintained in a hazardous condition. Doors and windows leading to any fire escape shall open easily from the inside.

(C) No person shall do any act which causes any violation of any of the rules set forth in this section, nor shall any person owning any building or in charge thereof, as agent, employee or otherwise, permit any of such rules to be violated.

Penalty, see § 10.99

§ 92.22 INJURY TO FIRE EQUIPMENT.

No person shall wilfully molest, take for his or her own private use, or damage in any manner any firefighting equipment or apparatus or anything pertaining to the firefighting system, or drive any vehicle upon or against any hose or equipment of the Fire Department.

Penalty, see § 10.99

§ 92.23 FIRE HYDRANTS.

(A) *Fire hydrant obstructions.* No person shall place any obstruction whatever, nor shall any person responsible for the obstruction permit it to remain, within 15 feet of any fire hydrant.

(B) *Fire hydrant openings.* No person, except authorized city officers and employees, shall use any fire hydrant except in case of emergency, without first securing permission from the Department of Public Works for such use, and paying or agreeing to pay for the water to be used. In no case shall any wrench or tool be used on any fire hydrant other than a regulation city hydrant wrench.

Penalty, see § 10.99

§ 92.24 FIRE INSPECTION.

The Fire Chief or Building Official is hereby empowered to enter any premises, building or structure for periodic building inspections upon issuance of an administrative search warrant for the area for the purpose of examining and inspecting the same, to ascertain the conditions thereof with regard to fire hazards and the condition, size, arrangement and efficiency of any and all appliances for firefighting. If the inspection shall disclose any fire hazard or any deficiency in firefighting appliances, the Fire Chief shall order the condition remedied. Every order made by the Fire Chief shall be promptly obeyed and complied with.

Penalty, see § 10.99

§ 92.25 WASTE RECEPTACLES AND STORAGE.

No person owning or being responsible for any premises shall permit any waste paper, ashes, oil, rags, waste rags, excelsior or any material of a similar nature to accumulate thereon, unless contained in fire proof receptacles.

Penalty, see § 10.99

§ 92.26 OPEN FIRES.

(A) The Fire Chief shall have charge of the prevention and suppression of grass fires and other fires within the city.

(B) It shall be the duty of the Fire Chief to investigate the origin of fires which are illegal by the terms of this chapter, and actively endeavor to secure the conviction of all persons violating this chapter.

(C) The open burning of trees, logs, leaves, brush and stumps is prohibited.

(D) *Burning of household trash.* In accordance with Public Act 102 of 2012, as amended, the burning of household waste from a family dwelling with the exception of untreated paper is prohibited. Trash that contains plastic, rubber, foam, chemically treated wood, textiles, electronics, chemicals, cardboard, or hazardous materials shall not be burned.

(E) It shall be unlawful to start or have an open fire except recreational fires as permitted in the International Fire Code as adopted in § 150.01 of this Code and as further provided for herein.

(F) This chapter shall not apply to burning of clean firewood or charcoal by persons in authorized areas in public parks for camping and similar purposes, as long as the fire is in an approved container.

(G) Recreational fires are permitted only in accordance with the following provisions:

(1) The recreational wood burning unit, portable outdoor fireplace or recreational fire burn ring shall not be used to burn refuse.

(2) The recreational wood burning unit, portable outdoor fireplace or recreational fire burn ring shall burn only clean firewood.

(3) A recreational fire burn ring shall not exceed 3 feet in diameter and 2 feet in height.

(4) A recreational fire burn ring shall be located at least 25 feet from any and all structures. Conditions which could cause a fire to spread within 25 feet of a structure shall be eliminated prior to ignition.

(5) A recreational wood burning unit or a portable outdoor fireplace shall be used in accordance with the manufacturer’s instructions and shall not be operated within 15 feet of a structure or combustible material.

(6) No person shall start or maintain any fire, including but not limited to a recreational wood burning unit, portable outdoor fireplace, or recreational fire burn ring which creates smoke or other combustion related nuisance to cause respiratory or skin irritation to neighbors. If a nuisance is determined to exist based on the facts and circumstances then prevailing, the Fire Chief or his or her designee will require the immediate extinguishment of the fire.

(7) A recreational wood burning unit, portable outdoor fireplace or recreational fire burn ring shall be constantly attended until the fire is extinguished. A minimum of one portable fire extinguisher

complying with a minimum 4-A rating or other approved on-site fire-extinguishing equipment, such as dirt, sand, water barrel, garden hose or water truck, shall be available for immediate utilization.

(Am. Ord. 160912-1) Penalty, see § 10.99

Statutory reference:

Air pollution control standards generally, see M.C.L.A. §§ 324.5501 et seq.

CHAPTER 93: INOPERABLE MOTOR VEHICLES

Section

Cross-reference:

Abandoned vehicle regulations adopted, see § 70.02

§ 93.01 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

DISMANTLED OR PARTIALLY DISMANTLED MOTOR VEHICLE. Any motor vehicle from which some part or parts which are ordinarily a component of the motor vehicle has been removed or is missing.

ENFORCING OFFICER. The Chief of Police of the city, the City Clerk, or the authorized representative of either.

INOPERABLE MOTOR VEHICLE. Any motor vehicle which by reason of dismantling, disrepair, damage or any other cause whatsoever, is incapable of being propelled under its own power.

MOTOR VEHICLE. Any wheeled vehicle which is self-propelled or is intended to be self-propelled.

§ 93.02 INOPERABLE VEHICLE RESTRICTIONS.

(A) No person shall park, store or permit or suffer to be parked or stored, any dismantled, partially dismantled, or inoperable motor vehicle upon any private premises within the city for a period of time in excess of ten days after receiving notice as hereinafter set forth.

(B) This chapter shall apply to the registered owner of such a vehicle and to the owner and lessee of the premises where such a vehicle shall be parked or stored.

(C) This chapter shall not apply to any vehicle parked or stored within a wholly enclosed garage or other wholly enclosed structure.

(D) This chapter shall not apply to the owner or lessee of any premises, who is not the registered owner of such a vehicle, and who shall notify the enforcing officer in writing that such a vehicle is on

the premises without the consent of the owner or lessee, and shall authorize the enforcing officer to remove the vehicle pursuant to M.C.L.A. §§ 257.252a *et seq*., as amended.

Penalty, see § 10.99

§ 93.03 NOTICE.

(A) Notice as herein required shall be given by the enforcing officer, in writing, clearly notifying the vehicle owner, premises owner and premises lessee of the identity and location of the vehicle and further notifying the person that failure to comply with this chapter within ten days of receipt of the notice shall constitute a violation of this code.

(B) The notice shall be served by personal service or by certified mail, and if served by certified mail, shall be addressed as follows:

(1) In the case of the vehicle owner, to the last known address of the owner, as shown by the records of the office of the Secretary of State of the state of registration of the vehicle;

(2) In the case of a property owner, to the last known address of the owner, taken from the tax records of the city; or

(3) In the case of a premises lessee, to the mailing address of the premises.

(C) Mailed notice, as herein set forth, shall be effective notice if actually received by the addressee, whether or not the notice is addressed as set forth above.

§ 93.99 PENALTY.

(A) Any person, firm, corporation, trust, partnership or other legal entity which violates or refuses to comply with any provision of this chapter shall be responsible for a municipal civil infraction and shall be punished by a civil fine in accordance with § 10.21 of this code and shall further be liable for the payment of the costs of prosecution in an amount of not less than $9 and not more than $500.

(B) Each day that a violation continues to exist shall constitute a distinct and separate offense, and shall make the violator liable for the imposition of fines for each day.

(C) Any dismantled or inoperable motor vehicle located upon any private premises so as to constitute a violation of chapter is hereby declared to be a nuisance per se. Upon notice being given in accordance with this chapter, the City Council may, in addition to the other penalties provided for herein, authorize the City Attorney to institute an action for injunctive relief or any other appropriate action or proceedings to prevent, enjoin, abate, or remove a violation of this chapter.

(D) The rights and remedies provided for herein are cumulative and in addition to all other remedies provided by law and the foregoing penalties shall be in addition to the abatement of the violating condition and injunctive or other relief which may be ordered by the court as prescribed by the laws of the State of Michigan.

(Ord. passed 8-9-1999)

CHAPTER 94: NUISANCES

Section

Cross-reference:

Garbage and rubbish violations, nuisances per se, see § 50.08

Public entertainment nuisances, see § 111.33

Sewer regulation violations, nuisances per se, see § 51.137

Water regulation violations, nuisances per se, see § 52.37

§ 94.01 NUISANCE DEFINED AND PROHIBITED.

(A) Whatever annoys, injures or endangers the safety, health, comfort or repose of the public, offends public decency, interferes with, obstructs or renders dangerous any street or highway, or in any way renders the public insecure in life or property is hereby declared to be a public nuisance.

(B) Public nuisances shall include, but not be limited to, whatever is forbidden by any provisions of this chapter.

(C) No person shall commit, create or maintain any nuisance.

Penalty, see § 94.99

§ 94.02 NUISANCES PER SE.

The following acts, activities, displays, conditions, apparatus and structures are hereby declared to be public nuisances:

(A) The maintenance of any pond, pool of water or vessel holding stagnant water;

(B) The pollution of any stream, lake or body of water by depositing or permitting to be deposited any refuse, foul or nauseous liquid or water, creamery or industrial waste, or forcing or discharging into any public or private sewer or drain any steam, vapor or gas;

(C) Any vehicle used for any immoral or illegal purpose;

(D) All indecent or obscene pictures, books, pamphlets, magazines and newspapers;

(E) Betting, bookmaking and all apparatus used in such occupations;

(F) All illegal gambling devices;

(G) All houses kept for the purpose of prostitution or promiscuous sexual intercourse, gambling houses, houses of ill fame and bawdy houses;

(H) The distribution of samples of medicines or drugs unless the samples are placed in the hands of an adult person;

(I) All explosives, inflammable liquids and other dangerous substances stored in any manner or in any amount contrary to the provisions of this code or state law;

(J) Any use of the public streets or sidewalks which causes large crowds to gather, obstructing the free use of the streets or sidewalks;

(K) All buildings, walls and other structures which have been damaged by fire, decay or otherwise and all excavations remaining unfilled or uncovered for a period of 90 days or longer, and which are so situated so as to endanger the safety of the public;

(L) All dangerous, unguarded excavations or machinery in any public place, or so situated, left or operated on private property as to attract the public;

(M) The owning, driving or moving upon any public streets and alleys of trucks or other motor vehicles which are constructed and loaded so as to permit any part of their load or contents to blow, fall, or be deposited upon any street, alley, sidewalk or other public or private place, or which deposits from its wheels, tires or other parts onto the street, alley, sidewalk or other public or private place dirt, grease, sticky substances or foreign matter of any kind; provided, however, that under circumstances determined by the City Manager to be in the public interest, he or she may grant persons temporary exemption from the provisions of this division (M) conditioned upon cleaning and correcting the violating condition at least once daily and execution of an agreement by such person to reimburse the city for any extraordinary maintenance expenses incurred by the city in connection with the violation; and

(N) The placing or causing to be placed in or on any motor vehicle parked upon any street, alley or other public place within the corporate limits of the city any paper, posters, signs, cards or other advertising matter.

Penalty, see § 94.99

§ 94.03 LITTERING AND USE OF WASTE RECEPTACLES.

(A) No person shall place, deposit, throw, scatter or leave on any street, alley, park or other public place, or on the private property of another, any refuse, garbage, litter, trash, dead animal, wash water or other noxious or unsightly material or waste.

(B) No person shall use any waste or litter receptacle or container placed or provided by the city or any other public body, agency or department otherwise than for depositing miscellaneous waste, trash or litter generated or acquiring its status as such solely upon public parks, grounds or rights-of-way.

Penalty, see § 94.99

§ 94.04 UNLAWFUL NOISE; EXCEPTIONS.

(A) *Unlawful noise.* Each of the following acts is declared unlawful and prohibited, but this enumeration shall not be deemed to be exclusive.

(1) *Animal and bird noises.* The keeping of any animal or bird which, by causing frequent or long continued noise, shall disturb the comfort or repose of any person.

(2) *Construction noises.* The erection (including excavating therefor), demolition, alteration or repair of any building, and the excavation of streets and highways, at any time on Sundays, and on other days except between the hours of 7:00 a.m. and 9:00 p.m., unless a permit has been first obtained from the City Manager.

(3) *Sound amplifiers.* Use of any loud speaker, amplifier or other instrument or device, whether stationary or mounted on a vehicle, for any purpose except by speakers in the course of a public address, and when so used shall be subject to the following restrictions:

(a) The only sounds permitted are music or human speech;

(b) Operations are permitted for 11 hours each day including Sundays and legal holidays. The permitted 11 hours of operation shall be between the hours of 12:00 noon and 11:00 p.m., local time;

(c) Sound amplifying equipment mounted on vehicles shall not be operated unless the sound truck upon which the equipment is mounted is operated at a speed of at least ten mph, except when the truck is stopped or impeded by traffic;

(d) Sound shall not be issued within 100 yards of hospitals, schools, churches or court houses;

(e) The volume of sound shall be controlled so that it is not unreasonably loud, raucous, jarring, disturbing or a nuisance to persons within the area of audibility; and

(f) No sound amplifying equipment shall be operated with an excess of 25 watts of power in the last stage of amplification.

(4) *Engine exhausts.* The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine or motor vehicle except through a muffler or other device which effectively prevents loud or explosive noises therefrom.

(5) *Blowers.* The discharge into the open air of air from any noise-creating blower or power fan unless the noise from the blower or fan is muffled sufficiently to deaden the noise.

(6) *Hawking.* The hawking of goods, merchandise or newspapers in a loud and boisterous manner so as to annoy or disturb the quiet, comfort or repose of any other person in the area.

(7) *Horns and signal devices.* The sounding of any horns or signal device on any automobile, motorcycle, bus or other vehicle, unless another vehicle is approaching, apparently out of control, or to give warning of intent to get under motion, or if in motion, only as a danger signal after or as brakes are being applied and deceleration of the vehicle is intended; the creation by means of any such signal device of any unreasonably loud or harsh sound; and the sounding of the device for an unnecessary and unreasonable period of time.

(8) *Radio and musical instruments.* The playing of any radio, television set, phonograph, cassette player, compact disc player or any musical instrument in such a manner or with such volume, particularly during the hours between 11:00 p.m. and 7:00 a.m., local time, or at any time or place so as to annoy or disturb the quiet, comfort or repose of persons in any office or in any dwelling, hotel, or other type of residence, or of any persons in the vicinity.

(9) *Shouting and whistling.* Yelling, shouting, hooting, whistling or singing or the making of any other loud noise on the public streets any time so as to annoy or disturb the quiet, comfort or repose of persons in any school, place of worship or office, or in any dwelling, hotel or other type of residence, or of any persons in the vicinity.

(10) *Whistle or siren.* The blowing of any whistle or siren, except to give notice of the time to begin or stop work or as a warning of fire or danger, or for duly authorized tests.

(B) *Exceptions.* None of the terms or prohibitions of division (A) shall apply to or be enforced against:

(1) *Emergency vehicles.* Any police or fire vehicle or any ambulance, while engaged upon emergency business; or

(2) *Highway maintenance and construction.* Excavations or repairs of bridges, streets or highways by or on behalf of the city or the state during the night when the public safety, welfare and convenience renders it impossible to perform the work during the day.

(Ord. passed 5-22-1995) Penalty, see § 94.99

§ 94.05 ABANDONED REFRIGERATORS.

No person shall have on his or her premises, either inside or outside of any building, structure or dwelling, in a place accessible to children, any abandoned, unattended or discarded ice box, refrigerator or any other similar air-tight container of any kind which has a snap latch or other locking device thereon, without first removing the snap latch or other locking device thereon or the doors from such ice box, refrigerator or other similar container.

Penalty, see § 94.99

Statutory reference:

Similar provisions, see M.C.L.A. § 750.493d

§ 94.06 BILL POSTING IN STREETS OR PRIVATE PLACES.

(A) No person shall attach, place, paint, write, stamp or paste any sign, advertisement or any other matter upon any lamp post, electric light, railway, telegraph or telephone pole, shade tree, fire hydrant or on anything within any park. Public officers posting any notice required or permitted by law shall be excepted from the provisions of this division (A).

(B) No person shall attach, place, paint, write, stamp or paste any sign, advertisement or other matter upon any house, wall, fence, gate, post or tree without first having obtained the written permission of the owner or occupants of the premises and having complied with all provisions of this code or state law pertaining thereto. A copy of the permission shall be filed with the Police Department.

Penalty, see § 94.99

§ 94.07 HANDBILL CONTROL.

(A) *Prohibition.* It shall be unlawful for any person, group or organization to place any unsolicited advertisement, handbill, flier or brochure on or about any motor vehicle parked on a public street within the city or in any parking lot open to the general public located within the city.

(B) *Warning.* Any person violating division (A) shall first be given a written warning to cease and desist by the Police Chief or any duly certified police officer.

(C) *Penalty.* Any person failing, refusing or neglecting to cease and desist after receiving a warning, as provided for in division (B), shall be guilty of a violation of this section, punishable as provided in § 94.99.

Penalty, see § 94.99

§ 94.08 CUTTING OF GRASS AND WEEDS; DUTY OF OCCUPANT OR OWNER; WORK BY CITY.

(A) *Cutting of grass and weeds.* No person occupying any platted premises or property and no person owning any unoccupied platted premises or property shall permit or maintain on any such premises any growth of weeds, grass or other rank vegetation to a greater height than 16 inches on the average, or any accumulation of dead weeds, grass or brush. No such occupant or owner shall cause, suffer or allow poison ivy, ragweed or other noxious or harmful weed to extend upon, overhang

or border any public place, or allow seed, pollen or other particles or emanation therefrom to be carried through the air into any public place.

(B) *Duty of occupant or owner.* It shall be the duty of the occupant of every platted premises or property and the owner of unoccupied platted premises or property within the city to cut and remove or destroy by lawful means all such weeds, grass or rank, noxious or harmful vegetation as often as may be necessary to comply with the provisions of division (A); provided, that the cutting, removing or destroying of the weeds, grass and vegetation at least once in every four weeks between May 15 and September 15 of each year shall be deemed in compliance with the requirements of this section.

(C) *When city to do work.* If the provisions of division (A) and (B) are not complied with, the City Manager or his or her duly authorized representative shall notify the occupant or owner of unoccupied platted premises or property to comply with the provisions of this section within a time to be specified in the notice, which notice shall be given by registered mail. The notice shall require compliance with divisions (A) and (B) within the time limited, five days after the notice, and if the notice is not complied with within the time limited, the City Manager shall cause the weeds, grass and other vegetation to be removed or destroyed and the actual cost of the cutting, removal or destruction, plus 20% for inspection and other additional cost in connection therewith, shall be collected as a special assessment against the premises. Levying or collection of the special assessment shall not relieve any person offending against this section from any penalty prescribed for violation of this code.

Penalty, see § 94.99

§ 94.09 WORK BY CITY TO REMEDY NUISANCE; REIMBURSEMENT.

(A) *Notice and duty of occupant and owner*. Whenever a person or property owner commits, creates or maintains any nuisance in violation of this chapter, the City Manager or his or her duly authorized representative shall notify the occupant or owner of the property to eliminate the nuisance in order to comply with the provisions of this chapter within a time to be specified in the notice, which notice shall be given by registered mail.

(B) *When city to do work*. The notice shall require the removal of the nuisance and if the notice is not complied with within the time specified in the notice, the City Manager shall cause the nuisance to be removed and the actual cost of removing the nuisance, plus 20% for inspection and other additional costs in connection therewith, shall be collected as a special assessment against the premises in accordance with § 32.77. Levying or collection of the special assessment shall not relieve any person offending against this section from any penalty prescribed for violation of this code.

(Ord. 061023-2, passed 10-23-2006)

§ 94.99 PENALTY.

(A) Any person, firm, corporation, trust, partnership or other legal entity which violates or refuses to comply with any provision of this chapter shall be responsible for a municipal civil infraction and shall be punished by a civil fine in accordance with § 10.21 of this code and shall further be liable for the payment of the costs of prosecution in an amount of not less than $9 and not more than $500.

(B) Each day that a violation continues to exist shall constitute a distinct and separate offense, and shall make the violator liable for the imposition of fines for each day.

(C) The foregoing penalties shall be in addition to the abatement of the violating condition and injunctive or other relief which may be ordered by the court as prescribed by the laws of the State of Michigan for the abatement of a city ordinance designated as a municipal civil infraction.

(Ord. passed 8-9-1999)

CHAPTER 95: PARKS AND RECREATION

Section

Cross-reference:

Acquisition of private property for parks, see Charter § 11.2

§ 95.01 INJURY TO PARK PROPERTY.

No person shall obstruct any walk or drive in any public park or playground and no person shall injure, mar or damage in any manner any monument, ornament, fence, bridge, seat, tree, fountain, shrub, flower, playground equipment, fireplaces or other public property within or pertaining to the parks.

Penalty, see § 10.99

§ 95.02 INTOXICATING BEVERAGES.

No person shall bring into, be in possession of or drink in any city park any alcoholic beverage.

Penalty, see § 10.99

§ 95.03 WASTE CONTAINERS.

No person shall place or deposit any garbage, glass, tin cans, paper or miscellaneous waste in any park or playground except in containers provided for that purpose.

Penalty, see § 10.99

§ 95.04 BALL GAMES.

No baseball, football, softball throwing or other violent or rough exercises or play shall be engaged in, in any public park or other public place, except in areas designated therefor by the City Manager.

Penalty, see § 10.99

§ 95.05 MOTORIZED VEHICLES.

No motorized vehicles shall be operated or parked within city parks except on designated roads, streets and parking areas.

Penalty, see § 10.99

§ 95.06 ADDITIONAL RULES.

The City Manager is hereby empowered to make such rules and regulations, subject to the approval of the City Council, pertaining to the conduct and use of parks and public grounds as are necessary to administer the same and to protect public property and the safety, health, morals and welfare of the public, and no person shall fail to comply with the rules and regulations.

Penalty, see § 10.99

CHAPTER 96: STREETS AND SIDEWALKS

Section

GENERAL PROVISIONS

§ 96.01 SAFETY REQUIREMENTS.

(A) *Safeguards.* All openings, excavations and obstructions shall be properly and substantially barricaded and railed off, and at night shall be provided with approved warning lights. Warning lights perpendicular to the flow of traffic shall not be more than three feet apart, and parallel to the flow of traffic not over 15 feet apart.

(B) *Shoring excavations.* All openings and excavations shall be properly and substantially sheeted and braced as a safeguard to workers and to prevent cave-ins or washouts which would tend to injure the thoroughfare or sub-surface structure of the street.

Penalty, see § 96.99

STREETS

§ 96.20 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

STREET. All of the land lying between property lines on either side of all streets, alleys and boulevards in the city, and includes lawn extensions and sidewalks and the area reserved therefor where the same are not yet constructed.

SUPERINTENDENT. The City Manager or his or her designee.

§ 96.21 DAMAGE AND OBSTRUCTION PROHIBITED.

(A) No person shall make any excavation in or cause any damage to any street in the city except under the conditions and in the manner permitted in this chapter.

(B) No person shall place any article, thing or obstruction in any street, except under the conditions and in the manner permitted in this chapter, but this provision shall not be deemed to prohibit the temporary obstructions as may be incidental to the expeditious movement of articles and things to and from abutting premises, nor to the lawful parking of vehicles within the part of the street reserved for vehicular traffic, nor to obstructions permitted under §§ 96.45*et seq*.

Penalty, see § 96.99

§ 96.22 PERMITS AND BONDS.

(A) Where permits are authorized in this chapter, they shall be obtained upon application to the Superintendent, upon such forms as he or she shall prescribe, and there shall be a charge as provided in the city's schedule of fees for each such permit. The permit shall be revocable by the Superintendent for failure to comply with this chapter, rules and regulations adopted pursuant hereto,

and the lawful orders of the Superintendent or his or her duly authorized representative, and shall be valid only for the period of time endorsed thereon.

(B) Application for a permit under the provisions of this chapter shall be deemed an agreement by the applicant to promptly complete the work permitted, observe all pertinent laws and regulations of the city in connection therewith, repair all damage done to the street surface and installations on, over or within the street, including trees, and protect and save harmless the city from all damages or actions at law that may arise or may be brought on account of injury to persons or property resulting from the work done under the permit or in connection therewith. Where liability insurance policies are required to be filed in making application for a permit, they shall be in not less than the amounts specified in city administrative regulations.

(C) A duplicate executed copy or photostatic copy of the original of the insurance policy shall be filed with the City Clerk.

(D) Where cash deposits are required with the application for any permit hereunder, the deposit shall be in the amount as set forth in the city schedule of fees, except as otherwise specified in this chapter, and the deposit shall be used to defray all expenses to the city arising out of the granting of the permit and work done under the permit or in connection therewith. Three months after the completion of the work done under the permit, any balance of the cash deposit shall be refunded. In any case where the deposit does not cover all costs and expenses of the city, the deficit shall be paid by the applicant.

Penalty, see § 96.99

§ 96.23 STREET OPENINGS.

No person shall make any excavation or opening in or under any street without first obtaining a written permit from the Superintendent. No permit shall be granted until the applicant shall post a cash deposit and file a liability insurance policy as required by § 96.22.

Penalty, see § 96.99

§ 96.24 EMERGENCY OPENINGS.

The Superintendent may, if public safety requires immediate action, grant permission to make a necessary street opening in an emergency, provided that a permit shall be obtained on the following business day and the provisions of this chapter shall be complied with.

Penalty, see § 96.99

§ 96.25 BACKFILLING.

All trenches in a public street or other public place, except by special permission, shall be backfilled with approved granular material to within 12 inches of the surface. The remaining portion shall be filled with road gravel as specified by the Superintendent.

Penalty, see § 96.99

§ 96.26 UTILITY POLES.

Utility poles may be placed in such streets as the Superintendent shall prescribe and shall be located thereon in accordance with the directions of the Superintendent. The poles shall be removed or relocated as the Superintendent shall from time to time direct.

Penalty, see § 96.99

§ 96.27 MAINTENANCE OF INSTALLATIONS IN STREETS.

Every owner of and every person in control of any estate hereafter maintaining a sidewalk vault, coal hole, manhole or any other excavation, or any post, pole, sign, awning, wire, pipe, conduit or other structure in, under, over or upon any street which is adjacent to or a part of his or her estate shall do so only on condition that the maintenance shall be considered as an agreement on his or her part with the city to keep the same and the covers thereof, and any gas and electric boxes and tubes thereon, in good repair and condition at all times during his or her ownership or control thereof, and to indemnify and save harmless the city against all damages or actions at law that may arise or be brought by reason of the excavation or structure being under, over, in or upon the street, or being unfastened, out off repair or defective during the ownership or control.

Penalty, see § 96.99

§ 96.28 CURB CUTS.

(A) No opening in or through any curb of any street shall be made without first obtaining a written permit from the Superintendent.

(B) Curb cuts and sidewalk driveway crossings to provide access to private property shall comply with the following:

(1) No single curb cut shall exceed 25 feet nor be less than ten feet at the street line nor less than eight feet at the outside sidewalk line;

(2) The minimum distance between any curb cut and a public crosswalk shall be five feet;

(3) The minimum distance between curb cuts, except those serving residential property, shall be 25 feet;

(4) The maximum number of lineal feet of sidewalk driveway crossings permitted for any lot, parcel of land, business or enterprise shall be 45% of the total abutting street frontage up to and including 200 lineal feet of street frontage plus 20% of the lineal feet of street frontage in excess of 200 feet;

(5) The necessary adjustments to utility poles, light standards, fire hydrants, catch basins, street or railway signs, signals or other public improvements or installations shall be accomplished without cost to the city; and

(6) Driveways over sidewalk lines shall be of concrete at least six inches thick. Driveway aprons between the sidewalk and the street shall be of concrete six inches thick.

Penalty, see § 96.99

§ 96.29 REMOVAL OF ENCROACHMENT.

(A) Encroachments and obstructions in the street may be removed and excavations refilled and the expense of the removal or refilling charged to the abutting land owner when made or permitted by him or her or suffered to remain by him or her otherwise than in accordance with the terms and conditions of this chapter.

(B) The procedure for collection of the expenses shall be as prescribed in §§ 32.50*et seq*.

Penalty, see § 96.99

§ 96.30 TEMPORARY STREET CLOSINGS.

(A) The Superintendent shall have authority to temporarily close any street, or portion thereof, when he or she shall deem the street to be unsafe or temporarily unsuitable for use for any reason. He or she shall cause suitable barriers and signs to be erected on the street, indicating that the same is closed to public travel.

(B) When any street or portion thereof shall have been closed to public travel, no person shall drive any vehicle upon or over the street except as the same may be necessary incidentally to any street repair or construction work being done in the area closed to public travel.

(C) No person shall move or interfere with any sign or barrier erected pursuant to this section without authority from the Superintendent.

Penalty, see § 96.99

§ 96.31 CLEARING ICE AND SNOW; PERMIT REQUIRED TO DEPOSIT SNOW IN STREET.

(A) *Clearing ice and snow*.

(1) No person shall shovel or push by means of plow or otherwise cause to be placed or deposited in or upon the traveled portion of any street or sidewalk or within any ditch or gutter in any public street any snow or ice removed by him or her, or under his or her direction, from any private property or from any public property abutting any private property owned or occupied by him or her without first obtaining a permit to do so.

(2) The existence of any deposit of snow or ice deposited by artificial means in the traveled portion of any street or sidewalk or within any ditch or gutter in any public street shall be prima facie evidence that the occupant of the abutting property closest thereto placed or deposited such ice or snow therein.

(B) *Snow deposit in street permit*.

(1) The City Council may, by resolution, authorize the City Manager to issue permits to abutting property owners and occupants to deposit snow within the street abutting their property.

(2) The City Manager shall establish the fee for the permit which shall be proportionate to the size of the parcel from which the snow and ice is to be removed and deposited within the street.

(3) The City Manager shall make such further regulations as shall be necessary in order to properly manage the removal of the additional snow so deposited within city streets.

(4) No permit owner shall fail to comply with all such regulations.

Penalty, see § 96.99

§ 96.32 HOUSE MOVING; PERMIT REQUIRED.

(A) No person shall move, transport, or convey any building or other similar bulky or heavy object, including machinery, trucks and trailers, larger in width than eight feet eight inches or higher than 13 feet six inches above the surface of the roadway, into, across or along any street, alley or other public place in the city without first obtaining a permit from the Superintendent.

(B) The permit shall specify the route to be used in the movement and no person shall engage in such movement along a route other than that specified in the permit. No housemoving permit shall be granted until the applicant shall post a cash deposit in the amount as set forth in the city schedule of fees and file a liability insurance policy as required by § 96.22.

Penalty, see § 96.99

SIDEWALKS

§ 96.45 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

SIDEWALK. The portion of the street right-of-way designed for pedestrian travel.

SUPERINTENDENT. The City Manager or his or her designee.

§ 96.46 SIDEWALK OBSTRUCTIONS.

(A) No person shall occupy any street with any materials or machinery incidental to the construction, demolition or repair of any building adjacent to such street, or for any other purpose, without first obtaining a permit from the Superintendent.

(B) No permit shall be granted until the applicant shall post a cash deposit and file a liability insurance policy as required by § 96.22.

Penalty, see § 96.99

§ 96.47 PEDESTRIAN PASSAGE.

At least six feet of sidewalk space shall be kept clean and clear for the free passage of pedestrians and if the building operations are such that the free passageway is impracticable, a temporary plank sidewalk with substantial railings or sidewalk shelter shall be provided around the obstruction.

Penalty, see § 96.99

§ 96.48 SPECIFICATIONS AND PERMITS.

(A) No person shall construct, rebuild or repair any sidewalk except in accordance with the line, grade, slope and specifications established by the City Council, nor without first obtaining a written permit from the City Clerk, except that sidewalk repairs of less than 50 square feet of sidewalk may be made without a permit.

(B) The written permit shall be prominently displayed on the construction site.

Penalty, see § 96.99

§ 96.49 LINE AND GRADE STAKES.

The Superintendent shall furnish line and grade stakes as may be necessary for proper control of the work, but this shall not relieve the owner of responsibility for making careful and accurate measurements in constructing the work to the lines furnished by the Superintendent.

Penalty, see § 96.99

§ 96.50 SIDEWALK SPECIFICATIONS.

The City Council shall adopt detailed specifications for the construction, reconstruction and repair of sidewalks. The City Clerk shall maintain copies of the specifications in his or her office available for public inspection.

§ 96.51 PERMIT REVOCATION.

The City Manager may revoke any permit issued under the terms of this chapter for incompetency or failure to comply with the terms of this chapter, or the rules, regulations, plans and specifications established by the city.

§ 96.52 ORDERING CONSTRUCTION.

The City Council may, by resolution, require the owners of lots and premises to build sidewalks in the public streets adjacent to and abutting upon such lots and premises. When the resolution shall be

adopted, the City Clerk shall give notice thereof, in accordance with § 10.19, to the owner of the lot or premises requiring him or her to construct or rebuild the sidewalk within 20 days from the date of the notice.

§ 96.53 CONSTRUCTION BY CITY.

If the owner of any lot or premises shall fail to build any particular sidewalk as described in the notice, and within the time and in the manner required thereby, the Superintendent is hereby authorized and required, immediately after the expiration of the time limited for the construction or rebuilding by the owner, to cause the sidewalk to be constructed and the expense thereof shall be charged to the premises and the owner thereof, and collected as provided for single lot assessments in §§ 32.50*et seq*.

§ 96.54 SIDEWALK MAINTENANCE.

No person shall permit any sidewalk which adjoins property owned by him or her to fall into a state of disrepair or to be unsafe.

Penalty, see § 96.99

§ 96.55 SIDEWALK REPAIR.

(A) Whenever the Superintendent shall determine that a sidewalk is unsafe for use, notice may be given to the owner of the lot or premises adjacent to and abutting upon the sidewalk of the determination, which notice shall be given in accordance with § 10.19. Thereafter it shall be the duty of the owner to place the sidewalk in a safe condition. The notice shall specify a reasonable time, not less than seven days, within which the work shall be commenced, and shall further provide that the work shall be completed with due diligence. If the owner of the lot or premises shall refuse or neglect to repair such sidewalk within the time limited therefor, or in a manner otherwise than in accordance with this chapter, the Superintendent shall have the sidewalk repaired.

(B) If the Superintendent determines that the condition of the sidewalk is such that immediate repair is necessary to protect the public, he or she may dispense with the notice.

(C) The cost of repairs hereunder shall be charged against the premises which the sidewalk adjoins and the owner of the premises, and shall be collected as provided for single lot assessments in §§ 32.50*et seq*.

Penalty, see § 96.99

§ 96.56 SIDEWALKS TO BE CLEARED OF SNOW AND ICE; CLEARANCE DISTRICTS.

(A) *Establishment of snow and ice clearance districts.* The City Council may, from time to time, establish by resolution snow and ice clearance districts, the boundaries of which are to include the areas of the most concentrated and substantial pedestrian traffic areas in the city.

(B) *Sidewalks to be cleared within snow and ice clearance districts*. The occupant of every lot or premises adjoining any street, or the owner of a lot or premises adjoining any street, if the same are not occupied, within a designated snow and ice clearance district, shall clear ice and snow from sidewalks adjoining the lot or premises within the time herein required. When any snow or ice ceases to fall during the daylight hours, the snow or ice shall be cleared from the sidewalks within 12 hours after the cessation. When snow or ice ceases to fall during the night time, it shall be cleared from the sidewalks by 12:00 p.m. of the day following. For purposes of this section, ***CLEAR SNOW AND ICE*** means taking those steps reasonably necessary to remove snow and ice from the sidewalk so that it is reasonably safe and convenient for pedestrian travel.

(C) *Failure to clear*. If any occupant or owner of a lot or premises located within a snow and ice clearance district neglects or fails to clear ice or snow from the sidewalk adjoining his or her premises within the time set forth herein, or shall otherwise permit ice or snow to accumulate on the sidewalk, he or she shall be responsible for a violation of this chapter. In addition, the Superintendent may cause the same to be cleared and the expense of removal shall become a debt to the city from the owner of the premises, and may be collected as any other debt to the city, including, without limitation, as a single lot assessment in accordance with § 32.77.

(Am. Ord. 171113-1, passed 11-13-2017) Penalty, see § 96.99

§ 96.99 PENALTY.

(A) Any person, firm, corporation, trust, partnership or other legal entity which violates or refuses to comply with any provision contained within §§ 96.45 through 96.56 of this chapter shall be responsible for a municipal civil infraction and shall be punished by a civil fine in accordance with § 10.21 of this code, and shall be liable for payment of the costs of prosecution in an amount of not less than $9 and not more than $500.

(B) Each day that a violation continues to exist shall constitute a distinct and separate offense, and shall make the violator liable for the imposition of fines for each day.

(C) The foregoing penalties shall be in addition to the abatement of the violating condition and injunctive or other relief which may be ordered by the court as prescribed by the laws of the State of Michigan for the abatement of a public nuisance or the violation of a city ordinance designated as a municipal civil infraction.

(Ord. passed 8-9-1999)

CHAPTER 97: TREES

Section

§ 97.01 PURPOSE.

This chapter is intended to regulate the removal of trees from public street rights-of-way in the city, and to preserve, protect and enhance valuable resources entrusted to its citizens. To protect the health, safety and welfare of its citizens, to establish standards limiting the removal of, and insuring the replacement of trees sufficient to safeguard the ecological and esthetic environment necessary for the city. To provide protective regulations against hazardous trees and diseased trees or shrubs; to control activities relative to trees and plantings within the public street rights-of-way of the city; to establish regulations and procedures for the removal of trees located on public street rights-of-way.

(Ord. 060123-1, passed - -; Am. Ord. 081222-1, passed 12-22-2008)

§ 97.02 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

BUILDING ENVELOPE. The ground area of a lot or parcel of land enclosed or to be enclosed by the exterior walls or perimeter (foot print) of principal and accessory buildings, and any associated improvements including, but not limited to; pools, desks, patios, walks, tennis courts, driveways and utility services.

DESTROY. To remove (cut down) a protected tree or to perpetrate any intentional act of negligence which will cause a protected tree to decline or die within a period of two years. This shall include but not be limited to: damage inflicted upon the root system of a protected tree by the application of toxic substances, damage by the operation of equipment and vehicles, damage caused by excavation or fill within the drip line of a protected tree, or damage caused by alteration of natural physical conditions.

DIAMETER BREAST HEIGHT (DBH). A tree's diameter in inches measured four and one-half feet above the ground.

DRIP LINE. An imaginary vertical line extending downward from the outermost tips of a tree's branches to the ground.

PROTECTED TREE. A tree that is six inches DBH or greater in size.

TREE. Any self supporting woody plant growing upon the earth which usually provides one main trunk and produces a distinct head with many branches.

TREE PROTECTION ZONE (TPZ). The area between the line extending ten feet beyond the building envelope and the property line.

(Ord. 060123-1, passed - -)

§ 97.03 TREE BOARD.

(A) *Purpose*. A Tree Board is hereby established for the purpose of regulating the planting, protection, preservation, and removal of trees within the public rights-of-way, and for the purpose of considering appeals from denials of tree removal permit applications and to undertake other responsibilities specified in this chapter.

(B) *Membership*. The Tree Board shall consist of the Mayor of the city or the Mayor's designee; the Chair of the Planning Commission or the Chair's designee; and the Chair of the Historic District Commission or the Chair's designee. The members of the Tree Board may be assisted in their official responsibilities by staff members of the city, including the City Manager, the Superintendent of the Public Works Department and a licensed arborist appointed by the City Council or other appropriate city staff members.

(C) *Meetings*. Meetings shall be held at least once quarterly at the discretion of the Committee Chair, with the first meeting held the first full week of January. Meetings shall be subject to the Open

Meetings Act.

(D) *Duties*. To review the policies and suggest changes to City Council or to Planning Commission, to develop a list of acceptable trees, and to develop rules and guidelines for administrative approvals.

(Ord. 060123-1, passed - -; Am. Ord. 081222-1, passed 12-22-2008)

§ 97.04 TREES IN THE PUBLIC RIGHT-OF-WAY AND PUBLIC PROPERTY.

(A) *Treatment of protected trees*. No tree upon any public right-of-way or public property shall be destroyed, pruned, girdled, broken, bent, wounded or have notices or signs tacked upon without the consent of the City Manager under the direction of the Tree Board.

(B) *Planting of trees*.

(1) No person shall climb or walk upon the branches of a protected tree in any public right-of-way or public property while wearing spurs or other climbing attire unless such person is in the permitted act of removing or maintaining a tree.

(2) No trees or shrubs shall be planted upon any public right-of-way or public property without the consent of the City Manager. No trees shall be planted at public expense upon private property unless a public easement has been granted in a form acceptable to the city.

(Ord. 060123-1, passed - -)

§ 97.05 PROTECTION OF TREES; PERMIT REQUIRED FOR TREE REMOVAL IN PUBLIC RIGHTS-OF-WAY.

(A) *Purpose*. The tree canopy contributes to the visual character of the city and trees are important natural resources and assets of the city. Therefore, every effort must be made to ensure that only the minimum numbers of protected trees are removed prior to construction of new structures, or alterations/additions to existing structures and in other approved circumstances. It is the intent of this chapter that a permit should not be granted for the removal of a protected tree where a reasonable alternative design solution exists that is consistent with the use of the property.

(B) *Permit required*. A Tree removal permit shall be required for and prior to the removal, relocation, or destruction of any tree located within any public street right-of-way; provided, however, that no such permit shall be required in order for the city to remove or otherwise affect any tree located within a public street right-of-way, and the city retains its authority with respect to public street rights-of-way, irrespective of the provisions of this chapter.

(C) *Application for permit*. A person seeking a tree removal permit for the removal, relocation or destruction of a tree within a public street right-of-way, shall complete a tree removal permit application and submit the application to the Zoning Administrator. The applicant shall also prepare and submit to the Administrator, a site plan including at least the following information:

(1) The tree or trees that are proposed to be removed, relocated or destroyed. Such trees shall also be identified by written description or by a photograph. The location and general description of the other protected trees within the adjacent street right-of-way that are proposed to remain undisturbed shall also be stated.

(2) A description of any grade changes or other changes within the street right-of-way that may occur as a result of the proposed tree removal, if such changes or results will have an adverse effect on any trees remaining in that part of the street right-of-way adjacent to the applicant’s property.

(D) *Approval of permit*. The Zoning Administrator shall grant and approve a tree removal permit upon finding that all of the following requirements are satisfied:

(1) The applicant has submitted a site plan or other information satisfactorily demonstrating that the number of trees and the particular trees proposed to be removed are the minimum number needed to be removed in order to achieve the results sought by the applicant.

(2) The Applicant has satisfactorily demonstrated that harm or other negative impacts to the remaining trees on that part of the street right-of-way adjacent to the applicant's property will be minimized or avoided.

(3) There are no desirable, prudent or reasonably feasible alternatives whereby the desired results could be achieved, other than the removal, relocation or destruction of the trees indicated by the applicant.

(4) The tree or trees proposed for removal, relocation or destruction need to be removed for at least one of the following reasons:

(a) They are a safety hazard;

(b) They are interfering with or obscuring the clear vision of motor vehicle drivers;

(c) They are likely to injure, damage or disrupt persons, property or utility service; and/or

(d) They are preventing or substantially obstructing reasonable access to a lot or parcel of land.

(5) The proposed tree removal would not materially increase the risk of flooding or erosion on the property or on adjacent property, nor adversely affect a wetland or watercourse.

(6) In the case of proposed removal of a protected tree for reasonable access to an existing or proposed building or other improvement, there is no feasible alternative location for the proposed access without resulting in unnecessary hardship on the part of the applicant.

(E) The Zoning Administrator may include reasonable terms and conditions in any tree removal permit, in order to ensure that the intent of this chapter will be fulfilled and to minimize damage to, encroachment upon, or interference with other trees within the public street right-of-way.

(F) *Appeal of denial of permit*. In the event that a permit applicant is aggrieved by the denial of a tree removal permit, or by the approval of a permit but with conditions with which the applicant disagrees, the applicant may appeal such action by the Zoning Administrator to the Tree Board.

(1) The applicant shall file such appeal in writing, stating the action complained of and the reasons and grounds for which the applicant believes that the action should be reversed, amended or modified.

(2) The completed application for the appeal shall be filed with the Zoning Administrator, who shall forward it to the Tree Board. The Tree Board shall convene within a reasonable time to consider the appeal. Any such meeting by the Tree Board shall be subject to the provisions of the Michigan Open Meetings Act.

(3) At a meeting, the Tree Board shall consider the appeal filed by the applicant. The Tree Board shall provide the applicant an opportunity to comment on the appeal. The Tree Board may consider the matter at subsequent meetings.

(4) The appeal shall be determined by majority affirmative vote of the regular, voting members of the Tree Board who are present and voting. The decision by the Tree Board in such a case shall constitute the final decision by the city with respect to the application for the tree removal permit.

(Ord. 060123-1, passed - -; Am. Ord. 081222-1, passed 12-22-2008)

§ 97.06 TREE PROTECTION DURING CONSTRUCTION OR DEVELOPMENT.

(A) While removing trees for construction or development the owner shall take all reasonably necessary precautions to protect the remaining protected trees.

(B) Neither a property owner nor its agent shall cause or allow any construction or development activity to occur within the drip line of a protected tree, nor shall any solvents, building materials, vehicles, construction equipment, soil deposits, fill or other harmful materials be allowed to be placed, kept, parked or stored within the drip line of the trees.

(Ord. 060123-1, passed - -)

§ 97.07 TREE REMOVAL ON A VACANT LOT OR PARCEL.

On any lot or parcel where construction or development is not proposed, a tree removal permit shall be required prior to the removal of any protected tree in accordance with § 97.05.

(Ord. 060123-1, passed - -)

§ 97.08 LIMITED LIGHTING OF TREES ON PUBLIC RIGHTS-OF-WAY.

Trees located in the public street rights-of-way or otherwise on public property shall not be decorated with strings of lights placed or maintained on or within them, nor shall such trees otherwise be lighted by other types of lighting placed on or within the trees; provided, however, that during the annual holiday season lights in observance of the season may be placed on such trees, in a manner that will not harm or damage the trees, but they shall not be placed on the trees earlier than November 1 and they shall be removed from the trees not later than the following March 31; but provided further, that such lights placed on trees in the public street rights-of-way in observance of the annual holiday season may remain on the trees after March 31 if approved by the Tree Board, subject to terms and conditions imposed by the Tree Board, and if the lights are placed only on or around the tree trunk, not the crown of the tree, and if the tree will not be harmed or damaged thereby.

(Ord. 060123-1, passed - -; Am. Ord. 081222-1, passed 12-22-2008)

§ 97.09 TREE REPLACEMENT PROGRAM.

It is the intent of the city to maintain the numbers and the character of its trees; therefore, each tree lost in its public right-of-ways or public properties shall be replaced by an appropriate tree.

(A) Replacement trees shall measure no less than three inches in diameter as measured from six inches above the ground level.

(B) Trees lost by age, disease or by acts of nature shall be replaced as soon as possible under the direction of the Tree Board.

(C) Where a tree is lost within the public right-of-way or public property by negligent or intentional vandalism, the person, vehicle owner, or agent responsible shall be charged for the value of an equally sized replacement. If such a replacement is not available locally, the value of the tree will be computed from the State Forestry and Shade Tree "evaluation formula" and the responsible person shall be invoiced that amount to compensate for costs of removal and planting of a replacement.

(Ord. 060123-1, passed - -)

§ 97.99 PENALTY.

(A) *Municipal civil infraction*. A violation of any term or provision of this chapter shall be a municipal civil infraction. The procedures for the issuance of municipal civil infraction citations and other matters pertaining to the issuance thereof shall be as stated in § 10.21 of the city code.

(B) The fine payable upon admission or determination of responsibility by a person served with a municipal civil infraction citation, for a violation of this chapter, shall be $500.

(C) The persons authorized under § 10.22 to issue municipal civil infraction citations shall be authorized to issue such citations for violations of this chapter.

(Ord. 081222-1, passed 12-22-2008)

CHAPTER 98: MARIHUANA ESTABLISHMENTS AND FACILITIES

Section

§ 98.01 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

IHRA. The Industrial Hemp Research Act, 2014 PA 547, M.C.L.A. § 286.841 *et seq.*

MARIHUANA ESTABLISHMENT. Shall be as defined in MRTMA.

MARIHUANA FACILITY. Shall be as defined in MMFLA.

MMFLA. The Medical Marihuana Facilities Licensing Act, 2016 PA 281, as amended.

MMMA. The Michigan Medical Marihuana Act, 2008 IL 1, as amended.

MRTMA. The Michigan Regulation and Taxation of Marihuana Act, 2018 IL 1, as amended.

(Ord. 181226-1, passed 12-26-2018)

§ 98.02 MARIHUANA ESTABLISHMENTS AND FACILITIES PROHIBITED.

(A) Pursuant to law and § 6 of MRTMA, marihuana establishments are prohibited within the boundaries of the city.

(B) Marihuana facilities are prohibited within the boundaries of the city.

(Ord. 181226-1, passed 12-26-2018)

§ 98.03 RIGHTS UNAFFECTED.

(A) Except as specifically provided in § 98.02, this chapter shall not affect the rights or privileges of any individual or other person preserved under MRTMA.

(B) This chapter does not affect the rights or privileges of a marihuana facility outside of the city to engage in activities within the city that it is permitted to engage in under MMFLA within a municipality that has not authorized marihuana facilities to operate within its boundaries.

(C) This chapter does not affect the rights or privileges of registered qualifying patients or registered primary caregivers under MMMA or MMFLA.

(D) This chapter does not affect the rights or privileges of any individual or other person under IHRA.

(E) This chapter does not affect the rights or privileges of any individual or other person under any other federal or state law, rule, or regulation related to the medical use of marihuana.

(Ord. 181226-1, passed 12-26-2018

§ 98.04 PLANNING COMMISSION REVIEW.

The City Planning Commission shall take the following actions to study marihuana establishments within the city:

(A) Study the city's options for authorizing and regulating marihuana establishments under MRTMA;

(B) Hold at least one public hearing to seek input from the public; and

(C) Prepare and submit a report to the City Council by December 30, 2019, with a recommendation as to whether the city should authorize one or more types of marihuana establishments. If the Planning Commission recommends authorization, the report shall outline, in general terms, recommended regulations.

(Ord. 181226-1, passed 12-26-2018)

CHAPTER 99: FLOATING HOMES

Section

§ 99.01 FINDINGS.

The City Council hereby makes the following express findings regarding the desirability and necessity of the city adopting and enforcing this chapter:

(A) The mooring, docking and/or use of floating homes along the shoreline of the city, at or adjacent to docks, piers and mooring slips within or adjacent to the city and at similar locations, and the residential dwelling use of floating homes will likely create problems for, and negative impacts upon, adjacent and nearby lawful uses within the city as well as present unreasonable challenges to and negative impacts upon navigation by other boats and vessels.

(B) The long term mooring or use of floating homes as dwellings or structures of habitation will negatively impact the aesthetics of the city's waterfront areas as well as block the view of the Kalamazoo River by tourists and the occupants of many houses and dwellings located upland from the floating home mooring site, thus hurting tourism and lowering property values.

(C) Allowing floating homes to be used as habitable structures or dwellings would potentially circumvent many of the safeguards for dwellings and houses contained in both the City Code and the city's zoning regulations, including, but not limited to, provisions regarding setbacks, parking requirements, zoning ordinances, building codes and permits, open space, and buffers.

(D) Marina facilities, docks, piers and other amenities and appurtenances along the waterfront within the city were and are intended to be utilized for temporary use for conventional boats and vessels, not for permanent or semi-permanent homes, dwellings or similar habitable structures. Furthermore, it is in the best interests of the city, as well as its residents, visitors and property owners, to have the waterfront generally clear of boats and vessels during the off-season, not only for purposes of aesthetics but for environmental and safety reasons as well.

(E) Floating homes present many potentially challenging and unhealthy situations, including, but necessarily limited to, the disposal of sewage, providing clean potable water to the users and occupants of floating homes, managing trash and garbage disposal and ensuring that a floating home is not damaged or swamped by storms, severe wave action and impact with other boats or vessels.

(F) Floating houses and *de facto* housing subdivisions on- or offshore are not compatible with the city's waterfront areas, building codes for dwellings, master plan or zoning regulations.

(G) The City Council finds that this chapter is both reasonable and prudent, and will promote the public health, safety and welfare of the residents, property owners and visitors of and to the city.

(Ord. 210726-B, passed 7-26-2021)

§ 99.02 PURPOSE.

The purpose of this chapter is:

(A) To establish safeguards for dwellings and floating homes within the city and its adjacent waters as regulated by the city's zoning regulations, other state and local regulations related to construction, fire safety, management of solid waste, disposal of sewage, provision of potable water, other regulated utilities, and any other safety issues that may be identified.

(B) To establish a process to license floating homes and their moorages.

(Ord. 210726-B, passed 7-26-2021)

§ 99.03 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

ENFORCING OFFICER. The City Manager of the City of Saugatuck or his or her designee.

FLOATING HOME.

(1) Any structure or item which is waterborne or is supported by means of flotation (or suspension over a river or lake), designed to be used without a permanent foundation; used, intended, or designed to be built, used, rented, leased, let, or hired out to be occupied; or which is occupied for living purposes with facilities for living and sleeping, and often cooking and eating as well. The term ***FLOATING HOME*** shall also include a "floating house," "liveaboards," "ark," "barge," and any other boat or vessel which is designed or used primarily for living or as a house, domicile or dwelling rather

than for water transport or recreational purposes. The definition of ***FLOATING HOME*** can also include a "houseboat" which exhibits any of the following traits:

(a) Is over 25 feet long;

(b) Is over 15 feet in height above the water when calm;

(c) Cannot be readily propelled through the water at a speed of at least 15 miles per hour; or

(d) Is not certified by the United States Coast Guard as a water-worthy boat or watercraft.

(2) When determining whether a boat, vessel or float is a ***FLOATING HOME*** for purposes of this chapter, the enforcing officer shall also consider the following:

(a) Whether the structure or item is usually kept at a fixed mooring point;

(b) Whether the structure or item is actually used on a regular basis for transportation or navigation;

(c) Whether the structure or item has a permanent or continuous connection to the shore for electrical, plumbing, water, or other utility service;

(d) Whether the structure or item has the performance characteristics of a vessel typically used for navigation or transportation on water;

(e) Whether the structure or item can be readily removed from the water;

(f) Whether the structure or item is used for intermittent or extended human habitation or occupancy;

(g) Whether the structure or item clearly has a means of substantial and continuous propulsion, and appropriate power/size ratio;

(h) Whether the structure or item is safe to navigate or use for transportation purposes;

(i) Whether the structure or item has a factory- or manufacturer-installed and operable water propulsion system;

(j) That a structure or item could occasionally move from place to place in the water, or that it qualifies under a federal or state regulatory program as a vessel or boat, are factors that would not be determinative; and

(k) Such other factors as are relevant to determining the nature of the item or vessel at issue.

FLOATING HOME MOORAGE. A waterfront facility and area for the moorage or docking of one or more floating homes, and the land and water premises on which such facility is located.

(Ord. 210726-B, passed 7-26-2021)

§ 99.04 REGULATIONS.

Limited allowance. No floating home shall be used, moored, docked or kept within or adjacent to the city or on or adjacent to any land, shoreline, dock, mooring or floating home moorage within or adjacent to the city except in full compliance with this chapter.

(Ord. 210726-B, passed 7-26-2021)

§ 99.05 LICENSES.

(A) No floating home shall be moored, docked, used, or kept within the city or on or along any shoreline or land within or adjacent to the city unless a city license has been issued for the floating

home.

(B) An application for a floating home license from the city shall include all of the following information, items, and materials:

(1) A fee as set by the City Council from time-to-time;

(2) A fully completed city floating home application form; and

(3) Such additional information and materials as the city deems necessary.

(C) Licenses for floating homes shall be issued by the enforcing officer. The enforcing officer shall consider all of the following standards when determining whether or not to issue a floating home license:

(1) Whether the application is fully complete;

(2) Whether both the floating home and its proposed use and moorage area will meet all of the requirements of this chapter and all other applicable city ordinances and codes;

(3) Whether the floating home and its proposed use will be safe and sanitary;

(4) Whether the proposed floating home is in keeping with the overall land use pattern in the surrounding area;

(5) Whether the floating home will adversely impact, or be adversely affected by, normal area wave and water patterns and actions;

(6) Whether all other applicable governmental regulations are satisfied; and

(7) Whether the floating home involved will generate the necessary extension or expansion of public facilities and services including, but not limited to, schools, roads, police, fire, water, and sewer.

(D) The enforcing officer may attach reasonable conditions to the approval of any floating home license.

(E) A floating home license is valid for three years. Upon the expiration of the floating home license, a new application must be filed with the city pursuant to § 99.05(B).

(F) The enforcing officer shall have the authority at all reasonable hours to inspect any floating home with a city license.

(G) (1) A floating home license may be revoked by the enforcing officer. When determining whether to revoke a city floating home license, the enforcing officer shall consider all of the following:

(a) Whether the use, location or activities associated with the floating home violate any provision of this chapter, any conditions of the floating home license, any other city ordinance or code or any county, state or federal law, regulation, or statute;

(b) Whether any of the standards contained in § 99.05(C) hereof are being or have been violated; and

(c) The enforcing officer determines that anything in the license application for the floating home (or any materials submitted to the city by the owner of the floating home) was erroneous, fraudulent or deceptive.

(2) Once a floating home license has been revoked, no new license for the same floating home shall be issued by the city for at least three years after the revocation.

(3) The owner of a floating home may appeal a revocation of the floating home's city license to the City Council, so long as the owner of the floating home files a written appeal with the City Clerk

within 30 days of the date of the license revocation. For an appeal that has been timely filed with the city, the City Council shall hold a public hearing on the license revocation appeal, with at least 15 days prior written notice being mailed to both the owner of the floating home and the owners of all properties within 300 feet of the floating home moorage site (as shown in the city's most recent property tax roll). The decision of the City Council on any such appeal shall be final.

(H) The enforcing officer shall have the authority to require that a floating home be located in a specific area or placement within a floating home moorage, including, but not limited to, requiring a specific distance that the floating home be moored or secured away from walkways, docks, piers, seawalls and other fixtures or structures. The enforcing officer shall also have the authority to require stabilizing equipment and items for a specific floating home as is reasonably necessary for the stability and levelness of the floating home, as well as to prevent the floating home from shifting, drifting or moving towards or into another boat, structure, fixture or item.

(I) Under no circumstances shall a floating home be used, kept, anchored, or moored overnight in the following areas of the city's waterfront:

(1) In waters adjacent to residential zone districts;

(2) In waters adjacent to licensed street ends; or

(3) In waters adjacent to city parks.

(Ord. 210726-B, passed 7-26-2021)

§ 99.06 FLOATING HOME AND MOORAGE STANDARDS AND REQUIREMENTS.

(A) *Access.* The access to a floating home moorage site shall have not less than 30 feet of land frontage abutting a public street for each floating home and shall be sufficiently graded, paved, and maintained to support anticipated vehicular or other loads and minimize drainage and dust nuisances.

(B) *Walkways.* Every floating home shall have access to a public street, yard or court by means of a system of primary and secondary walkways. The enforcing officer shall review such system and shall establish the minimum clear width of required primary and secondary walkways based upon a consideration of the number of floating homes and other occupancies served, the total length of the walkways and the number of access points provided for exit to a public street, yard or court. No walkway shall be less than four feet in width or be more than six feet in width.

(C) *Parking.* At least two off-street paved parking spaces shall be provided on land for the exclusive use of each floating home.

(D) *Garbage disposal.* The enforcing officer shall determine the number and type of garbage and rubbish receptacles that shall be provided for all floating homes and accessory moorage uses. All garbage and rubbish receptables shall be adequately screened from public view.

(E) *Lighting.* Every floating home moorage site (including the walkways to every floating home site) shall be illuminated by lights designed, constructed, and maintained to provide an average light intensity of two footcandles in accordance with the recommendations of the Illuminating Engineers Society of America and as may be recommended by the enforcing officer.

(F) *Electrical service and wiring.* Electrical service and wiring in all floating home moorages shall comply with the requirements of Chapter 555, "Boat Harbors and Marinas" of the National Electrical Code, current edition.

(G) *Water distribution.* Plans shall be submitted by the owner of the floating home moorage to the enforcing officer showing complete details of the water service and piping system and shall be accompanied by calculations to verify the adequacy of said system to meet the demands of the

floating home. The design of said system shall comply with the other applicable sections of this chapter (and applicable city codes) and shall meet all of the following requirements:

(1) *Plans.* The plans shall show the size and location of each water meter and all water lines, as well as type, size, and location of all required water service backflow prevention devices.

(2) *Materials.* The use of nonmetallic or exposed steel piping on docks, floats, ramps, or similar moorage facilities will not be permitted. Exposed copper tubing placed on these facilities shall be joined by brazing or by other equivalent methods. Flexible water supply connections to or located on said facilities shall be approved heavy duty type and each hose bib serving said facilities shall be an approved type incorporating a vacuum breaker.

(3) *Flexible water supply connections.* Flexible water supply connections shall be approved heavy duty type and shall be installed and supported so that at all times they will be above the moorage basin water level.

(4) *Backflow prevention devices.* Each hose bib serving a dock, float, ramp or similar moorage facility shall be equipped with an approved vacuum breaker. No floating home which uses a pump or equipment which could cause a cross-connection potential shall have a direct connection to the water supply system.

(5) *Temperature and pressure relief valves.* A combination temperature and pressure relief valve shall be provided on all water heaters.

(6) *Wet standpipes (fire lines).* Water lines supplying wet standpipes must be capable of supplying 50 gallons per minute and maintain a residual pressure of 30 pounds per square inch at the hose connection based on the minimum waler supply. No fire pump inlet connection will be permitted on any wet standpipe system which is connected to a portable water system.

(H) *Fuel gas piping.* All gas piping installed within a floating home moorage, including such piping intended to serve floating homes and other floating structures and such piping as may be required to serve dockside facilities, shall be installed in accordance with the current Michigan Plumbing and Mechanical Codes, and the International Fuel Gas Codes, and with the following special requirements:

(1) *Cathodic protection.* All gas piping shall have an approved cathodic protection design inspected and certified by an approved engineering firm specializing in the field.

(2) *Connections - valves.* Where gas is permitted by the enforcing officer to be distributed from shoreside facilities, connections to floating homes and other moorage structures shall be made by the use of approved high pressure flexible hose and such connections shall terminate in a positive disconnect coupling. A separate shutoff valve shall be installed ahead of such connection. Connections shall not be immersed in water or run exposed on docks, piers, floats, floating homes, or other floating structures. The length of the flexible connections shall not be excessive, nor shall it be used as a substitute for gas piping.

(I) *Open spaces.* A clear spacing of at least ten feet between sides or between a side and front or the rear of adjacent floating homes shall be maintained in all floating home moorages. All distances shall be measured between the maximum projection of the superstructure walls. A maximum encroachment of two feet into the required minimum spacing for eaves, roof decks, or similar features will be permitted.

(J) *Insurance.* The owner of every floating home shall, at all times, keep in full force and effect insurance in the amount of at least $2,000,000 to cover the floating home, as well as its uses, activities, fixtures, and items.

(K) *Permits for floating home docks, piers and moorage.* No dock, pier, boat slip, boat mooring facility or similar item shall be used for the moorage, storage, dockage or use of any floating home

unless the enforcing officer has first issued a permit to the owner of such dock, pier, boat slip, boat moorage facility or similar item utilizing the same procedures and standards as contained in divisions (B), (C), (D), (E), (F), (G) and (H) of this section.

(L) *Building codes.* Except for the foundation regulations, all floating homes shall fully comply with the Michigan Building Code for single-family residential dwellings.

(M) *Height and length.* No portion of a floating home shall exceed a height of 15 feet above the water when the water is calm. Also, no floating home shall exceed 27 feet in total length.

(Ord. 210726-B, passed 7-26-2021)

§ 99.07 MISCELLANEOUS MATTERS.

(A) *Movement or relocation of floating homes.* Floating homes proposed to be moved into or adjacent to the city or proposed to be moved from one moorage site to another moorage site within or on waters adjacent to the city shall comply with all the requirements of this chapter pertaining to new floating homes and the city license for the floating home involved. No floating home shall be moved into or relocated within or on waters adjacent to the city if, after inspection and investigation by the enforcing officer, the floating home is found to be dilapidated, unseaworthy, or otherwise substandard to such an extent that it would be impractical to repair, improve or rehabilitate that floating home in accordance with the requirements of this chapter for new floating homes.

(B) *Mooring register of the ownership of floating homes.* Every owner or operator of a floating home moorage shall maintain a current register of every floating home moored on the premises under his, her or its control, with such register to record the name and address of the legal owner of each floating home. A copy of said register shall be available to the city upon request by the enforcing officer.

(C) *Moorage location.* Floating homes shall be berthed or moored in a marina, harbor or similar improved and lawful facility conforming to the requirements of this chapter and other applicable city codes and ordinances and located on privately owned or privately controlled property. Moorages shall not be located in any waterway or fairway, or in the public waters of any street or street end. No floating home shall be moored, stored, docked, or located within 50 feet of a public road right-of-way or easement.

(D) *No open water mooring.* Except when a floating home is under power in the open water, being used temporarily for recreation or being moved to another lawful location, no floating home shall be anchored, kept, or moored away from land in the open water overnight.

(E) *Single family use only.* While in its floating home mooring, only one single family shall be domiciled in that floating home. There shall be no multi-family habitation or uses.

(F) *Short-term rental.*

(1) ***SHORT-TERM RENTAL*** shall mean a floating home that is available for use or is used for habitation, accommodations or lodging of guests or others, paying a fee or other compensation, for a period of less than 120 consecutive days and nights at a time.

(2) Floating homes used as short term rentals shall also abide by the same standards as all other short term rentals including registration, fees, and inspections.

(G) *No commercial use.* No floating home shall be used for commercial or industrial purposes or uses.

(H) *No nuisance conditions.* No floating home shall be a nuisance.

(I) *Violations.* A violation of any of the conditions attached to a city floating home license shall constitute a violation of this Code and shall be a nuisance *per se*.

(J) *Every floating home must be kept in a good and reasonable condition.* Every floating home (including the exterior thereof) shall be kept in good repair and condition at all times.

(K) *Use of docks, piers, boat slips, mooring sites and similar items.* No dock, pier, boat slip, boat mooring space or similar item, area or facility shall be used by or for a floating home unless the floating home has a current and valid license pursuant to this chapter and the floating home fully complies with all the requirements of the license and this chapter.

(L) *Appeals.* Any interpretation or determination by the enforcing officer under this chapter may be appealed in writing to the City Council within 30 days using the same procedures as for the appeal of a license revocation under § 99.05(G).

(Ord. 210726-B, passed 7-26-2021)

TITLE XI: BUSINESS REGULATIONS

Chapter

CHAPTER 110: GENERAL BUSINESS REGULATIONS

Section

Cross-reference:

Garbage collector’s license, see § 50.09

Marihuana establishments and facilities, see §§ 98.01 through 98.04

Mechanical amusement devices, licensing, see §§ 111.01 through 111.11

Public entertainment licensing, see §§ 111.25 through 111.33

Special event liquor licensing, see §§ 90.20 through 90.30

GENERAL PROVISIONS

§ 110.01 GENERALLY.

The purpose of this chapter is to facilitate business registration and regulation by establishing a record of the current businesses in operation in the Commercial Zone Districts (City Central C-l (CC), Water Street East C-2 (WSE), Water Street North C-l (WSN), and Water Street South (WSS)) for the purpose of disseminating information, establishing regulations for business operations, and penalties for non-compliance with these requirements.

(Ord. 210524-A, passed 5-24-2021)

§ 110.02 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

BUSINESS. Any person, group, corporation, partnership or organization which engages in the manufacture, production, fabrication, development of, or sales, whether retail or wholesale, of goods or products, or is subject to personal property tax or provides a service for a fee, or is required to have a sales tax license under state law. A ***BUSINESS*** does not include a hawker or peddler as defined in §§ 113.01 and 113.02 and does not include short term rentals.

CONSPICUOUS DISPLAY. Any occurrence in which a vehicle is parked and identified by signage or other printed or graphic matter for the purpose of: (i) advertising or offering the rental or sale of the vehicle (or other vehicles of a same or similar type offered for sale or rental of the same person or business); or (ii) advertising the person or business at which such vehicles can be rented or purchased, and in either case so located as likely to be seen by passing motorists, pedestrians or the general population.

VEHICLE. Any passenger car, truck, motorcycle, farm or garden implement or recreation vehicle, including travel trailers, motor homes, pick-up campers, off-road vehicles, boats and/or boat trailers, mopeds, motorized bicycles, or bicycles, and any other vehicles for travel or transportation which are towed by another vehicle.

VEHICLE VENDOR. Any store, person or business entity of any type that offers vehicles for sale or rental, irrespective of whether such sale or rental activity is a principal or accessory part of the business activities of the store, person or business entity.

(Ord. passed 4-25-1994; Am. Ord. 090413-1, passed 4-27-2009; Am. Ord. 100412-1, passed 4-12-2010; Am. Ord. 210524-A, passed 5-24-2021)

§ 110.03 BUSINESS REGISTRATION REQUIREMENTS.

All businesses operating within a commercial district in the city shall register with the City Clerk. A business with more than one location is required to register each location that is within a commercial district in the city.

(Ord. 210524-A, passed 5-24-2021)

§ 110.04 BUSINESS REGISTRATION PROCEDURE.

The following procedure shall apply to the registration of all businesses:

(A) All businesses shall register with the City Clerk within 15 days of commencing operations within the city.

(B) Registration shall be made on forms available with the City Clerk and supplied by the city. The forms shall include the name of business, emergency contact person and telephone number, email address, and any other relevant information as shall be deemed appropriate.

(C) All businesses shall complete the registration form as provided by the city and pay any necessary fees by April 30 of each year; provided, however, that for the 2021 license year all businesses shall complete the registration form and pay any necessary fees by July 1, 2021.

(Ord. 210524-A, passed 5-24-2021)

§ 110.05 REVISION OF CITY'S SCHEDULE OF FEES.

The fees provided for herein may be set and may be amended from time to time by resolution of the City Council, and any fee revisions shall be made a part of the regular fee schedule of the city.

(Ord. 210524-A, passed 5-24-2021)

§ 110.06 REGULATIONS.

(A) The following regulations shall apply to businesses operating in the city:

(1) A business may not display any merchandise, signs, banners, racks or tables in a public right-of-way, park or easement without first receiving a license from the city.

(2) Vehicle vendors may not engage in the conspicuous display of a vehicle in any public right-of-way, park or public easement or other publicly owned lands.

(3) A business that displays merchandise outside of its structure may only display merchandise that is part of the inventory of the business and can be verified by invoices of purchase from a supplier or wholesaler.

(4) A business may display merchandise outside its structure in an area not to exceed 20% of the floor space (square feet) on the ground floor of the structure or rented area dedicated to the sale of merchandise; provided, however that this division shall not apply to landscaping and similar businesses.

(B) An exemption to the prohibitions contained in this section may be granted by the City Council for an approved community event, sidewalk sale, or other similar function as determined by the City Council.

(Ord. 100412-1, passed 4-12-2010; Am. Ord. 140714-2, passed 7-14-2014; Am. Ord. 180611-1, passed 6-11-2018; Am. Ord. 210524-A, passed 5-24-2021)

§ 110.99 PENALTY.

(A) Any person, firm, corporation, trust, partnership or other legal entity which violates or refuses to comply with any provision of this chapter shall be responsible for a municipal civil infraction and shall be punished by a civil fine in accordance with § 10.21 of this code and shall further be liable for the payment of the costs of prosecution in an amount of not less than $9 and not more than $500.

(B) Each day that a violation continues to exist shall constitute a distinct and separate offense and shall make the violator liable for the imposition of fines for each day.

(C) The foregoing penalties shall be in addition to the abatement of the violating condition and injunctive or other relief which may be ordered by the court as prescribed by the laws of the State of Michigan for the abatement of a city ordinance designated as a municipal civil infraction.

(Ord. passed 4-25-1994; Am. Ord. passed 8-9-1999; Am. Ord. 210524-A, passed 5-24-2021)

CHAPTER 111: AMUSEMENTS

Section

MECHANICAL AMUSEMENT DEVICES

§ 111.01 DEFINITION.

For the purpose of this subchapter, the following definition shall apply unless the context clearly indicates or requires a different meaning.

MECHANICAL AMUSEMENT DEVICE. Any machine which, upon the insertion of a coin, slug, token, plate or disk, may be operated by the public generally for use as a game, entertainment or amusement, whether the device is electrical or not, and whether or not it registers a score. It shall include, but not necessarily be limited to, such devices as marble machines, pinball machines, skill ball, mechanical grab machines, miniature basketball court games, football or soccer field games, ice hockey, automobile roadways, miniature pool tables, and such similar devices, games or mechanisms. ***MECHANICAL AMUSEMENT DEVICE*** does not include a juke box or such other musical vending machines used solely for the emission of songs and music.

§ 111.02 LICENSE REQUIRED; FEES; EXPIRATION; FORM.

(A) *License required.* Any person, displaying for public patronage and use, or keeping for operation any mechanical amusement devices hereinabove defined, shall be required to obtain a license for each such device from the City Council and pay a license fee therefor. Application for the license shall be made to the City Council upon a form to be supplied by the City Clerk.

(B) *License fee.* Every applicant, before being granted a license, shall pay the annual licensing fee for the privilege of operating or maintaining for operation each mechanical device as prescribed by the city's schedule of fees.

(C) *Expiration.* Each license shall expire one year from date of issuance.

(D) *Form of licenses.* All licenses issued pursuant to this subchapter shall be in such form as the City Council may prescribe.

Penalty, see § 111.99

§ 111.03 CONTENTS OF APPLICATION.

The application for the license shall contain the following information:

(A) Name, address and birth date of applicant;

(B) Prior history, if any, of criminal convictions, with a statement as to the nature of the particular conviction and the date of the conviction;

(C) Address of the premises where the machine or device is to be displayed or operated, and the nature of the business, if any, being conducted on the premises at the time of the application, or the nature of the business if a new business is contemplated; and

(D) A description of the machine or device to be covered by the license, its mechanical features, name of the manufacturer, and serial number.

§ 111.04 QUALIFICATIONS OF APPLICANT.

No license shall be issued to any applicant unless the applicant shall be over the age of 21 years. If the applicant is a corporation or association, the application shall also be made in the name of the chief operating officer of the corporation or association and signed by him or her.

§ 111.05 INVESTIGATION AND INSPECTIONS.

(A) *Generally.* All license applications shall be made in triplicate, with one copy to remain with the City Clerk, one directed to the Chief of Police and one directed to the Electrical Inspector, or such

similar inspector as designated by the city.

(1) The Chief of Police shall investigate the location where it is proposed to operate the machine, ascertain if the applicant is of good moral character, and either approve or disapprove the application. If disapproved, the Chief of Police shall file written reasons with the City Clerk stating the grounds for disapproving the license.

(2) The Electrical Inspector, or such similar city designated inspector, shall inspect all wiring and connections to the machine or devices and determine if the same comply with the applicable electrical code then in force in the city. The inspector shall then approve or disapprove the application. If disapproved, the Electrical Inspector shall file a written statement with the City Clerk stating his or her reasons for disapproving the license.

(B) *City inspections*. Any licensee hereunder shall allow any member of the City Council, or their designated agent, or police officer access to the premises on which the mechanical amusement devices are located at any reasonable time during the day or evening for purposes of inspection and determining compliance with this subchapter. Refusal to grant access shall be cause for revocation of the owner's license.

Penalty, see § 111.99

§ 111.06 DISPLAY OF LICENSE.

(A) The license herein provided for shall be posted permanently and conspicuously at the location of the machine on the premises wherein the device is to be operated or maintained.

(B) The license may be transferred from one machine or device to another similar machine upon application to the City Clerk and the giving of a description and the serial number of the new machine or device. Not more than one machine shall be operated under one license, and the applicant or licensee shall be required to secure a license for each and every machine displayed or operated by him or her.

(C) If the licensee shall move his or her place of business and devices to another location within the city, the license may be transferred to the new location upon application to the City Clerk, giving the street and number of the new location. The new location shall be approved by the Chief of Police and the Electrical Inspector in the same manner as provided in section § 111.05. The license application shall also be approved by the City Council as provided in § 111.02; however, a new license fee shall not be required.

Penalty, see § 111.99

§ 111.07 RESTRICTIONS AND CONDUCT ON PREMISES.

No licensee, by himself or herself, directly or indirectly, or by any servant, agent or employee shall:

(A) Permit persons under the age of ten years to play or operate a mechanical amusement device unless accompanied by a parent or legal guardian; provided, however, the licensee shall have the discretion to increase the age limit if in his or her discretion he or she so chooses;

(B) Permit any obscene language or other language which, by the very utterance, is likely to inflict injury or provoke an average person to immediate retaliatory breach of the peace, or permits any obscene or disorderly conduct;

(C) Permit the premises to become a resort or loitering place for disorderly persons of any type;

(D) Permit obscene or other illegal conduct;

(E) Permit gambling, or the use, possession or presence of gambling paraphernalia on the premises except as permitted by state law; or

(F) Permit intoxicated persons to remain on the premises.

Penalty, see § 111.99

§ 111.08 REVOCATION OF LICENSE.

(A) The City Council may revoke a license granted pursuant to this subchapter upon a finding that the licensee has violated any of the provisions of this subchapter.

(B) Before revoking a license, the City Clerk shall notify the licensee in writing of a hearing to be held thereon, and the notice shall specify the date, time and place of the hearing and shall designate the charges or reasons for the contemplated revocation. The notice may be delivered to the licensee personally, or by mailing the same by registered mail to the address specified upon the application or license.

(C) The hearing shall not be held less than ten days following personal service of the notice or the date of mailing the notice. The licensee shall have the right to appear at such a hearing in person to answer the complaint or charges and shall have the right to be represented by an attorney, if he or she so chooses.

§ 111.09 DENIAL OF LICENSE.

No license shall be issued pursuant to this subchapter if:

(A) The applicant fails to meet any of the requirements of this subchapter;

(B) The applicant has been convicted of a crime involving moral turpitude within the last five years;

(C) The premises to be used are not in compliance with the applicable building codes, and fire and safety regulations and codes then in effect in the city, the Zoning Code (Chapter 154) and any other applicable provisions of this code and the laws of the state;

(D) The premises to be used is located within 1,000 feet of any school building;

(E) Any premises to be used which do not provide adequate space for safe ingress and egress; or

(F) The City Council deems that the granting of the license will not be in the best interest of the public health, safety and welfare of the city.

§ 111.10 ACTION BY COUNCIL.

(A) The City Council shall approve or disapprove all applications within 45 days after a properly completed application has been filed with the Clerk. The time for approval or disapproval of the application may be extended by mutual agreement of the applicant and the Council.

(B) If an application is denied by the City Council, the Council shall state its reasons therefor, and enter those reasons into the minutes of the Council meeting.

§ 111.11 NUMBER OF DEVICES.

It shall be unlawful for any person to have or maintain upon or within a single premises in excess of ten amusement devices; provided, however, that any such proprietor or owner having in excess of ten devices on the premises on July 13, 1981, the date of adoption of Ord. 81-143, may retain the existing number of devices, but shall not thereafter replace the devices as they wear out or are removed until the total number of devices is reduced to the maximum number permitted under this subchapter.

Penalty, see § 111.99

PUBLIC ENTERTAINMENT

§ 111.25 LICENSE REQUIRED.

No person shall engage in the business within the city of offering a public amusement, entertainment, exhibition or performance without first obtaining a license therefor, except those establishments which are already licensed under the Michigan Liquor Control Act, being M.C.L.A. §§ 436.1101 *et seq*., providing the public amusement, entertainment, exhibition or performance shall be held within the licensed premises, and also excepting events sponsored by the city.

Penalty, see § 111.99

§ 111.26 OWNER TO SEE LICENSE.

No person shall knowingly allow or permit any building or land owned or possessed by him or her to be used for such a public entertainment purpose unless a city license therefor first shall have been shown to the owner or possessor.

Penalty, see § 111.99

§ 111.27 CONDITIONS PRECEDENT.

No license shall be granted or delivered until the applicant therefor has complied with all of the required conditions precedent to its issuance.

Penalty, see § 111.99

§ 111.28 PROCEDURE FOR ISSUANCE.

(A) The applicant shall submit an application not less than 60 days prior to the proposed commencement of the business, under oath, on a form to be provided by the City Clerk, which application shall disclose the pertinent information about the applicant, his or her proposed business location, facilities, maximum capacity to be admitted, business history and responsibility, as the Clerk may require and shall be accompanied by the following:

(1) Evidence that the applicant has obtained public liability insurance with limits as set forth in the city schedule of fees and property damage insurance with a limit as set forth in the city schedule of fees from a company approved by the Commissioner of Insurance of the state, which insurance shall insure applicant, his or her employees and agents against liability for death or injury to persons or damages to property which may result from the conduct of the licensed business, which policy or policies shall remain in full force and effect in the specified amounts during the term of the license. The evidence of insurance shall include an endorsement to the effect that the insurance company shall notify the City Clerk, in writing, at least ten days before the expiration or cancellation of the policy;

(2) A corporate surety bond in the amount as set forth in the city schedule of fees in a form to be approved by the City Attorney, conditioned upon the applicant’s faithful compliance with all of the terms and provisions of this subchapter and all applicable provisions of this code, county ordinances and state statutes;

(3) A license fee shall be charged in accordance with the city’s schedule of fees;

(4) Promoters of public assemblies under this section shall provide toilet facilities for both men and women in the ratio of one toilet for every 200 admissions, and one lavatory for every 300 admissions. The facilities, if temporary, must be approved by the County Health Department; and

(5) If the applicant is not a resident of or a corporation licensed to conduct business by this state, he or she shall designate an agent located in this state for acceptance of service of process.

(B) The City Clerk may refer the application to the Chief of Police, the County Health Department, the State Fire Marshal and such other public officials as he or she may deem appropriate.

(C) The application, supporting data, and reports of governmental officials shall then be presented to the City Council. In passing on the application, the Council shall determine whether or not the proposed business meets the requirements of this code, other applicable county ordinances and applicable state statutes and shall approve or deny the license accordingly. If the license is denied, the basis or bases for denial shall be specified in the resolution of denial.

(D) Advertising of the applicant's proposed business prior to the issuance of a license by the city shall constitute a violation of this subchapter by the applicant and shall constitute a basis for the denial of the license.

(E) Based upon the maximum number of persons to be admitted to the licensee's place of business per day as disclosed in application, if the number exceeds 499 persons and if the City Council in its discretion determines that the public safety and welfare make it desirable that police personnel be assigned to the vicinity of the licensee's place of business, the licensee shall be obligated to reimburse the city for the actual expense in providing the police service to the extent of two officers for the first 500 persons and one additional officer for each additional 200 persons.

Penalty, see § 111.99

§ 111.29 REQUIREMENTS FOR OPERATION.

After issuance of the license, the licensee shall meet the following requirements:

(A) The insurance and bond required in § 111.28 above shall continue in full force and effect until expiration or termination of the license;

(B) The licensee shall permit city, county and state officials to enter upon the licensed premises at all reasonable times to determine compliance with the requirements of this code and other applicable county ordinances and state statutes;

(C) The licensee shall not knowingly permit violations of this code, county ordinance or state statute by any of his or her patrons;

(D) The licensee shall provide off-street parking facilities sufficient to accommodate all persons to be admitted to his or her place of business based on the maximum capacity specified in the application;

(E) The licensee shall not admit to his or her premises any person who is then under the influence of intoxicating beverages or of drugs, nor shall he or she knowingly permit the possession, sale or consumption of intoxicating beverages, narcotics or hallucinogenic drugs on his or her business premises;

(F) The licensee shall provide sufficient fences or barriers or shall so patrol the boundaries of his or her business premises as to effectively prevent his or her patrons from directly trespassing on neighboring premises;

(G) The licensee shall so conduct his or her business that it shall not give rise to a nuisance by reason of noise, vibration, smoke, odor or dust;

(H) The licensee shall limit his or her business activities to the hours specified in his or her license; and

(I) The licensee shall post a copy of this subchapter and a copy of his or her license in his or her place of business in a location where they can be read easily by his or her patrons.

Penalty, see § 111.99

§ 111.30 TERMINATION OF LICENSE.

Each license granted under the provisions of this subchapter shall expire at the end of the term specified in the application but if not so established, shall expire on the next succeeding March 31.

§ 111.31 NON-TRANSFERABILITY.

A license issued under this subchapter shall not be transferable to any other person.

Penalty, see § 111.99

§ 111.32 SUSPENSION AND REVOCATION.

(A) A license under this subchapter may be suspended or the renewal thereof refused by the city for misrepresentation of any material fact in the application for the license.

(B) Any license may be suspended or revoked by the city for good cause. The term ***GOOD CAUSE*** shall mean any act or omission or the permitting of a condition to exist with respect to the licensee in question which is contrary to the safety or welfare of the public, unlawful or fraudulent in nature, a violation of any provision of this subchapter under which the license was granted, is beyond the scope of the license issued, or a fact, circumstance or condition which had it existed or been known to the city at the time the license was granted, would have been sufficient grounds for the refusal thereof.

(C) Revocation of a license may take place only after a hearing before the City Council upon not less than seven days written notice to licensee at the address stated in the application of the licensee stating the time and place of the hearing and the reasons for revocation.

(D) A license issued under this subchapter may be suspended for not more than 20 days by the City Manager for good cause.

§ 111.33 VIOLATIONS AS NUISANCE.

Any violation of any provision of this subchapter is hereby declared to be a nuisance and enjoinable by appropriate legal action.

§ 111.99 PENALTY.

Any licensee, employee or agent convicted of a violation of any provision of this chapter shall be subject to the penalties prescribed in § 10.99.

CHAPTER 112: GARAGE SALES

Section

§ 112.01 DEFINITIONS.

For the purpose of this chapter, the following definition shall apply unless the context clearly indicates or requires a different meaning.

GARAGE SALE, YARD SALE, BASEMENT SALE and ***RUMMAGE SALE***, including any similar terms such as ***ATTIC SALE*** and the like, means any sale of tangible personal property, whether used, second hand, damaged or discarded, not otherwise regulated in this code, advertised by any means whereby the public at large is or can be aware of the sale.

(Ord. passed 7-10-1995)

§ 112.02 INTENT.

(A) It is the intent of this chapter to regulate the term and frequency of personal property sales in residential areas so that the residential environment of such areas is not disturbed or disrupted, and to prohibit the infringement of any business into the established areas.

(B) It is not the intent of this chapter to seek control of sales by individuals selling five or less of their household or personal items.

(Ord. passed 7-10-1995)

§ 112.03 PERMITTED LOCATIONS.

An owner, tenant or lessee of a residence or charitable institution, including churches, schools and hospitals, may conduct a sale as described in this chapter upon the premises of his or her residence or upon the premises of the charitable institution, as provided in this chapter

(Ord. passed 7-10-1995)

§ 112.04 PERMIT REQUIRED; APPLICATION; FEE.

(A) No owner, tenant or lessee of a residence or charitable institution shall conduct, advertise or promote a sale as regulated in this chapter without first obtaining a permit therefor as provided in this section.

(B) A written application shall be filed with the City Clerk, on forms prescribed by the City Clerk, containing the following:

(1) The name and address of the person conducting the sale;

(2) The location at which the sale is to be conducted;

(3) The number of days which the sale is to be conducted within the limits prescribed in this chapter;

(4) A description of the items proposed to be sold; and

(5) The date, nature and location of any past sale conducted by the applicant.

(C) An affidavit signed by the applicant affirming that the items to be sold are the sole property of the applicant must be filed with the application.

(D) The applicant shall pay the sum as set forth in the city schedule of fees for the issuance of the sale permit to the City Clerk at the time of filing the application. The fee will be refunded if all signs advertising the sale are removed within 48 hours of the sale.

(Ord. passed 7-10-1995)

§ 112.05 LIMITATIONS ON PERMIT ISSUANCE.

(A) Any sale as described in this chapter shall not be conducted for longer than two consecutive days.

(B) The City Clerk shall not issue more than two permits per calendar year, per location or residence, for any sale described in this chapter.

(Ord. passed 7-10-1995) Penalty, see § 112.99

§ 112.06 DISPLAY OF PERMIT.

The permit authorizing the sale shall be displayed in a front window or other prominent place, clearly visible from the street, at each location where a sale is being conducted.

(Ord. passed 7-10-1995) Penalty, see § 112.99

§ 112.07 ENFORCING OFFICER.

The Chief of Police or his or her designee is hereby authorized to cause any person, group or organization to cease and desist operating in violation of any provision of this chapter.

(Ord. passed 7-10-1995)

§ 112.99 PENALTY.

(A) Any person, firm, corporation, trust, partnership or other legal entity which violates or refuses to comply with any provision of this chapter shall be responsible for a municipal civil infraction and shall be punished by a civil fine in accordance with § 10.21 of this code and shall further be liable for the payment of the costs of prosecution in an amount of not less than $9 and not more than $500.

(B) Each day that a violation continues to exist shall constitute a distinct and separate offense, and shall make the violator liable for the imposition of fines for each day.

(C) The foregoing penalties shall be in addition to the abatement of the violating condition and injunctive or other relief which may be ordered by the court as prescribed by the laws of the State of Michigan for the abatement of a city ordinance designated as a municipal civil infraction.

(Ord. passed 7-10-1995; Am. Ord. passed 8-9-1999)

CHAPTER 113: HAWKERS AND PEDDLERS

Section

§ 113.01 PURPOSE.

(A) The purpose of this chapter is to establish standards of operation for peddlers and hawkers in the city which promotes the public health, safety and welfare. The city is a tourist-based economy and, as such, experiences tremendous increases in population throughout the year. Congestion of streets, sidewalks, parks and other public areas presents risks to safe traffic flow, delivery of emergency services, and pedestrian movement. Therefore public streets, sidewalks, parks and other public areas shall be maintained and operated in a manner that promotes and encourages safe, efficient utilization for vehicular, pedestrian and emergency vehicle traffic at all times of the year.

(B) Peddlers which operate on public rights-of-way inhibit the public safety aspects desired to be promoted and encouraged for use of all public rights-of-way and places in the city. The city has determined that it is in the best interest of the public to keep all public property free from usage by any and all peddlers and hawkers. The city will however allow this activity on private property under provisions outlined in this chapter.

(Ord. passed 5-9-1994)

§ 113.02 DEFINITION.

For the purpose of this chapter, the following definition shall apply unless the context clearly indicates or requires a different meaning.

PEDDLER. Any natural person, whether a resident of the city or not, or any firm, partnership, corporation or other business entity, traveling by foot, wagon, automotive vehicle, or any other type of conveyance, from place to place, from house to house, or from street to street carrying, conveying or transporting goods, wares, merchandise, magazines, meats, fish, vegetables, fruits, garden truck, farm products or provisions, offering and exposing the same for sale or rent or making sales or rentals and delivering articles to purchasers or renters, or who without traveling from place to place shall sell or rent or offer the same for sale or rent or offer the same for sale or rent from a wagon, automotive vehicle, railroad car, or other vehicle or conveyance, and further provided that one who solicits orders as a separate transaction, makes deliveries to purchasers or renters as a part of a scheme or design to evade the provisions of this chapter shall be deemed a peddler subject to the provisions of this chapter. The term shall include the words “hawker” and “huckster.”

(Ord. passed 5-9-1994)

§ 113.03 LICENSE REQUIRED; APPLICATION; FEES.

(A) *License required*. Every person who shall engage in the business of hawking or peddling in the city shall, before engaging in the business, procure from the City Clerk a license to do so.

(B) *Application*. Applicants for a license under this chapter must file with the City Clerk a sworn application in writing (in duplicate) on a form to be furnished by the City Clerk, which form shall contain the following information. In addition to the form, the applicant shall provide additional information as required by the City Clerk:

(1) The name and description of the applicant;

(2) The applicant's local address and legal or home address;

(3) A brief description of the nature of the business and the goods to be sold and, in the case of products of farm or orchard, whether produced or grown by the applicant;

(4) If the applicant is an employee, the name and address of the employer, together with credentials establishing the exact relationship;

(5) The length of time for which the right to do business is desired, including specific hours of operation;

(6) If a vehicle is to be used, a description of the same, together with the license number, current registration and proof of insurance;

(7) A photograph of the applicant, taken within 60 days immediately prior to the date of filing of the application, which picture shall be two inches by two inches showing the head and shoulders of the applicant in a clear and distinguished manner;

(8) The fingerprints of the applicant and the names of at least two reliable property owners of the county who will certify as to the applicant's good character and business responsibility or, in lieu of the names of references, any other available evidence as to the good character and business responsibility of the applicant as will enable an investigator to properly evaluate the character and business responsibility;

(9) A statement as to whether or not the applicant has been convicted of any crime and, if so, the nature of the offense, date of conviction and punishment or penalty assessed therefor;

(10) The applicant shall at the time of application submit a bond to the City Clerk in an amount set forth in the city's schedule of fees. The bond shall be held by the City Clerk for the applicant's faithful performance of all contracts and fulfillment of all warranties made by him or her in connection with the business or acts for which the license is sought. The bond shall be drawn on a company licensed to do business in this state and shall be approved by the City Attorney prior to the issuance of a license;

(11) The applicant at the time of application shall submit to the City Clerk a certificate of insurance with coverages as specified in the city's schedule of fees. The insurance policy shall be written in a manner which clearly names the city as an additional insured. The policy shall be in force for the entire time the applicant intends to conduct business in the city. The policy shall contain a provision for notification of the city prior to cancellation. The notice shall be a minimum of 15 working days prior to the date of cancellation; and

(12) At the time of application, the applicant shall submit as part of the application package a valid Michigan Sales Tax License to the City Clerk.

(C) *Fees*. The license fee which shall be charged by the City Clerk for the license shall be as prescribed in the city's schedule of fees.

(Ord. passed 5-9-1994) Penalty, see § 113.99

§ 113.04 INVESTIGATION OF APPLICANTS; DENIAL OR ISSUANCE OF LICENSE.

(A) Upon receipt of the application, the original shall be referred to the Chief of Police, or his or her designee, who shall cause the investigation of the applicant's business and moral character to be made as he or she deems necessary for the protection of the public good.

(B) If, as a result of the investigation, the applicant's character or business responsibility is found to be unsatisfactory, the Chief of Police shall endorse on the application his or her disapproval and his or her reasons for the same and return the application to the City Clerk, who shall notify the applicant that his or her application is disapproved and that no license will be issued.

(C) If, as a result of the investigation, the character and business responsibility of the applicant are found to be satisfactory, the Chief of Police or his or her designee shall endorse on the application his or her approval and return the application to the City Clerk, who shall, upon payment of the prescribed license fee, issue a license. The license shall contain the seal of the city and signature of the issuing officer and shall show the name, address and photograph of the licensee, the term of the license, and the kind of goods to be sold thereunder, the amount of fee paid, date of issuance, and identification of vehicle to be used, if applicable. The City Clerk shall keep a permanent record of all licenses issued.

(Ord. passed 5-9-1994)

§ 113.05 USE OF PUBLIC AREAS.

(A) *Streets, sidewalks, parks and rights-of-way*.

(1) No person licensed under this chapter, nor any person on his or her behalf, shall have any exclusive right to any location in the public streets, rights-of-way, sidewalks or parks.

(2) No license shall be permitted to a stationary location within a congested area if the location operates to impede or inconvenience the public use and enjoyment of city streets, sidewalks, rights-of-way or parks.

(3) In furtherance therefor, the City Council shall prescribe, as a condition of the licensed granted, specific setback areas from the city sidewalk, street, right-of-way or park to assure the unimpeded flow of pedestrian movement in the vicinity of the applicant's sales exhibit.

(B) *Parking lots and driveways*.

(1) No sales activity or exhibit, whether mobile or stationary, shall be conducted upon or so near the entrance to public parking lots or driveways as to obstruct or impede the free ingress and egress of vehicular traffic herewith.

(2) Partial use of space within parking lots which may face public streets or sidewalks may be granted with prior permission of the Police Department and Public Works Department.

(C) *Exercise of police powers*.

(1) For the purpose of this chapter, the judgement of the Police Department, exercised in good faith, shall be deemed conclusive as to whether an area is congested or impeded or inconvenienced.

(2) In the processing of applications, the City Clerk shall have the power to withhold and refuse to grant further permits if, in his or her judgment, overcrowding of thoroughfares would result should additional licenses be granted.

(Ord. passed 5-9-1994) Penalty, see § 113.99

§ 113.06 EXHIBITION OF LICENSE.

(A) Peddlers are hereby required to prominently display their license at all times during which they are conducting business in the city.

(B) The license shall be displayed in such a manner that it is visible at all times during the course of the licensee operation.

(C) Failure to display the license shall constitute a violation of this chapter.

(Ord. passed 5-9-1994) Penalty, see § 113.99

§ 113.07 LOUD NOISES AND SPEAKING DEVICES.

No peddler or other person in his or her behalf shall shout, make any outcry, blow a horn, ring a bell or use any sound device, including any loudspeaker, radio or sound amplifying system upon any of the streets, alleys, sidewalks, parks or other public places of the city or upon any private premises in the city where sound of sufficient volume is emitted or produced therefrom to be capable of being plainly heard upon the streets, avenues, alleys, sidewalks, parks or other public places, for the purpose of attracting attention to any goods, wares or merchandise which the licensee proposes to sell, without the express consent and permission of the City Council.

(Ord. passed 5-9-1994) Penalty, see § 113.99

§ 113.08 DUTIES OF POLICE.

Police officers of the city shall require any person seen peddling and who is not known by the officer to be duly licensed to produce his or her peddler’s license and shall enforce this chapter against any person found to be violating any of the provisions of this chapter.

(Ord. passed 5-9-1994) Penalty, see § 113.99

§ 113.09 RECORDS.

The Chief of Police, or his or her designee, shall report to the City Clerk all convictions for violations of any of the provisions of this chapter and the City Clerk shall maintain a record for each license issued and record the reports of violations in such record.

(Ord. passed 5-9-1994)

§ 113.10 EXEMPT ACTIVITIES.

The licensing provisions of this chapter shall not apply to sales of goods, wares and merchandise for religious or nonprofit charitable purposes; vendors approved by the City Council or operating with the consent of individuals or organizations sponsoring events approved by the City Council; commercial travelers employed by wholesale houses and selling staple articles of merchandise to city merchants to be retailed by the merchants; persons selling milk; delivery of goods sold by city businesses; or permanently employed and bonded route salespersons who solicit orders from, and distribute goods to, regular customers on established routes. The vendors or sponsors of City Council approved events must provide general liability insurance with such limitations as the City Attorney approves. Proof of insurance showing that the insurance is in force shall be filed with the City Manager prior to the approved event. Termination or alteration of the insurance policy without approval of the City Attorney shall constitute grounds for cancellation of the event by the City Council.

(Ord. passed 5-9-1994)

§ 113.99 PENALTY.

A person who violates this chapter is guilty of a misdemeanor, punishable as provided by § 10.99, forfeiture of the property impounded pursuant to this section up to a value of $500, or both.

(Ord. passed 5-9-1994)

CHAPTER 114: RESERVED

CHAPTER 115: TELECOMMUNICATIONS

Section

§ 115.01 PURPOSE.

The purposes of this chapter 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 48 of 2002) ("Act"), being M.C.L.A. §§ 484.3101 - 484.3120 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. passed 3-10-2003)

§ 115.02 CONFLICT.

Nothing in this chapter shall be construed in such a manner as to conflict with the Act or other applicable law.

(Ord. passed 3-10-2003)

§ 115.03 DEFINITIONS.

(A) For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ACT. The Metropolitan Extension Telecommunications Rights-of-Way Oversight Act (Public Act 48 of 2002), as amended from time to time, being M.C.L.A. §§ 484.3101 - 484.3120.

CITY. The City of Saugatuck.

CITY COUNCIL. The City Council of the City of Saugatuck 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 Council.

CITY MANAGER. The City Manager or his or her designee.

PERMIT. A non-exclusive permit issued pursuant to the Act and this chapter 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 chapter shall have the same meaning as defined or as provided in the Act, including without limitation the following.

AUTHORITY. The Metropolitan Extension Telecommunications Rights-of-Way Oversight Authority created pursuant to § 3 of the Act, being M.C.L.A. §§ 484.3101 - 484.3120.

MPSC. 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.

PERSON. An individual, corporation, partnership, association, governmental entity or any other legal entity.

PUBLIC RIGHT-OF-WAY. The area on, below or above a public roadway, highway, street, alley, easement or waterway. ***PUBLIC RIGHT-OF-WAY*** does not include a federal, state or private right-of-way.

TELECOMMUNICATION FACILITIES or ***FACILITIES.*** 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 § 332(d) of Part I of Title III of the Communications Act of 1934, Chapter 652, 48 Stat. 1064, 47 U.S.C. § 332 and further defined as commercial mobile radio service in 47 C.F.R. § 20.3, and service provided by any wireless, 2-way communication device.

TELECOMMUNICATIONS PROVIDER, PROVIDER AND TELECOMMUNICATIONS SERVICES. Those terms as defined in § 102 of the Michigan Telecommunications Act, Public Act 179 of 1991, being M.C.L.A. § 484.2102. ***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 § 332(d) of Part I of the Communications Act of 1934, Chapter 652, 48 Stat. 1064, 47 U.S.C. 332 and further defined as commercial mobile radio service in 47 C.F.R. § 20.3, or service

provided by any wireless, 2-way communication device. For the purpose of the Act and this chapter only, a provider also includes all of the following:

(a) A cable television operator that provides a telecommunications service;

(b) Except as otherwise provided by the Act, a person who owns telecommunication facilities located within a public right-of-way; and

(c) A person providing broadband internet transport access service.

(Ord. passed 3-10-2003)

§ 115.04 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 chapter.

(B) *Application*. Telecommunications providers shall apply for a permit on an application form approved by the MPSC in accordance with § 6(1) of the Act. A telecommunications provider shall file one copy of the application with the City Clerk, one copy with the City Manager, and one copy with the City Attorney. 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 § 6(5) of the Act.

(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 442 of 1976, being M.C.L.A. §§ 15.231 to 15.246, pursuant to § 6(5) of the Act, 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 1-time non-refundable application fee in the amount of $500.

(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 the 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 § 6(2) of the Act.

(F) *Previously issued permits*. Pursuant to § 5(1) of the Act, authorizations or permits previously issued by the city under § 251 of the Michigan Telecommunications Act, Public Act 179, being M.C.L.A. § 484.2251 and authorizations or permits issued by the city to telecommunications providers prior to the 1995 enactment of § 251 of the Michigan Telecommunications Act but after 1985 shall satisfy the permit requirements of this chapter.

(G) *Existing providers*. Pursuant to § 5(3) of the Act, 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 § 251 of the Michigan Telecommunications act, Public Act 179 of 1991, being M.C.L.A. § 484.2251, shall submit to the city an application for a permit in accordance with the requirements of this chapter. Pursuant to § 5(3) of the Act, a telecommunications provider submitting an application under this division is not required to pay the $500 application fee required under division (D) above. A provider under this division shall be given up to an additional 180 days to submit the permit application if allowed by the Authority, as provided in § 5(4) of the Act.

(Ord. passed 3-10-2003)

§ 115.05 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 § 15(3) of the Act, 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 § 4(b) of this chapter for access to a public right-of-way within the city. Pursuant to § 6(6) of the Act, 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 §§ 6(1), 6(2) and 15 of the Act.

(C) *Conditions*. Pursuant to § 15(4) of the Act, 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*.

(1) Pursuant to § 15(3) of the Act, and without limitation on division (C) above, the City Manager may require that a bond be posted by the telecommunications provider as a condition of the permit.

(2) 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. passed 3-10-2003)

§ 115.06 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. No fee shall be charged for such a construction or engineering permit.

(Ord. passed 3-10-2003)

§ 115.07 CONDUIT OR UTILITY POLES.

Pursuant to § 4(3) of the Act, obtaining a permit or paying the fees required under the Act or under this chapter does not give a telecommunications provider a right to use conduit or utility poles.

(Ord. passed 3-10-2003)

§ 115.08 ROUTE MAPS.

(A) Pursuant to § 6(7) of the Act, 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.

(B) The route maps should be in (paper or electronic) format unless and until the MPSC determines otherwise, in accordance with § 6(8) of the Act.

(Ord. passed 3-10-2003)

§ 115.09 REPAIR OF DAMAGE.

Pursuant to § 15(5) of the Act, 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. passed 3-10-2003)

§ 115.10 ESTABLISHMENT AND PAYMENT OF MAINTENANCE FEE.

In addition to the non-refundable application fee paid to the city set forth in § 115.04(D) above, 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 § 8 of the Act.

(Ord. passed 3-10-2003)

§ 115.11 MODIFICATION OF EXISTING FEES.

(A) In compliance with the requirements of § 13(1) of the Act, 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.

(B) In compliance with the requirements of § 13(4) of the Act, 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 § 8 of the Act.

(C) The city shall provide each telecommunications provider affected by the fee with a copy of this chapter, in compliance with the requirement of § 13(4) of the Act.

(D) 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, the 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. passed 3-10-2003)

§ 115.12 SAVINGS CLAUSE.

Pursuant to § 13(5) of the Act, if § 8 of the Act is found to be invalid or unconstitutional, the modification of fees under § 115.11 above shall be void from the date the modification was made.

(Ord. passed 3-10-2003)

§ 115.13 USE OF FUNDS.

Pursuant to § 10(4) of the Act, all amounts received by the city from the Authority shall be used by the city solely for rights-of-way related purposes. In conformance with that requirement, all funds received by the city from the Authority shall be deposited into the major street fund and/or the local street fund maintained by the city under Public Act 51 of 1951, being M.C.L.A. §§ 247.651 - 247.675.

(Ord. passed 3-10-2003)

§ 115.14 ANNUAL REPORT.

Pursuant to § 10(5) of the Act, the City Manager shall file an annual report with the Authority on the use and disposition of funds annually distributed by the Authority.

(Ord. passed 3-10-2003)

§ 115.15 CABLE TELEVISION OPERATORS.

Pursuant to § 13(6) of the Act, 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. passed 3-10-2003)

§ 115.16 EXISTING RIGHTS.

Pursuant to § 4(2) of the Act, except as expressly provided herein with respect to fees, this chapter 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. passed 3-10-2003)

§ 115.17 COMPLIANCE.

The city hereby declares that its policy and intent in adopting this chapter is to fully comply with the requirements of the Act, and the provisions 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:

(A) Exempting certain route maps from the Freedom of Information Act, Public Act 442 of 1976, being M.C.L.A. §§ 15.231 to 15.246, as provided in § 115.04(C) above;

(B) Allowing certain previously issued permits to satisfy the permit requirements hereof, in accordance with § 115.04(F) above;

(C) Allowing existing providers additional time in which to submit an application for a permit, and excusing the providers from the $500 application fee, in accordance with § 115.04(G) above;

(D) 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 § 115.05(A) above;

(E) Notifying the MPSC when the city has granted or denied a permit, in accordance with § 115.05(A) above;

(F) Not unreasonably denying an application for a permit, in accordance with § 115.05(A) above;

(G) Issuing a permit in the form approved by the MPSC, with or without additional or different permit terms, as provided in § 115.05(B) above;

(H) 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 § 115.05(C) above;

(I) 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 § 115.05(D) above;

(J) Not charging any telecommunications providers any additional fees for construction or engineering permits, in accordance with § 115.06 above;

(K) Providing each telecommunications provider affected by the city's right-of-way fees with a copy of this chapter, in accordance with § 115.11 above;

(L) Submitting an annual report to the Authority, in accordance with § 115.14 above; and

(M) Not holding a cable television operator in default for a failure to pay certain franchise fees, in accordance with § 115.15 above.

(Ord. passed 3-10-2003)

§ 115.18 RESERVATION OF POLICE POWERS.

Pursuant to § 15(2) of the Act, this chapter 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. passed 3-10-2003)

§ 115.19 AUTHORIZED CITY OFFICIALS.

The City Manager or his or her designee is hereby designated as the authorized city official to issue municipal civil infraction citations (directing alleged violators to appear in court) or municipal civil infraction violation notices (directing alleged violators to appear at the municipal chapter violations bureau) for violations under this chapter as provided by the city code.

(Ord. passed 3-10-2003)

§ 115.20 MUNICIPAL CIVIL INFRACTION.

A person who violates any provision of this chapter or the terms or conditions of a permit is responsible for a municipal civil infraction, and shall be subject to Chapter 10 General Provisions, §§ 10.21 and 10.22. 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 chapter or a permit.

(Ord. passed 3-10-2003)

CHAPTER 116: SMALL CELL WIRELESS FACILITIES

Section

§ 116.01 DEFINITIONS.

For purposes of this chapter, the following words, terms and phrases shall be defined as follows:

ACT. The Public Act 365 of 2018, as amended, the Small Wireless Communications Facilities Deployment Act.

CO-LOCATE. To install, mount, maintain, modify, operate, or replace wireless facilities on or adjacent to a wireless support structure or utility pole. ***CO-LOCATION*** has a corresponding meaning. ***CO-LOCATE*** does not include make-ready work or the installation of a new utility pole or new wireless support structure.

PUBLIC RIGHT-OF-WAY or ***ROW.*** The area on, below, or above a public roadway, highway, street, alley, bridge, sidewalk, or utility easement dedicated for compatible uses. ***PUBLIC RIGHT-OF-WAY*** does not include any of the following:

(1) A private right-of-way.

(2) A limited access highway.

(3) Land owned or controlled by a railroad as defined in § 109 of the Railroad Code of 1993, 1993 PA 354, M.C.L.A. 462.109.

(4) Railroad infrastructure.

SMALL CELL WIRELESS FACILITY. A wireless facility that meets both of the following requirements:

(1) Each antenna is located inside an enclosure of not more than six cubic feet in volume or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements would fit within an imaginary enclosure of not more than six cubic feet.

(2) All other wireless equipment associated with the facility is cumulatively not more than 25 cubic feet in volume. The following types of associated ancillary equipment are not included in the calculation of equipment volume: electric meters, concealment elements, telecommunications demarcation boxes, grounding equipment, power transfer switches, cut-off switches, and vertical cable runs for the connection of power and other services.

UTILITY POLE. A pole or similar structure that is or may be used in whole or in part for cable or wireline communications service, electric distribution, lighting, traffic control, signage, or a similar function, or a pole or similar structure that meets the height requirements in 13(5) of the Act and is designed to support small cell wireless facilities. ***UTILITY POLE*** does not include a sign pole less than 15 feet in height above ground.

WIRELESS FACILITY. Equipment at a fixed location that enables the provision of wireless services between user equipment and a communications network, including, but not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration. ***WIRELESS FACILITY*** includes a small cell wireless facility. ***WIRELESS FACILITY*** does not include any of the following:

(1) The structure or improvements on, under, or within which the equipment is co-located.

(2) A wireline backhaul facility.

(3) Coaxial or fiber-optic cable between utility poles or wireless support structures or that otherwise is not immediately adjacent to or directly associated with a particular antenna.

WIRELESS INFRASTRUCTURE PROVIDER. Any person, including a person authorized to provide telecommunications services in this state but not including a wireless services provider, that builds or installs wireless communication transmission equipment, wireless facilities, or wireless support structures and who, when filing an application with the city under this chapter, provides written authorization to perform the work on behalf of a wireless services provider.

WIRELESS PROVIDER. A wireless infrastructure provider or a wireless services provider. ***WIRELESS PROVIDER*** does not include an investor-owned utility whose rates are regulated by the MPSC.

WIRELESS SERVICES. Any services, provided using permitted or unpermitted spectrum, including the use of Wi-Fi, whether at a fixed location or mobile.

WIRELESS SERVICES PROVIDER. A person that provides wireless services.

WIRELESS SUPPORT STRUCTURE. A freestanding structure designed to support or capable of supporting small cell wireless facilities. ***WIRELESS SUPPORT STRUCTURE*** does not include a utility pole.

All other terms and phrases used herein shall be defined consistent with the Act.

(Ord. 190826-1, passed 8-26-2019)

§ 116.02 PERMIT REQUIRED.

A wireless provider may not co-locate a small cell wireless facility or install, modify, or replace a utility pole or wireless support structure on which a small cell wireless facility will be co-located within the public right-of-way without first applying for and receiving a small cell wireless permit from the city in a form and subject to such terms and conditions as are acceptable to the city.

(Ord. 190826-1, passed 8-26-2019)

§ 116.03 PERMITTING PROCESS.

The processing of an application for a permit under this chapter is subject to all of the following:

(A) An application in such form as prepared by the city shall be completed and submitted as set forth in this chapter.

(B) The city may require an applicant to provide information and documentation to enable the city to make a compliance determination with regard to the criteria in this chapter involving, without limitation, 116.04(C). The city may also require a certificate of compliance with FCC rules related to radio frequency emissions from a small cell wireless facility.

(C) If the proposed activity will occur within a shared ROW or an ROW that overlaps another ROW, a wireless provider shall provide, to each affected jurisdiction, to which an application for the activity is not submitted, notification of the wireless provider's intent to locate a small cell wireless facility within the ROW. The city may require proof of other necessary permits, permit applications, or easements to ensure all necessary permissions for the proposed activity are obtained.

(D) The city may require an applicant to attest that the small cell wireless facilities will be operational for use by a wireless services provider within one year after the permit issuance date, unless the city and the applicant agree to extend this period or delay is caused by lack of commercial power or communications transport facilities to the site.

(E) An applicant may, at the applicant's discretion, file a consolidated application and receive a single permit for the co-location of up to 20 small cell wireless facilities within the city. The small cell wireless facilities within a consolidated application must consist of substantially similar equipment and be placed on similar types of utility poles or wireless support structures. The city may approve a permit for one or more small cell wireless facilities included in a consolidated application and deny a permit for the remaining small cell facilities.

(F) The application for a permit under this chapter shall be accompanied by an application fee as set by resolution of the city from time to time.

(G) The permit application shall be accompanied by a map(s) for any proposed small cell wireless facilities which shall be legible, to scale, labeled with streets, and contain sufficient detail to precisely identify the proposed small cell wireless facilities' locations and surroundings. Where applicable, the required map(s) shall include and identify any requested pole height(s), all attachments and detailed drawings of any attachment.

(H) The permittee shall field-stake all proposed locations for small cell wireless facilities which shall be subject to the advance approval of the city, Allegan County Road Commission and/or the Michigan Department of Transportation, as applicable. All approved small cell wireless facilities' locations shall be on a per pole/equipment/other basis.

(I) Once precise locations have been approved, the permittee shall provide latitude and longitude coordinates for the small cell wireless facilities' locations to the city's engineering department as well as detailed as-built drawings within 90 days of the completion of installation.

(J) The permittee shall be responsible to obtain such other permits and approvals as otherwise required by law.

(Ord. 190826-1, passed 8-26-2019)

§ 116.04 DETERMINATION.

(A) Within 25 days after receiving an application, the city shall notify the applicant in writing whether the application is complete. If the application is incomplete, the notice shall clearly and specifically identify all missing documents or information.

(B) Upon receipt of a complete application, the city shall approve or deny the application and notify the applicant in writing within the following period of time after the completed application is received:

(1) For an application for the co-location of small cell wireless facilities on a utility pole, 60 days, subject to the following adjustments:

(a) Add 15 days if an application from another wireless provider was received within one week of the application in question.

(b) Add 15 days if, before the otherwise applicable 60-day or 75-day time period elapses, the city notifies the applicant in writing that an extension is needed and the reasons for the extension.

(2) For an application for a new or replacement utility pole that meets the height requirements of 13(5)(a) of the Act and associated small cell facility, 90 days, subject to the following adjustments:

(a) Add 15 days if an application from another wireless provider was received within one week of the application in question.

(b) Add 15 days if, before the otherwise applicable 90-day or 105-day time period elapses, the city notifies the applicant in writing that an extension is needed and the reasons for the extension.

(3) If the city fails to comply with this division (B), an application otherwise complete is considered to be approved subject to the condition that the applicant provide the city not less than 7 days'

advance written notice that the applicant will be proceeding with the work pursuant to this automatic approval and the applicant shall be responsible to comply with all provisions of this chapter and the Act.

(4) The city and an applicant may extend a time period under this subsection by mutual agreement.

(C) The city may deny a completed application for a proposed co-location of a small cell wireless facility or installation, modification, or replacement of a utility pole that meets the height requirements in 13(5)(a) of the Act if the proposed activity would do any of the following:

(1) Materially interfere with the safe operation of traffic control equipment.

(2) Materially interfere with sight lines or clear zones for transportation or pedestrians.

(3) Materially interfere with compliance with the Americans with Disabilities Act of 1990, Public Law 101-336, or similar federal, state, or local standards regarding pedestrian access or movement.

(4) Materially interfere with maintenance or full unobstructed use of public utility infrastructure under the jurisdiction of the city.

(5) With respect to drainage infrastructure under the jurisdiction of the city, either of the following:

(a) Materially interfere with maintenance or full unobstructed use of the drainage infrastructure as it was originally designed.

(b) Not be located a reasonable distance from the drainage infrastructure to ensure maintenance under the drain code of 1956, 1956 PA 40, M.C.L.A. 280.1 to 280.630, and access to the drainage infrastructure.

(6) Fail to comply with reasonable, nondiscriminatory, written spacing requirements of general applicability adopted by the city by ordinance or otherwise that apply to the location of ground-mounted equipment and new utility poles and that do not prevent a wireless provider from serving any location.

(7) Fail to comply with applicable codes.

(8) Fail to comply with any provision of this chapter.

(9) Fail to meet reasonable, objective, written stealth or concealment criteria for small cell wireless facilities applicable in a historic district or other designated area, as specified in an ordinance or otherwise and nondiscriminatorily applied to all other occupants of the ROW, including electric utilities, incumbent or competitive local exchange carriers, fiber providers, cable television operators, and the city.

(D) Within one year after a permit is granted, a wireless provider shall complete co-location of a small cell wireless facility that is to be operational for use by a wireless services provider, unless the city and the applicant agree to extend this period or the delay is caused by the lack of commercial power or communications facilities at the site. If the wireless provider fails to complete the co-location within the applicable time, the permit is void, and the wireless provider may reapply for a permit.

(E) Approval of an application authorizes the wireless provider to do both of the following:

(1) Undertake the installation or co-location.

(2) Subject to relocation requirements that apply to similarly situated users of the ROW and the applicant's right to terminate at any time, maintain the small cell wireless facilities and any associated

utility poles or wireless support structures covered by the permit for so long as the site is in use and in compliance with the initial permit under this chapter.

(F) The city may propose an alternate location within the ROW or on property or structures owned or controlled by the city within 75 feet of the proposed location to either place the new utility pole or co-locate on an existing structure. The applicant shall use the alternate location if, as determined by the applicant, the applicant has the right to do so on reasonable terms and conditions and the alternate location does not impose unreasonable technical limits or significant additional costs. The city may request written confirmation of any decision rendered by the applicant under this subsection and the specific basis for the same.

(G) Nothing herein shall prohibit the city from requiring a separate ROW access permit for work that will unreasonably affect traffic patterns or obstruct vehicular or pedestrian traffic in the ROW.

(H) As a condition of the issuance of a permit, the applicant shall obtain and maintain a bond, in the amount of $1,000.00 per small cell wireless facility, in a form reasonably satisfactory to the city, for the small cell wireless facilities as applicable to similarly situated users of the ROW for one or more of the following purposes:

(1) To provide for the removal of abandoned or improperly maintained small cell wireless facilities, including those that an authority determines should be removed to protect public health, safety, or welfare.

(2) To repair the ROW as provided under the Act.

(3) To recoup rates or fees that have not been paid by a wireless provider in more than 12 months, if the wireless provider has received 60-day advance notice from the authority of the noncompliance.

(I) It is a condition of any permit issued under this chapter that:

(1) A wireless provider, with respect to a small cell wireless facility, a wireless support structure, or a utility pole, shall defend, indemnify, and hold harmless the city and its officers, agents, and employees against any claims, demands, damages, lawsuits, judgments, costs, liens, losses, expenses, and attorney fees resulting from the installation, construction, repair, replacement, operation, or maintenance of any wireless facilities, wireless support structures, or utility poles to the extent caused by the applicant, its contractors, its subcontractors, and the officers, employees, or agents of any of these. A wireless provider has no obligation to defend, indemnify, or hold harmless the city, or the officers, agents, or employees of the city or governing body against any liabilities or losses due to or caused by the sole negligence of the city or its officers, agents, or employees.

(2) A wireless provider, with respect to a small cell wireless facility, a wireless support structure, or a utility pole, shall obtain insurance, in an amount and of a type reasonably satisfactory to the city, naming the city and its officers, agents, and employees as additional insureds against any claims, demands, damages, lawsuits, judgments, costs, liens, losses, expenses, and attorney fees. A wireless provider may meet all or a portion of the city's insurance coverage and limit requirements by self-insurance. To the extent it self-insures, a wireless provider is not required to name additional insureds under this subsection. To the extent a wireless provider elects to self-insure, the wireless provider shall provide to the city evidence demonstrating, to the city's satisfaction, the wireless provider's financial ability to meet the city's insurance coverage and limit requirements.

(3) It is the policy of the city to encourage the co-location of small cell wireless facilities first, outside of public rights-of-way and, secondarily, within the public rights-of-way. The co-location of uses shall be a condition of approval of any permit granted for a new wireless support structure or utility pole in the public right-of-way; provided, however, that the co-location requirement may be waived if the pole or support structure is disguised or stealthed so as to blend with the immediate environment (e.g., streetlights, power poles, etc.).

(Ord. 190826-1, passed 8-26-2019)

§ 116.05 METRO ACT PERMIT.

No person shall install or operate "telecommunications facilities," as defined in the Metropolitan Extension Telecommunications Rights-Of-Way Oversight Act, Act No. 48 of the Public Acts of 2002, as amended (the "Act") without first obtaining a permit in accordance with that Act from the city, including any part of a small cell wireless facility, utility pole, or wireless support structure constituting telecommunication facilities.

(Ord. 190826-1, passed 8-26-2019)

§ 116.06 DESIGN PARAMETERS.

The following minimal design parameters shall apply to small cell wireless facilities, utility poles and wireless support structures in the city's public rights-of-way:

(A) A wireless provider may, as a permitted use not subject to zoning review or approval, but still subject to approval by the city under this chapter, co-locate small cell wireless facilities and construct, maintain, modify, operate, or replace utility poles in, along, across, upon, and under the ROW consistent with the following:

(1) A utility pole in the ROW installed or modified on or after the effective date of the Act shall not exceed 40 feet above ground level, unless a taller height is agreed to by the city consistent with all applicable laws.

(2) A small cell wireless facility in the ROW installed or modified after the effective date of the Act shall not extend more than five feet above a utility pole or wireless support structure on which the small cell wireless facility is co-located.

(B) Such structures and facilities shall be constructed and maintained so as not to obstruct or hinder the usual travel or public safety on the ROW or obstruct the legal use of the city's ROW or uses of the ROW by other utilities and communications service providers.

(C) A wireless provider may co-locate a small cell wireless facility or install, construct, maintain, modify, operate, or replace a utility pole that exceeds the height limits under subsection (A), or a wireless support structure, in, along, across, upon, and under the ROW only upon issuance of a permit in accordance with this chapter and upon receiving zoning approvals required by the city.

(D) The following design and concealment measures shall apply to the co-location of any small cell wireless facility or utility pole in an historic, residential, or downtown district:

(1) Equipment on a supporting structure may not exceed an aggregate width of four feet (centered on pole) and shall be secured a minimum of ten feet from the ground surface or 18 feet where equipment may overhang the back of curb line. Ground level equipment or shelters are not permitted.

(2) Small cell wireless facilities shall be located no closer than 18 inches from an existing sidewalk/face of curb or 18 inches from a proposed future sidewalk/face of curb location.

(3) Small cell wireless facilities shall be located no closer than ten feet from any driveway.

(4) Small cell wireless facilities shall be located in line with a side lot line and not in front of a residence.

(5) Unless otherwise required by the Federal Communications Commission (FCC), the Federal Aviation Administration (FAA), or applicable codes poles shall either maintain a galvanized silver, gray or concrete finish or, subject to any applicable standards of the FAA, FCC or such codes, be painted a neutral color so as to reduce visual obtrusiveness.

(6) At all pole sites related equipment shall use materials, colors, textures, screening, and landscaping that will blend the facilities to the natural setting and environment to the extent reasonably practical.

(7) All poles shall be of monopole design and construction unless the city approves an alternate design. Disguising or stealthing poles is encouraged.

(8) Subject to the design parameters set forth above, a small cell wireless facility shall not be installed or collocated within 600 feet of an existing small cell wireless facility installed or collocated by the same wireless provider, except that microcell facilities as defined by the Act shall not be within 300 feet of an existing microcell facility installed or collocated by the same wireless provider. Shrouded pole equipment for concealment of all communication facility components shall be the default design for utility poles located within the right-of-way. Screening and/or camouflage may be required based on the location of the proposed wireless facility. A proposed facility may not obstruct the clear vision area of any intersection, obstruct pedestrian movement, interfere with traffic signals, or cause damage to trees or light poles.

(9) Any such requirements shall not have the effect of prohibiting any wireless provider's technology.

(E) A wireless provider shall comply with any city requirements that prohibit communications service providers from installing structures on or above ground in the ROW in an area designated solely for underground or buried cable and utility facilities if each of the following apply:

(1) The city has required all cable and utility facilities, other than city poles, along with any attachments, or poles used for street lights, traffic signals, or other attachments necessary for public safety, to be placed underground by a date that is not less than 90 days before the submission of the wireless provider's application.

(2) The city does not prohibit the replacement of city poles by a wireless provider in the designated area.

(Ord. 190826-1, passed 8-26-2019)

§ 116.07 MODIFICATION OF DESIGN PARAMETERS.

(A) Upon the written request of an applicant for a permit, the City Council may modify or waive the design parameters of § 116.06(D) and 116.06(E) in its discretion following a hearing and based on its review of factors affecting the public health, safety and welfare including, but not limited to, the following:

(1) The presence of existing poles or other structures or equipment in the immediate vicinity;

(2) The ability to reasonably comply with the design parameters set forth in § 116.06(D) and 116.06(E);

(3) The visual and aesthetic impact of the proposed pole, antenna or facilities on the adjacent area;

(4) The existing and planned character of the adjacent area;

(5) Public comment;

(6) The scale and scope of the poles, antennas or facilities relative to the existing character of the area;

(7) Whether granting the modification will adversely impact public safety; and

(8) The recommendations of city department heads (if any).

(B) Following its review, the City Council may grant, deny or grant with conditions a request to modify or waive the design parameters and shall provide its decision and the basis for the same to the applicant in writing. All applications for a waiver or modification of the design parameters as set forth herein shall be addressed in a uniform and nondiscriminatory manner. The applicant shall be responsible to pay all costs of the city associated with the request to modify or waive the design parameters.

(Ord. 190826-1, passed 8-26-2019)

§ 116.08 REPAIR OF ROW.

As a condition to the issuance of a permit under this chapter, a wireless provider is required to repair all damage to the ROW directly caused by the activities of the wireless provider while occupying, constructing, installing, mounting, maintaining, modifying, operating, or replacing small cell wireless facilities, utility poles, or wireless support structures in the ROW and to return the ROW to its functional equivalent before the damage. If the wireless provider fails to make the repairs required by the city within 60 days after written notice, the city may make those repairs and charge the wireless provider the reasonable, documented cost of the repairs.

(Ord. 190826-1, passed 8-26-2019)

§ 116.09 DISCONTINUANCE OF USE.

Before discontinuing its use of a small cell wireless facility, utility pole, or wireless support structure, a wireless provider shall notify the city in writing. The notice shall specify when and how the wireless provider intends to remove the small cell wireless facility, utility pole, or wireless support structure. The city may impose reasonable and nondiscriminatory requirements and specifications for the wireless provider to return the property to its pre-installation condition. If the wireless provider does not complete the removal within 45 days after the discontinuance of use, the city may complete the removal and assess the costs of removal against the wireless provider. A permit under this chapter for a small cell wireless facility expires upon removal of the small cell wireless facility.

(Ord. 190826-1, passed 8-26-2019)

§ 116.10 REVOCATION OF PERMIT.

The city may revoke a permit, upon 30 days' notice and an opportunity to cure, if the permitted small cell wireless facilities and any associated utility pole fail to meet the requirements of § 116.04(C).

(Ord. 190826-1, passed 8-26-2019)

§ 116.11 COMPLIANCE WITH APPLICABLE LAW.

The permittee shall be responsible to comply with all applicable legal requirements and to obtain any permits or approvals otherwise required by law relative to the installation or operation of small cell wireless facilities in the city's public rights-of-way (e.g., electrical permits). The city, in reviewing and authorizing a permit under the Act and/or a permit referred to in this chapter, and the permittee, in the establishment and operation of any small cell wireless facilities, shall comply with all applicable federal and state laws.

(Ord. 190826-1, passed 8-26-2019)

§ 116.12 FEES.

Fees for the permits as authorized under the Act shall be as provided for in the Act or those documents and as periodically authorized by resolution of the City Council; provided, however, that for installations of utility poles designed to support small cell wireless facilities or co-locations of small cell

wireless facilities installed and operational in the ROW before the effective date of the Act, the fees, rates, and terms of an agreement or ordinance for use of the ROW remain in effect subject to the termination provisions contained in the agreement or ordinance.

(Ord. 190826-1, passed 8-26-2019)

§ 116.13 POLICY IMPLEMENTATION.

The city may promulgate rules and policies consistent with the Act and may make amendments to design parameters or stealth, spacing and concealment criteria that are reasonable, technically feasible and technologically neutral.

(Ord. 190826-1, passed 8-26-2019)

TITLE XIII: GENERAL OFFENSES

Chapter

CHAPTER 130: DISORDERLY CONDUCT

Section

GENERAL

§ 130.01 WINDOW PEEPING.

It shall be unlawful for any person to look, peer or peep into, or be found loitering around, or within view of, any window not on his or her own property, with the intent of looking through the window in such a manner as would be likely to interfere with the occupant's reasonable expectation of privacy, without the occupant's express or implied consent.

(Ord. passed 5-24-2004) Penalty, see § 10.99

Statutory reference:

Such person defined as a disorderly person, see M.C.L.A. § 750.167(1)(c)

§ 130.02 BEGGING.

It shall be unlawful for any person within the city to beg in a public place from passers-by, either by words, gestures or by the exhibiting of a sign.

(Ord. passed 5-24-2004) Penalty, see § 10.99

Statutory reference:

Persons found begging in a public place defined as disorderly persons, see M.C.L.A. § 750.167(1)(h)

§ 130.03 NON-DISCRIMINATION.

(A) *Title of section*. This section shall be known and may be cited as the "Non-Discrimination Ordinance".

(B) *Purpose*. It is the purpose of this section and the policy of the City of Saugatuck to promote the equal treatment of all individuals and to assure equal opportunity to all persons in the areas of employment, housing, public accommodations and public services. Discrimination based upon race, color, religion, gender, age, height, weight, marital status, sexual orientation, national origin, occupation or physical or mental limitation is contrary to the keeping of the peace, goodwill and harmony among the citizens of Saugatuck.

(C) *Definitions*. For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

AGE. An individual's chronological age.

COLOR. An individual's skin pigmentation.

DISCRIMINATE. Without limitation, any act which because of race, color, religion, gender, age, height, weight, marital status, sexual orientation, national origin, or physical or mental limitation results in the unequal treatment or separation of any person, or denies, prevents, limits or otherwise adversely affects the benefit, use of, or enjoyment of any person, of employment, ownership or occupancy of real property or public accommodations and public services.

EMPLOYMENT. The act of hiring, retaining or promoting of a person to perform the duties of a particular job or position.

GENDER. The real or perceived sex, gender identity or gender expression.

HEIGHT OR WEIGHT. The physical characteristics of an individual as it relates to that individual's size.

HOUSING. The opportunity to purchase, lease, sell, hold, rent, use or convey dwelling units.

MARITAL STATUS. The state of being single, married, separated, widowed or divorced.

MENTAL LIMITATION. A limitation of physical capabilities unrelated to one's ability to safely perform the work involved in jobs available to that person for hire or promotion; a limitation of mental capabilities unrelated to one's ability to acquire, rent and maintain property; or a limitation of mental capabilities unrelated to one's ability to utilize and benefit from the goods, services, activities, privileges and accommodations of a place of public accommodation. ***MENTAL LIMITATION*** includes, but is not limited to: developmental disabilities, psychological and the like. ***MENTAL LIMITATION*** does not include any condition caused by the current illegal use of a controlled substance.

NATIONAL ORIGIN. A country or nation outside of the United States of America from which a person or person's ancestor originated.

OCCUPATION. A person's usual or principal work or business, esp. as a means of earning a living; vocation.

PERSON. An individual, firm, partnership, corporation, association, organization, trustee, receiver or other fiduciary.

PHYSICAL LIMITATION. A limitation of physical capabilities unrelated to one's ability to safely perform the work involved in jobs or positions available to such person for hire or promotion; a limitation of physical capabilities unrelated to one's ability to acquire, rent and maintain property; or a limitation of physical capabilities unrelated to one's ability to utilize and benefit from the goods, services, activities, privileges and accommodations. ***PHYSICAL LIMITATION*** includes, but is not limited to: blindness, or partial sightedness, deafness or hearing impairment. ***PHYSICAL LIMITATION*** does not include any condition caused by the illegal use of a controlled substance.

PUBLIC ACCOMMODATIONS and ***PUBLIC SERVICES.*** The full and equal access to any educational, cultural, governmental, health care, accommodation, business or other facility of any kind, whose goods, services, facilities, privileges, advantages or accommodations are extended, offered, sold or otherwise made available to the public, or which receive financial support through the solicitation of the general public or through governmental subsidy of any kind.

RACE. A body of people united by a common history or nationality.

RELIGION. A personal set or institutionalized system of religious beliefs, observances and practices.

SEXUAL ORIENTATION. Male or female heterosexuality, homosexuality or bisexuality, real or perceived through either orientation or practice.

(D) *Prohibited acts*. No person or persons shall discriminate against any person or persons within the City of Saugatuck regarding employment, housing, public accommodations or public services on the basis of that person's race, color, religion, gender, age, height, weight, marital status, sexual orientation, national origin, occupation or physical or mental limitation. This section shall not be construed to be preempted by state or federal statute.

(E) *Exemptions*.

(1) *Private club exemption*. The prohibition of division (D) above shall not apply to a private club, or other establishment not in fact open to the public, except to the extent that the goods, services, facilities, privileges, advantages or accommodations of the private club or establishment are made available to the customers or patrons of another establishment that is a place of public accommodation or is licensed by the state under Public Act 8 of 1933, being M.C.L.A. §§ 436.1101 *et seq.*, the Michigan Liquor Control Act, as amended.

(2) *Religious exemption*. The prohibition of division (D) above shall not apply to a religious education institution or an educational institution operated, supervised or controlled by a religious institution or organization which limits admission or gives preference to an applicant of the same religion.

(3) *Private residence exemption*. The prohibition of division (D) above shall not apply to:

(a) The rental of housing accommodations in a building which contains housing accommodations for not more than two families living independently of each other if the owner or a member of the owner's immediate family resides in one of the housing accommodations, or to the rental of a room or rooms in a single-family dwelling by a person if the lessor or a member of the lessor's immediate family resides in the dwelling;

(b) The rental of housing accommodations for not more than 12 months by the owner or lessor where the accommodations were occupied by him or her and maintained as his or her home for at least three months immediately preceding occupancy by the tenant and is temporarily vacated while maintaining legal residence; or

(c) With respect to the age provision only, the sale, rental or lease of housing accommodations meeting the requirements of federal, state or local housing programs for senior citizens, or accommodations otherwise intended, advertised, designed or operated, bona fide, for the purpose of providing housing accommodations for persons 50 years of age or older.

(4) *Bona fide occupational qualification exemption*. The prohibition of division (D) above with respect to employment only, shall not apply where a protected classification set forth in division (D) above is a bona fide occupational qualification reasonably necessary to the normal operation of a business or enterprise. A person shall have the burden of establishing that the qualification is reasonably necessary to the normal operation of the business or enterprise.

(5) *Private education institution exemption*. The prohibition of division (D) above relating to gender only shall not apply to an educational institution which now or hereafter provides an education to persons of one gender.

(6) *Governmental exemption*. The prohibition of division (D) above shall not apply to any action by a governmental agency where a person's qualification is expressly limited by statute, charter, ordinance or policy as otherwise provided by law.

(F) *Filing of complaint*. Any person or persons claiming to be aggrieved (complainant) by an unfair or discriminatory practice that the complainant reasonably believes to be a violation of division (D) above may file a complaint in writing with the City Manager or City Clerk. The written complaint shall follow the form provided by the city and be filed within 60 days of the alleged discriminatory act.

(G) *Notification*.

(1) Following the filing of a complaint, the City Manager or his or her designee shall notify the respondent in writing of the complaint, include a copy of the complaint, and provide the respondent the opportunity to respond to the allegations.

(2) The respondent may admit the act of discrimination and pay the city civil infraction fee of $500 as provided for in the City of Saugatuck code of ordinances, Title I, Section 10.99, or disagree and respond in writing to the City Manager or City Clerk.

(3) If the respondent does not reply to the written notice of the City Manager conveying the alleged complaint, the complaint will be deemed to have been denied by the respondent.

(H) *Record keeping and recommendations*. The City Clerk shall keep a record of all complaints filed and the resolution thereof. The City Manager or City Clerk shall also make recommendations as needed to the City Council as to the need for amendments and changes to this section. The City Clerk and City Manager shall communicate and share information to the extent required to effect the provisions of this section.

(I) *Administrative liability*. No city officer, agent or employee or member of the City Council shall be personally liable for any damage that may accrue to any person, firm, association, corporation,

partnership, joint venture or combination of any of them as the result of any act, decision or other consequence of occurrence arising out of the discharge of duties and responsibilities pursuant to this section.

(J) *Penalty*. No penalty shall apply to a violation of this chapter beyond that provided herein.

(Ord. 070827-1, passed 8-27-2007)

§ 130.04 SPITTING.

It shall be unlawful for any person to spit on any street or sidewalk or in any public carrier, public building or place of public assemblage.

(Ord. passed 5-24-2004) Penalty, see § 10.99

OFFENSES AFFECTING GOVERNMENTAL FUNCTIONS

§ 130.15 FALSE ALARM OF FIRE.

Any person who shall knowingly and willfully commit any one or more of the following actions shall be guilty of a misdemeanor:

(A) Raise a false alarm of fire at any gathering or in any public place;

(B) Ring any bell or operate any mechanical apparatus, electrical apparatus or combination thereof, for the purpose of creating a false alarm of fire; or

(C) Raise a false alarm of fire orally, by telephone or in person.

(Ord. passed 5-24-2004) Penalty, see § 10.99

Statutory reference:

Similar provisions, see M.C.L.A. § 750.240

§ 130.16 RESISTING OFFICER.

It shall be unlawful for any person to resist any police officer or other law enforcement agent while in the discharge or apparent discharge of his or her duty, or in any way interfere with or hinder him or her in the discharge of his or her duty.

(Ord. passed 5-24-2004) Penalty, see § 10.99

Statutory reference:

Resisting officer in discharge of duty, see M.C.L.A. § 750.479

§ 130.17 IMPERSONATION OF OFFICERS.

It shall be unlawful for any person to falsely assume or pretend to be an employee of the city, an employee of the county, an employee of the state, or an employee of any public utility for the purpose of gaining entry into any home or business located in the city.

(Ord. passed 5-24-2004) Penalty, see § 10.99

Statutory reference:

False personation of officers, see M.C.L.A. § 750.215

§ 130.18 OBSTRUCTING; DISOBEYING FIREFIGHTERS.

It shall be unlawful for any person within the city to knowingly and willfully hinder, obstruct or interfere with any firefighter in the performance of his or her duties or who shall, while in the vicinity of any fire, willfully disobey and/or disregard any order, rule or regulation of the officer commanding any Fire Department at the fire.

(Ord. passed 5-24-2004)

CHAPTER 131: OFFENSES AGAINST THE PERSON

Section

§ 131.01 NON-SUPPORT OF FAMILY.

It shall be unlawful for any person of sufficient ability within the city to refuse or neglect to support his or her family.

(Ord. passed 5-24-2004) Penalty, see § 10.99

Statutory reference:

Desertion and non-support, see M.C.L.A. § 750.161

Person neglecting family deemed a disorderly person, see M.C.L.A. § 750.167(1)(a)

§ 131.02 DELIBERATE ANNOYANCE OF OTHERS.

No person shall accost, molest or otherwise annoy either by word of mouth, whistle or by sign or motion, any person in any public place.

(Ord. passed 5-24-2004) Penalty, see § 10.99

CHAPTER 132: OFFENSES AGAINST PROPERTY

Section

§ 132.01 MALICIOUS DESTRUCTION OF PUBLIC PROPERTY.

It shall be unlawful for any person within the city to maliciously destroy, damage, injure, mar or deface any building, monument, sign, notice, structure, fence, tree, shrub, plant, park or public

property of any kind which is owned, controlled or managed by the state, county, city, any school district within the city, or by any other unit or agency of government whose operating budget is raised in whole or in part by public taxation, or to commit any act of vandalism on or in any such property.

(Ord. passed 5-24-2004) Penalty, see § 10.99

§ 132.02 TAMPERING WITH UTILITY APPURTENANCES.

It shall be unlawful to tamper with, injure, deface, destroy or remove any sign, notice, marker, fire alarm box, fire hydrant, topographical survey instrument, water meter, traffic cone, barricade, water stopbox or any other personal property erected or placed by the city, or to make unauthorized taps into the water lines or any unauthorized use of fire hydrants.

(Ord. passed 5-24-2004) Penalty, see § 10.99

Statutory reference:

Tampering with property of utility, see M.C.L.A. § 750.383a

§ 132.03 TRESPASS.

Any person who shall willfully enter upon the lands or premises of another without lawful authority, after having been forbidden so to do, or after the lands or premises have been previously posted with a conspicuous notice forbidding any trespass thereon by the owner or occupant, or agent or servant of the owner or occupant, or any person being upon the land or premises of another, upon being notified to depart therefrom by the owner or occupant, or agent or servant of either, who, without lawful authority, neglects or refuses to depart therefrom, shall be guilty of a misdemeanor.

(Ord. passed 5-24-2004) Penalty, see § 10.99

Statutory reference:

Similar provisions, see M.C.L.A. § 750.552

§ 132.04 ENTERING GARDEN OR ORCHARD FOR UNLAWFUL PURPOSE.

It shall be unlawful for any person to enter any enclosed or unenclosed vegetable garden or orchard located within the city without the consent of the owner, or tenant, or his or her agent, and there cut down, injure, damage, destroy, poison, eat or carry away any portion of such garden, including any growing thing, crop, tree, timber, grass, seed, soil, fertilizer, water supply, tool, implement, fence or any other protective device or any other thing useful for the development, cultivation, maintenance and use of any such garden or orchard.

(Ord. passed 5-24-2004) Penalty, see § 10.99

§ 132.05 FRAUD.

It shall be unlawful for any person within the city to engage in any fraudulent scheme, device or trick to obtain money or other valuable thing, or to aid or abet, or in any manner to be concerned therein.

(Ord. passed 5-24-2004) Penalty, see § 10.99

Statutory reference:

Frauds and cheats, see M.C.L.A. §§ 750.271 et seq.

§ 132.06 LARCENY OF GOODS VALUED UP TO $100.

It shall be unlawful for any person within the city to steal or unlawfully take any money, goods, chattels or property of any other person, of the value of $100 or less.

(Ord. passed 5-24-2004) Penalty, see § 10.99

Statutory reference:

Similar provisions, see M.C.L.A. § 750.356

CHAPTER 133: OFFENSES AGAINST PUBLIC PEACE

Section

§ 133.01 PERMITTING GATHERING OF DISORDERLY PERSONS.

It shall be unlawful for any person within the city to permit or suffer any place occupied or controlled by him or her to be a resort of noisy, boisterous or disorderly persons.

(Ord. passed 5-24-2004) Penalty, see § 10.99

§ 133.02 LOITERING NEAR PLACE OF ILLEGAL OCCUPATION OR BUSINESS.

It shall be unlawful for any person within the city to knowingly loiter in or about any place where an illegal occupation or business is being conducted.

(Ord. passed 5-24-2004) Penalty, see § 10.99

Statutory reference:

Such person deemed a disorderly person, see M.C.L.A. § 750.167(1)(j)

§ 133.03 FIGHTING.

It shall be unlawful for any person within the city to engage in any disturbance, fight or quarrel in a public place.

(Ord. passed 5-24-2004) Penalty, see § 10.99

§ 133.04 JOSTLING.

It shall be unlawful for any person within the city to be found jostling or roughly crowding people unnecessarily in a public place.

(Ord. passed 5-24-2004) Penalty, see § 10.99

Statutory reference:

Such person defined as a disorderly person, see M.C.L.A. § 750.167(1)(1)

§ 133.05 DISTURBING GATHERINGS AND MEETINGS.

It shall be unlawful for any person within the city to willfully interrupt or disturb on any day of the week any assembly of people met for the worship of God within the place of the meeting or out of it, or to make or excite any disturbance or contention in any tavern, dance hall, beer garden, store or grocery, manufacturing establishment or any other business place or in any street, lane, alley, highway, public building, ground or park or at any election or other public meeting in the city where any persons are peaceably and lawfully assembled.

(Ord. passed 5-24-2004) Penalty, see § 10.99

Statutory reference:

Disturbance of religious worship, see M.C.L.A. §§ 750.169 and 752.525

Disturbing public places, see M.C.L.A. § 750.170

§ 133.06 UNLAWFUL ASSEMBLY.

It is unlawful and constitutes an unlawful assembly for a person within the city to assemble or act in concert with four or more persons for the purpose of engaging in conduct constituting the crime of riot or to be present at an assembly that either has or develops such a purpose and to remain there with intent to advance that purpose.

(Ord. passed 5-24-2004) Penalty, see § 10.99

Statutory reference:

Similar provisions, see M.C.L.A. § 752.543

§ 133.07 BREACH OF PEACE.

Any person who shall make or assist in making any noise, disturbance, trouble or improper diversion, or any rout or riot, by which the peace and good order of the city are disturbed, shall be guilty of a breach of the peace, and disorderly conduct.

(Ord. passed 5-24-2004) Penalty, see § 10.99

Statutory reference:

Disturbing public places, see M.C.L.A. § 750.170

§ 133.08 DISORDERLY INTOXICATION.

It shall be unlawful for any person to be under the influence of any controlled substance in any public place or to be intoxicated in a public place to either endanger directly the safety of themselves, another person, or of property, or in a manner that causes a public disturbance.

(Ord. passed 5-24-2004) Penalty, see § 10.99

§ 133.09 CURFEW FOR MINORS.

(A) *Purpose*. The people of the city enact this section to:

(1) Protect the public from the illegal acts of minors committed during the curfew hours;

(2) Protect minors from improper influence that prevail during the curfew hours;

(3) Protect minors from criminal activity that occurs during the curfew hours; and

(4) Require parents to exercise control of their minor children.

(B) *Definitions*. For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

MINOR. Any person under the age of 17 years.

PARENT. Means and includes mother, father, legal guardian and any other person having the care or custody of a minor or such other adult with whom a minor may be found residing.

RESIDENCE. A home, apartment, condominium of other dwelling unit and includes the curtilage of the dwelling unit.

(C) *Curfew for minors*.

(1) *Minors 12 years and under*. No minor the age of 12 or under shall be upon, in or on any public street, highway, alley, park, vacant lot or other public place between the hours of 10:00 p.m. and 6:00 a.m. of the following day, unless subject to the exceptions set forth in division (D) below.

(2) *Minors 13 years to 16 years*. No minor the age of or between the ages of 13 and 16 years shall be upon, in or on any public street, highway, alley, park, vacant lot or other public place between the hours of 12:00 midnight and 6:00 a.m. of the following day, unless subject to the exceptions set forth in division (D).

(D) *Exceptions to the operation of the curfew*. A minor shall not be deemed to violate the provisions of this section if any of the following provisions are found to exist:

(1) Where the minor is accompanied by a parent, guardian or some adult over 21 years of age delegated by the parent or guardian to accompany the minor child for a designated period of time and for a specific purpose within a specified area;

(2) Where the minor child is resident of another municipality or resident of this city and is in a motor vehicle with parental consent and is traveling through the city or the city is the origin destination of interstate travel. This exception shall not apply to minors sitting in parked vehicles without parental consent;

(3) Where the minor is employed in the course of lawful employment or for a period on 1/2-hour before to 1/2-hour after work, while traveling a direct route between the place of employment and his or her residence and carries on his or her person a written statement signed by his or her employer showing the times when the minor left work on that day;

(4) Where the minor is carrying out an errand or other lawful activity directed by a parent, guardian or custodian; or

(5) Where the minor is participating in, going to, or returning from a lawful athletic, educational, entertainment, religious or social event.

(E) *Parental responsibility for minors violating curfew*. No parent shall knowingly fail, permit or neglect to supervise a minor from violating the curfew provisions of division (C) above. A rebuttable presumption of a violation shall occur if the following is found to exist:

(1) The parent of the minor is immediately notified by the Police Department, advising the parent of the arrest or detention of the minor; the reason for the detention; and the parents' responsibility under this section. A record of the notification shall be maintained by the Police Department; and

(2) Any parent who fails to pick up a minor detained by the Police Department upon notification by the Police Department or any parent who has received two prior notifications regarding curfew violations of any minor within their control shall be guilty of a misdemeanor.

(F) *Aiding or abetting violations*. Any person of the age of 17 years or over assisting, aiding, abetting, allowing, permitting or encouraging any minor under the age of 17 years to violate the curfew provisions of division (C) above is guilty of a misdemeanor.

(Ord. passed 7-26-1993; Am. Ord. passed 5-24-2004) Penalty, see 10.99

CHAPTER 134: OFFENSES AGAINST PUBLIC MORALS

Section

GENERALLY

§ 134.01 KEEPING GAMBLING PLACE AND EQUIPMENT.

It shall be unlawful for any person, or his or her agent or employee, within the city, to directly or indirectly keep, maintain, operate or occupy any building or room, or any part thereof, or any place with apparatus, books or any device for registering bets, or buying or selling pools upon the result of a game, competition, political competition, appointment or election, or any purported event of like character; or to register bets, or buy or sell pools, or to be concerned in buying or selling pools; or to knowingly permit any grounds or premises owned, occupied or controlled by him or her to be used for any of such purposes.

(Ord. passed 5-24-2004) Penalty, see § 134.99

Statutory reference:

Similar provisions, see M.C.L.A. § 750.304

§ 134.02 LEWD ACTS; ACTS OF PROSTITUTION OR MORAL PERVERSION.

(A) It shall be unlawful for any person within the city to commit or offer or agree to commit a lewd act or an act of prostitution or moral perversion.

(B) It shall be unlawful for any person within the city to secure or offer another for the purpose of committing a lewd act or an act of prostitution or moral perversion.

(C) It shall be unlawful for any person within the city to be in or near any place frequented by the public or any public place for the purpose of inducing, enticing or procuring another to commit a lewd act or an act of prostitution or moral perversion.

(D) It shall be unlawful for any person within the city to knowingly transport any person to any place for the purpose of committing a lewd act or an act of prostitution or moral perversion.

(E) It shall be unlawful for any person within the city to knowingly receive or offer to or agree to receive any person into any place or building for the purpose of performing a lewd act or an act of prostitution or moral perversion or to knowingly permit any person to remain in any place or building for any such purpose.

(F) It shall be unlawful for any person within the city to direct or offer to direct any person to any place or building for the purpose of committing any lewd act or act of prostitution or moral perversion.

(Ord. passed 5-24-2004) Penalty, see § 134.99

§ 134.03 KEEPING OR OCCUPYING BUILDING FOR GAMBLING.

It shall be unlawful for any person, or his or her agent or employee, within the city, to directly or indirectly keep or occupy, or assist in keeping or occupying any common gambling house, or any building or room therein, or place within the city where gaming is permitted or suffered, or to suffer or permit on any premises owned, occupied or controlled by him or her, any apparatus used for gaming or gambling, or to use the apparatus for gaming or gambling in any place within the city.

(Ord. passed 5-24-2004) Penalty, see § 134.99

Statutory reference:

Similar provisions, see M.C.L.A. § 750.302

§ 134.04 PUBLICATION, SALE OR DISTRIBUTION OF OBSCENE OR ILLEGAL ITEMS.

No person shall publish, sell, offer for sale, give away, exhibit or possess for such purpose any obscene, indecent or illegal book, pamphlet, paper, picture, statuary, image or representation.

(Ord. passed 5-24-2004) Penalty, see § 134.99

§ 134.05 POSSESSION OF OPEN CONTAINER OF INTOXICATING LIQUOR IN PUBLIC.

It shall be unlawful for any person within the city to possess intoxicating liquor in any kind of container which is open or uncapped, or on which the seal is broken, in any street, alley, park, public building or other land owned by the city, unless the possession is authorized under a valid permit issued by the city or its authorized agent.

(Ord. passed 5-24-2004) Penalty, see § 134.99

§ 134.06 CONSUMPTION OF INTOXICATING LIQUOR IN PUBLIC.

It shall be unlawful for any person within the city to consume intoxicating liquor of any kind in any street, alley, park, public building or other land owned by the city, unless that consumption is authorized under a valid permit issued by the city or its authorized agent.

(Ord. passed 5-24-2004) Penalty, see § 134.99

§ 134.07 GAMBLING AND FREQUENTING PLACES WHERE GAMBLING IS PERMITTED.

It shall be unlawful for any person to deal in, play or engage in gaming such as faro, roulette, dice, cards or other device or game of chance, hazard or skill, either as bookmaker, dealer, keeper, player or otherwise for the purpose of gambling for money or other valuable thing or to knowingly attend or be found frequenting any place where gambling is permitted or allowed or is taking place.

(Ord. passed 5-24-2004) Penalty, see § 134.99

§ 134.08 INDECENT OR OBSCENE CONDUCT.

It shall be unlawful for any person within the city to engage in any indecent or obscene conduct in any public place.

(Ord. passed 5-24-2004) Penalty, see § 134.99

Statutory reference:

Such person deemed a disorderly person, see M.C.L.A. § 750.167(1)(f)

§ 134.09 INDECENT EXPOSURE.

It shall be unlawful for any person within the city to knowingly make any open or indecent exposure of his or her person or of the person of another.

(Ord. passed 5-24-2004) Penalty, see § 134.99

Statutory reference:

Similar provisions, see M.C.L.A. § 750.335a

DRUG PARAPHERNALIA

§ 134.20 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

COCAINE SPOON. A spoon with a bowl so small that the primary use for which it is reasonably adapted or designed is to hold or administer cocaine, and which is so small as to be unsuited for typical, lawful uses of a spoon. A cocaine spoon may or may not be merchandised on a chain and may or may not be labeled as a cocaine spoon or coke spoon.

CONTROLLED SUBSTANCE. Any drug, substance or immediate precursor enumerated in schedules 1 through 5 of Part 72 of M.C.L.A. §§ 333.7101 *et seq*. Article 7 of the Public Health Code.

MARIJUANA OR HASHISH PIPE. A pipe characterized by a bowl which is so small that the primary use for which it is reasonably adapted or designed is the smoking of marijuana or hashish, rather than lawful smoking tobacco, and which may or may not be equipped with a screen.

PARAPHERNALIA. An empty gelatin capsule, hypodermic syringe or needle, cocaine spoon, marijuana pipe, hashish pipe or any other instrument, implement or device which is primarily adapted or designed for the administration or use of any controlled substance.

(Ord. passed 5-24-2004)

§ 134.21 DETERMINATION BY COURT OR OTHER AUTHORITY.

In determining whether an object is drug paraphernalia, a court or other authority should consider in addition to all other logically relevant factors, the following:

(A) Statements by an owner or by anyone in control of the objects concerning its use;

(B) Prior convictions, if any, of an owner, or of anyone in control of the object under any state or federal law relating to any controlled substances;

(C) The proximity of the object, in time and space to a direct violation of state law;

(D) The proximity of the object to controlled substances;

(E) The existence of any residue of controlled substances on the object;

(F) Direct or circumstantial evidence of the intent of an owner, or of anyone in control of the object, to deliver it to persons whom he or she knows, intends to use the object to facilitate a violation of state or local law. The innocence of an owner, or of anyone in control of the object, as to a direct violation of state law shall not prevent a finding that the object is intended for use, or designed for use, as drug paraphernalia;

(G) Instruction, oral or written, provided with the object concerning its use;

(H) Descriptive materials accompanying the object which explain or depict its use;

(I) National and local advertising concerning its use;

(J) The manner in which the object is displayed for sale;

(K) Whether the owner, or anyone in control of the object, is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products;

(L) Direct or circumstantial evidence of the ratio or sales of the object to the total sales of the business enterprise;

(M) The existence and scope of legitimate uses for the object in the community; and

(N) Expert testimony concerning its use.

(Ord. passed 5-24-2004)

§ 134.22 SALE OR SUPPLY PROHIBITED; EXCEPTION.

(A) It shall be unlawful for any person to sell, offer for sale, display, furnish, supply or give away any empty gelatin capsule, hypodermic syringe or needle, cocaine spoon, marijuana pipe, hashish pipe, or any other instrument, implement or device which is primarily adapted or designed for the administration or use of any controlled substance, as enumerated in schedules 1--5, of the Public Health Code (M.C.L.A §§ 333.7101 *et seq*., as amended.

(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 or embalmers in the normal lawful course of their respective businesses or professions, nor to common carriers or warehousers or their employees engaged in the lawful transportation of such paraphernalia, nor to public officers or employees while engaged in the performance of their official duties, nor to persons suffering from diabetes, asthma or any other medical condition requiring self-injection.

(Ord. passed 5-24-2004) Penalty, see § 134.99

OBSCENE MATERIAL DISTRIBUTION

§ 134.35 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

DISSEMINATE. To sell, lend, give, exhibit or show or to offer or agree to do the same.

EROTIC FONDLING. Touching a person's clothed or unclothed genitals, pubic area, buttocks, or, if the person is female, breasts, for the purpose of sexual gratification or stimulation.

EXHIBIT. To do one or more of the following:

(1) Present a performance;

(2) Sell, give or offer to agree to sell or give a ticket to a performance; or

(3) Admit a minor to premises where a performance is being presented or is about to be presented.

HARMFUL TO MINORS. Sexually explicit matter which meets all of the following criteria:

(1) Considered as a whole, it appeals to the prurient interest of minors as determined by contemporary local community standards;

(2) It is patently offensive to contemporary local community standards of adults as to what is suitable for minors; and

(3) Considered as a whole, it lacks serious literary, artistic, political, educational and scientific value for minors.

LOCAL COMMUNITY. The city.

MINOR. A person under 18 years of age.

NUDITY. The lewd display of the human male or female genitals or pubic area.

PRURIENT INTEREST. A lustful interest in sexual stimulation or gratification.

SADOMASOCHISTIC ABUSE. Either of the following:

(1) Flagellation or torture for sexual stimulation or gratification by or upon a person who is nude or clad only in undergarments or in a revealing or bizarre costume; or

(2) The condition of being fettered, bound or otherwise physically restrained for sexual stimulation or gratification of a person who is nude or clad only in undergarments or in a revealing or bizarre costume.

SEXUAL EXCITEMENT. The condition of human male or female genitals when in a state of sexual stimulation or arousal.

SEXUAL INTERCOURSE. Intercourse, real or simulated, whether genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex or between a human and an animal.

SEXUALLY EXPLICIT MATTER. Sexually explicit visual material, sexually explicit verbal material, or sexually explicit performance.

SEXUALLY EXPLICIT PERFORMANCE. A motion picture, exhibition, show, representation, or other presentation, which, in whole or in part, depicts nudity, sexual excitement, erotic fondling, sexual intercourse or sadomasochistic abuse.

SEXUALLY EXPLICIT VERBAL MATERIAL. A book, pamphlet, magazine, printed matter reproduced in any manner, or sound recording which contains an explicit and detailed verbal description or narrative account of sexual excitement, erotic fondling, sexual intercourse or sadomasochistic abuse.

SEXUALLY EXPLICIT VISUAL MATERIAL. A picture, photograph, drawing, sculpture, motion picture film, or similar visual representation which depicts nudity, sexual excitement, erotic fondling, sexual intercourse, or sadomasochistic abuse, or a book, magazine, or pamphlet which contains such a visual representation. An undeveloped photograph, mold or similar visual material may be sexually explicit material, notwithstanding that processing or other acts may be required to make its sexually explicit content apparent.

(Ord. passed 5-24-2004)

§ 134.36 DISTRIBUTING OBSCENE MATTER TO MINOR; KNOWLEDGE OF MATERIAL AND MINORITY; MISDEMEANOR; PENALTY.

(A) A person is guilty of distributing obscene matter to a minor if that person does either of the following:

(1) Knowingly disseminates to a minor sexually explicit visual or verbal material that is harmful to minors; or

(2) Knowingly exhibits to a minor a sexually explicit performance that is harmful to minors.

(B) A person knowingly disseminates sexually explicit matter to a minor when the person knows both the nature of the matter and the status of the minor to whom the matter is disseminated.

(C) The word ***KNOWINGLY*** means having general knowledge of, or reason to know, or a belief or ground for belief which warrants further inspection or inquiry or both.

(1) The character and content of any material or performance which is reasonably susceptible of examination by the defendant; and

(2) The age of the minor. An honest mistake shall constitute an excuse from liability under this division if the defendant made a reasonable bona fide attempt to ascertain the true age of the minor.

(D) The term ***A REASONABLE BONA FIDE ATTEMPT*** means an attempt to ascertain the true age of the minor by requiring production of a driver's license, marriage license, birth certificate or other governmental or educational identification card or paper and not relying solely on the oral allegations or apparent age of the minor.

(E) A person knows the status of a minor if the person either is aware that the person to whom the dissemination is made is under 18 years of age or recklessly disregards a substantial risk that the person to whom the dissemination is made is under 18 years of age.

(F) Distributing obscene matter to a minor is a misdemeanor, punishable by imprisonment for not more than 90 days or a fine of not more than $500, or both. In imposing the fine authorized for this offense, the court shall consider the scope of the defendant's commercial activity in distributing obscene matter to minors.

(Ord. passed 5-24-2004)

§ 134.37 INAPPLICABILITY OF PROHIBITION AGAINST DISSEMINATION TO MINOR.

Section 134.36 above does not apply to the dissemination of sexually explicit matter to a minor by any of the following persons:

(A) A parent or guardian who disseminates sexually explicit matter to his or her child or ward;

(B) A teacher or administrator at a public or private elementary or secondary school which complies with the provisions of Public Act 451 of 1976, being M.C.L.A. §§ 380.1 *et seq*., as amended, who disseminates sexually explicit matter to a student as part of a school program permitted by law;

(C) A licensed physician or certified psychologist who disseminates sexually explicit matter in the treatment of a patient;

(D) A librarian employed by a library of a public or private elementary or secondary school which complies with the provisions of Public Act 451 of 1976, being M.C.L.A. §§ 380.1 *et seq*., as amended, or employed by a public library, who disseminates sexually explicit matter in the course of that person's employment; or

(E) Any public or private college or university or any other person who disseminates sexually explicit matter for a legitimate medical, scientific, governmental or judicial purposes.

(Ord. passed 5-24-2004)

§ 134.38 DISPLAY OF OBSCENE MATTER TO MINOR; KNOWLEDGE OF MATERIAL AND MINORITY; MISDEMEANOR; PENALTY.

(A) A person is guilty of displaying obscene matter to a minor if that person possesses managerial responsibility for a business enterprise selling visual matter which depicts sexual intercourse or sadomasochistic abuse and which is harmful to minors, and that person knowingly permits a minor who is not accompanied by a parent or guardian to examine that matter.

(B) A person knowingly permits a minor to examine visual matter which depicts sexual intercourse or sadomasochistic abuse and which is harmful to minors, if the person knows both the nature of the matter and the status of the minor permitted to examine the matter.

(C) A person knows the nature of the matter if the person either is aware of the character and content of the matter or recklessly disregards circumstances suggesting the character and content of the matter.

(D) A person knows the status of a minor if the person either is aware that the person who is permitted to examine the matter is under 18 years of age or recklessly disregards a substantial risk that the person who is permitted to examine the matter is under 18 years of age.

(E) No person having custody, control or supervision of any commercial establishment shall knowingly:

(1) Display material which is harmful to minors in such a way that minors, as a part of the invited general public, will be exposed to view the material; provided, however, that a person shall be deemed not to have displayed material harmful to minors if the material is kept behind devices commonly known as blinder racks so that the lower two-thirds of the material is not exposed to view;

(2) Sell, furnish, present, distribute, allow to view or otherwise disseminate to a minor, with or without consideration, any material which is harmful to minors; or

(3) Present to a minor or participate in presenting to a minor, with or without consideration, any performance which is harmful to a minor.

(F) Displaying obscene matter to a minor is a misdemeanor, punishable by imprisonment for not more than 90 days, or a fine of not more than $500, or both.

(Ord. passed 5-24-2004)

§ 134.39 FACILITATIVE MISREPRESENTATION AS TO STATUS AS PARENT, GUARDIAN OR AGE OF MINOR; KNOWLEDGE OF FALSITY; MISDEMEANOR; PENALTY.

(A) A person is guilty of facilitative misrepresentation when that person knowingly makes a false representation that he or she is the parent or guardian of a minor, or that a minor is 18 years of age or older, with the intent to facilitate the dissemination to the minor of sexually explicit matter that is harmful to minors.

(B) A person knowingly makes a false representation as to the age of a minor or as to the status of being the parent or guardian of a minor if the person either is aware that the representation is false or recklessly disregards a substantial risk that the representation is false.

(C) Facilitative misrepresentation is a misdemeanor, punishable by imprisonment for not more than 90 days, or a fine of not more than $500, or both.

(Ord. passed 5-24-2004)

§ 134.99 PENALTY.

(A) A person who violates any provision or provisions of this division, upon conviction, shall be punished by a fine not exceeding $500 or imprisonment in the county jail for a period not to exceed 90 days, or both, in the discretion of the court.

(B) Each day of the violation shall be considered a separate offense.

(Ord. passed 5-24-2004)

CHAPTER 135: OFFENSES AGAINST PUBLIC SAFETY

Section

Weapons

WEAPONS

§ 135.01 DISCHARGE OF FIREARMS GENERALLY.

No person in the city shall discharge any firearms, air rifle, bow or other dangerous weapon, within or into the city, or have any such dangerous weapon in his or her possession in any public street, park or place, unless the firearm is licensed as required by law or securely wrapped or encased.

(Ord. passed 5-24-2004) Penalty, see § 10.99

§ 135.02 FIREARMS; EXCEPTIONS; FORFEITURE.

(A) No person, except a police officer, or other peace officer in the discharge of his or her duty, shall fire or discharge a firearm, air rifle, BB gun, bow or other dangerous weapons within the limits of the city, without first obtaining a permit from the City Council.

(B) All guns, pistols or other dangerous weapons carried or used contrary to division (A) above are hereby declared forfeited to the city and can be redeemed only at the discretion of the City Council, after all court fines and costs have been paid.

(Ord. passed 5-24-2004) Penalty, see § 10.99

TITLE XV: LAND USAGE

Chapter

CHAPTER 150: BUILDING REGULATIONS

Section

General Building Regulations

Statutory reference:

Authority to adopt building codes, see M.C.L.A. § 117.3

GENERAL BUILDING REGULATIONS

§ 150.01 FIRE PREVENTION CODE ADOPTED.

(A) *Adoption of Code.* Pursuant to authority granted by Section 3(k) of the Home Rule Cities Act, Michigan Public Act 279 of 1909, being M.C.L.A. §§ 117.1 *et seq.*, as amended, the International Fire Code, 2015 Edition (the “Code”), including all appendices, except Appendix A, as published by the International Code Council, a copy of which is on file in the office of the City Clerk, is adopted as the Fire Code of the City of Saugatuck and all of the regulations, provisions, terms, conditions and penalties of the Code are hereby adopted and made a part hereof, as if fully set out in this ordinance, together with any additions, deletions and changes stated in this section.

(B) *Revisions in text of code.*

(1) Section 101.1 of the Code is amended to insert “the City of Saugatuck”.

(2) Section 103.2 of the Code is amended to read in its entirety as follows:

103.2 *Appointment*. As used in this code, the term ‘fire code official’ shall refer to the Fire Chief of the Saugatuck Township Fire District, or such other individual as the City Council of the City of Saugatuck may from time to time appoint by resolution.

(3) Section 108 of the Code is amended to read in its entirety as follows:

108.1 *Board of appeals established.* In order to hear and decide appeals of orders, decisions or determinations made by the fire code official relative to the application and interpretation of this code, there is hereby created a board of appeals comprised of three (3) members of the Fire Administrative Board. Elected or non-elected officials may be appointed to serve as members of the board of appeals in any capacity. Each jurisdiction which is a constituent member of the Saugatuck Township Fire District shall appoint one (1) regular member to the board of appeals consistent with this code. Each jurisdiction shall also appoint one (1) alternate member who will be called to serve in the absence or disqualification of the jurisdiction's regular member. Members appointed to the board of appeals shall serve at the pleasure of the appointing jurisdiction's governing body; provided, however, that a board of appeals member must also be a member of the Fire Administrative Board. The fire code official

shall be an ex officio member of the board of appeals but shall have no vote on any matter before the board. The board of appeals shall adopt rules of procedure for conducting its business, and shall render all decisions and findings in writing to the appellant with a duplicate copy to the fire code official.

108.2 *Limitations on authority.* An application for appeal shall be based on a claim that the intent of this code or the rules legally adopted hereunder have been incorrectly interpreted, the provisions of this code do not fully apply, or an equivalent method of protection or safety is proposed. The board shall have no authority to waive the requirements of this code.

108.3 *Qualifications.* The board of appeals shall consist of members who are qualified by experience and training to pass on matters pertaining to hazards of fire, explosions, hazardous conditions or fire protection systems.

108.4 *Meetings.* The board shall meet at regular intervals, to be determined by the chairman. In any event, the board shall meet within 10 days after notice of appeal has been received.

108.5 *Decisions.* Every decision shall be promptly filed in writing in the office of the fire code official and shall be open to public inspection. A certified copy shall be sent by mail or otherwise to the appellant, and a copy shall be kept publicly posted in the office of the fire code official for two weeks after filing.

(4) Section 109.3.3 is amended to read in its entirety as follows:

109.3.3 Prosecution of violations. If the notice of violation is not complied with within the time prescribed by the fire code official, the fire code official may proceed as follows:

(a) He may issue municipal civil infractions (directing alleged violators to appear in court) or municipal civil infraction notices (directing alleged violators to appear at the municipal ordinance violations bureau); or

(b) He may request that legal counsel for the City institute appropriate proceedings at law or equity to restrain, correct or abate such violation or to require the removal or termination of the unlawful use of a building or structure in violation of the provisions of this code or of the order of direction made pursuant thereto.

(5) Section 109.4 of the Code is amended to read in its entirety as follows:

109.4 *Violation Penalties.* Except as provided by Michigan law, a violation of this Code is a municipal civil infraction, for which the fine shall be not less than $250 for the first offense, not less than $500 for a second offense and not more than $1,000 for a subsequent offense, in the discretion of the court, in addition to all other costs, damages, attorneys fees and expenses. Each day during which any violation continues shall be deemed a separate offense. The foregoing penalties shall not prohibit the City from seeking injunctive relief against a violator or such other appropriate relief as may be provided by law.

(6) Section 111.4 of the Code is amended to read in its entirety as follows:

111.4 *Failure to comply.* Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be in violation of this Code. Such violation shall be a municipal civil infraction in accordance with Section 109.3.

(7) *Geographic limits.* Sections 5704.2.9.6.1, 5706.2.4.4, 5806.2, and 6104.2 of the Code are amended to state that the entire territory of the City of Saugatuck is the geographic area within which the storage of the stated hazardous and flammable fluids, liquids and gases is prohibited.

(Am. Ord. 080908-1, passed 9-8-2008; Am. Ord. 090112-1, passed 1-12-2009; Am. Ord. 150223-1, passed 2-23-2015; Am. Ord. 170724-1, passed 7-24-2017; Am. Ord. 180312-1, passed 3-12-2018;

Am. Ord. 180625-1, passed 6-25-2018)

§ 150.02 PROPERTY MAINTENANCE CODE ADOPTED.

(A) A certain document, three copies of which are on file in the office of the City Clerk, being marked and designated as *The BOCA National Property Maintenance Code*, Fourth Edition, 1993, as published by the Building Officials and Code Administrators International, Inc., be and is hereby adopted as the Property Maintenance Code of the city for the control of buildings and structures as herein provided and each and all of the regulations, provisions, penalties, conditions and terms of the *BOCA National Property Maintenance Code* are hereby referred to, adopted and made a part hereof as if fully set out in this chapter, with the additions, insertions, deletions and changes, if any, as may be prescribed by the City Council.

(B) The *BOCA National Property Maintenance Code* is amended and revised in the following respects.

(1) Section PM-101.1 (page 1, second line): Insert “City of Saugatuck.”

(2) Section PM-106.2 (page 3, third line): Insert “Not more than $500.”

(3) Section PM-106.2 (page 3, fourth line): Insert “And/or 90 days.”

(4) Section PM-304.12 (page 11, first line): Insert “April 1st to November 1st.”

(5) Section PM-602.2.1 (page 17, fifth line): Insert “September 1st to April 30th.”

(6) Section PM-602.3 (page 17, third line): Insert “September 1st to April 30th.”

(C) **BOCA National Property Maintenance Code (Text included here for reference purposes):**

SECTION PM-101.0 GENERAL

PM-101.1 Title: These regulations shall be known as the Property Maintenance Code of Saugatuck hereinafter referred to as “this code.”

PM-101.2 Scope: This code is to protect the public health, safety and welfare in all existing structures, residential and nonresidential, and on all existing premises by establishing minimum requirements and standards for premises, structures, equipment, and facilities for light, ventilation, space, heating, sanitation, protection from the elements, life safety, safety from fire and other hazards, and for safe and sanitary maintenance; fixing the responsibility of owners, operators and occupants; regulating the occupancy of existing structures and premises, and providing for administration, enforcement and penalties.

PM-101.3 Intent: This code shall be construed to secure its expressed intent, which is to insure public health, safety and welfare insofar as they are affected by the continued occupancy and maintenance of structures and premises. Existing structures and premises that do not comply with these provisions shall be altered or repaired to provide a minimum level of health and safety as required herein.

PM-101.4 Referenced standards: The standards referenced in this code and listed in Chapter 8 shall be considered part of the requirements of this code to the prescribed extent of each such reference. Where differences occur between provisions of this code and referenced standards, the provisions of this code shall apply.

PM-101.5 Existing remedies: The provisions in this code shall not be construed to abolish or impair existing remedies of the jurisdiction or its officers or agencies relating to the removal or demolition of any structure which is dangerous, unsafe and unsanitary.

PM-101.6 Workmanship: All repairs, maintenance work, alterations or installations which are caused directly or indirectly by the enforcement of this code shall be executed and installed in a workmanlike

manner.

PM-101.7 Application of other codes: Any repairs, additions or alterations to a structure or changes of occupancy, shall be done in accordance with the procedures and provisions of the building, plumbing and mechanical codes and NFiPA 70 listed in Chapter 8.

SECTION PM-102.0 VALIDITY

PM-102.1 Validity: If any section, subsection, paragraph, sentence, clause or phrase of this code shall be declared invalid for any reason whatsoever, such decision shall not affect the remaining portions of this code which shall continue in full force and effect, and to this end the provisions of this code are hereby declared to be severable.

PM-102.2 Saving clause: This code shall not affect violations of any other ordinance, code or regulation existing prior to the effective date hereof, and any such violation shall be governed and shall continue to be punishable to the full extent of the law under the provisions of those ordinances, codes or regulations in effect at the time the violation was committed.

SECTION PM-103.0 MAINTENANCE

PM-103.1 Required: All equipment, systems, devices and safeguards required by this code or a previous statute or code for the structure or premises when erected or altered shall be maintained in good working order. The requirements of this code are not intended to provide the basis for removal or abrogation of fire protection and safety systems and devices in existing structures.

SECTION PM-104.0 APPROVAL

PM-104.1 Approved materials and equipment: All materials, equipment and devices approved by the code official shall be constructed and installed in accordance with such approval.

PM-104.2 Modifications: Where there are practical difficulties involved in carrying out structural or mechanical provisions of this code, the code official shall have the right to vary or modify such provisions upon application of the owner or the owners representative, provided that the spirit and intent of the law is observed and that the public health, safety and welfare is assured.

PM-104.2.1 Records: The application for modification and the final decision of the code official shall be in writing and shall be officially recorded in the permanent records of the department.

PM-104.3 Material and equipment reuse: Materials, equipment and devices shall not be reused unless such elements have been reconditioned, tested and placed in good and proper working condition and approved.

PM-104.4 Alternative materials and equipment: The provisions of this code are not intended to prevent the installation of any material or method of construction not specifically prescribed by this code, provided that any such alternative has been approved. An alternative material or method of construction shall be approved when the code official finds that the proposed design is satisfactory and complies with the intent of the provisions of this code, and that the material, method or work offered is, for the purpose intended, at least the equivalent of that prescribed in this code in quality, strength, effectiveness, fire resistance, durability and safety.

PM-104.5 Research and investigations: Sufficient technical data shall be submitted to substantiate the proposed installation of any material or assembly. If it is determined that the evidence submitted is satisfactory proof of performance for the proposed installation, the code official shall approve such alternative subject to the requirements of this code. The cost of all tests, reports and investigations required under these provisions shall be paid by the applicant.

SECTION PM-105.0 DUTIES AND POWERS OF CODE OFFICIAL

PM-105.1 General: The code official shall enforce all of the provisions of this code.

PM-105.2 Notices and orders: The code official shall issue all necessary notices or orders to ensure compliance with the code.

PM-105.3 Right of entry: The code official is authorized to enter the structure or premises at reasonable times to inspect. Prior to entering into a space not otherwise open to the general public, the code official shall make a reasonable effort to locate the owner or other person having charge or control of the structure or premises, present proper identification and request entry. If requested entry is refused or not obtained, the code official shall pursue recourse as provided by law.

PM-105.4 Access by owner or operator: Every occupant of a structure or premises shall give the owner or operator thereof, or agent or employee, access to any part of such structure or its premises at reasonable times for the purpose of making such inspection, maintenance, repairs or alterations as are necessary to comply with the provisions of this code.

PM-105.5 Identification: The code official shall carry proper identification when inspecting structures or premises in the performance of duties under this code.

PM-105.6 Coordination of enforcement: Inspection of premises, the issuance of notices and orders and enforcement thereof shall be the responsibility of the code official so charged by the jurisdiction. Whenever inspections are necessary by any other department the code official shall make reasonable effort to arrange for the coordination of such inspections so as to minimize the number of visits by inspectors, and to confer with the other departments for the purpose of eliminating conflicting orders before any are issued. A department shall not, however, delay the issuance of any emergency orders.

PM-105.7 Rule-making authority: The code official shall have power as necessary in the interest of public health safety and general welfare, to adopt and promulgate rules and regulations to interpret and implement the provisions of this code to secure the intent thereof and to designate requirements applicable because of local climatic or other conditions. Such rules shall not have the effect of waiving structural or fire performance requirements specifically provided for in this code or of violating accepted engineering practice involving public safety.

PM-105.8 Organization: The code official shall appoint such number of officers, technical assistants, inspectors and other employees as shall be necessary for the administration of this code and as authorized by the appointing authority. The code official is authorized to designate an employee as deputy who shall exercise all the powers of the code official during the temporary absence or disability of the code official.

PM-105.9 Restriction of employees: An official or employee connected with the enforcement of this code, except one whose only connection is that of a member of the board of appeals established under the provisions of Section PM-111.0, shall not be engaged in, or directly or indirectly connected with, the furnishing of labor, materials or appliances for the construction, alteration or maintenance of a building, or the preparation of construction documents thereof, unless that person is the owner of the building; nor shall such officer or employee engage in any work that conflicts with official duties or with the interests of the department.

PM-105.10 Relief from personal responsibility: The code official, officer or employee charged with the enforcement of this code, while acting for the jurisdiction, shall not thereby be rendered liable personally, and is hereby relieved from all personal liability for any damage accruing to persons or property as a result of any act required or permitted in the discharge of official duties. Any suit instituted against an officer or employee because of an act performed by that officer and employee in the lawful discharge of duties and under the provisions of this code shall be defended by the legal representative of the jurisdiction until the final termination of the proceedings. The code official or any subordinate shall not be liable for costs in any action, suit or proceeding that is instituted in pursuance of the provisions of this code; and any officer of the department of building inspection, acting in good faith and without malice, shall be free from liability for acts performed under any of its provisions or by reason of any act or omission in the performance of official duties in connection therewith.

PM-105.11 Official records: An official record shall be kept of all business and activities of the department specified in the provisions of this code, and all such records shall be open to public inspection at all appropriate times and according to reasonable rules to maintain the integrity and security of such records.

SECTION PM-105.0 VIOLATIONS

PM-106.1 Unlawful acts: It shall be unlawful for any person, firm or corporation to erect, construct, alter, extend, repair, remove, demolish, maintain, fall to maintain, provide, fail to provide, occupy, let to another or occupy or permit another person to occupy any structure or equipment regulated by this code, or cause same to be done, contrary to or in conflict with or in violation of any of the provisions of this code, or to fail to obey a lawful order of the code official, or to remove or deface a placard or notice posted under the provisions of this code.

PM-106.2 Penalty: Any person who shall violate a provision of this code shall, upon conviction thereof, be subject to a fine of not less than [AMOUNT] nor more than [AMOUNT] or imprisonment for a term not to exceed [NUMBER] days, or both, at the discretion of the court. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

PM-106.3 Prosecution: In case of any unlawful acts the code official shall institute an appropriate action or proceeding at law to exact the penalty provided in Section PM-106.2. Also, the code official shall ask the jurisdiction’s legal representative to proceed at law or in equity against the person responsible for the violation for the purpose of ordering that person:

1. To restrain, correct or remove the violation or refrain from any further execution of work;

2. To restrain or correct the erection, installation, maintenance, repair or alteration of such structure;

3. To require the removal of work in violation; or

4. To prevent the occupancy of the structure that is not in compliance with the provisions of this code.

SECTION PM-107.0 NOTICES AND ORDERS

PM-107.1 Notice to owner or to person or persons responsible: Whenever the code official determines that there has been a violation of this code or has grounds to believe that a violation has occurred, notice shall be given to the owner or the person or persons responsible therefore in the manner prescribed in Sections PM-107.2 and PM-107.3. Notices for condemnation procedures shall also comply with Section PM-108.3.

PM-107.2 Form: Such notice prescribed in Section PM-107.1 shall:

1. Be in writing;

2. Include a description of the real estate sufficient for identification;

3. Include a statement of the reason or reasons why the notice is being issued; and

4. Include a correction order allowing a reasonable time for the repairs and improvements required to bring the dwelling unit or structure into compliance with the provisions of this code.

PM-107.3 Method of service: Such notice shall be deemed to be properly served if a copy thereof is (a) delivered to the owner personally; or (b) sent by certified or registered mail addressed to the owner at the last known address with return receipt requested. If the certified or registered letter is returned showing that the letter was not delivered, a copy thereof shall be posted in a conspicuous place in or about the structure affected by such notice. Service of such notice in the foregoing manner upon the

owner's agent or upon the person responsible for the structure shall constitute service of notice upon the owner.

PM-107.4 Penalties: Penalties for noncompliance with orders and notices shall be as set forth in Section PM-106.2.

PM-107.5 Transfer of ownership: It shall be unlawful for the owner of any dwelling unit or structure who has received a compliance order or upon whom a notice of violation has been served to sell, transfer, mortgage, lease or otherwise dispose of to another until the provisions of the compliance order or notice of violation have been complied with, or until such owner shall first furnish the grantee, transferee, mortgagee or lessee a true copy of any compliance order or notice of violation issued by the code official and shall furnish to the code official a signed and notarized statement from the grantee, transferee, mortgagee or lessee, acknowledging the receipt of such compliance order or notice of violation and fully accepting the responsibility without condition for making the corrections or repairs required by such compliance order or notice of violation.

SECTION PM-108.0 UNSAfE STRUCTURES AND EQUIPMENT

PM-108.1 General: When a structure or equipment is found by the code official to be unsafe, or when a structure is found unfit for human occupancy, or is found unlawful, such structure shall be condemned pursuant to the provisions of this code.

PM-108.1.1 Unsafe structure: An unsafe structure is one that is found to be dangerous to the life, health, property or safety of the public or the occupants of the structure by not providing minimum safeguards to protect or warn occupants in the event of fire, or because such structure contains unsafe equipment or is so damaged, decayed, dilapidated, structurally unsafe, or of such faulty construction or unstable foundation, that partial or complete collapse is likely.

PM-108.1.2 Unsafe equipment: Unsafe equipment includes any boiler, heating equipment, elevator, moving stairway, electrical wiring or device, flammable liquid containers or other equipment on the premises or within the structure which is in such disrepair or condition that such equipment is a hazard to life, health, property or safety of the public or occupants of the premises or structure.

PM-108.1.3 Structure unfit for human occupancy: A structure is unfit for human occupancy whenever the code official finds that such structure is unsafe, unlawful or, because of the degree to which the structure is in disrepair or lacks maintenance, is unsanitary, vermin or rat infested, contains filth and contamination, or lacks ventilation, illumination, sanitary or heating facilities or other essential equipment required by this code, or because the location of the structure constitutes a hazard to the occupants of the structure or to the public.

PM-108.1.4 Unlawful structure: An unlawful structure is one found in whole or in part to be occupied by more persons than permitted under this code, or was erected, altered or occupied contrary to law.

PM-108.2 Closing of vacant structures: If the structure is vacant and unfit for human habitation and occupancy, and is not in danger of structural collapse, the code official is authorized to post a placard of condemnation on the premises and order the structure closed up so as not to be an attractive nuisance. Upon failure of the owner to close up the premises within the time specified in the order, the code official shall cause the premises to be closed through any available public agency or by contract or arrangement by private persons and the cost thereof shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate.

PM-108.4 Notice: Whenever the code official has condemned a structure or equipment under the provisions of this section, notice shall be posted in a conspicuous place in or about the structure affected by such notice and served on the owner or the person or persons responsible for the structure or equipment in accordance with Section PM-107.3. The notice shall be in the form prescribed in Section PM-107.2.

PM-108.4 Placarding: Upon failure of the owner or person responsible to comply with the notice provisions within the time given, the code official shall post on the premises or on defective equipment, a placard bearing the word “Condemned” and a statement of the penalties provided for occupying the premises, operating the equipment or removing the placard.

PM-108.5 Prohibited occupancy: Any person who shall occupy a placarded premises or shall operate placarded equipment, and any owner or any person responsible for the premises who shall let anyone occupy a placarded premises or operate placarded equipment shall be liable for the penalties provided by this code.

PM-108.6 Removal of placard: The code official shall remove the condemnation placard whenever the defect or defects upon which the condemnation and placarding action were based have been eliminated. Any person who defaces or removes a condemnation placard without the approval of the code official shall be subject to the penalties provided by this code.

SECTION PM-109.0 EMERGENCY MEASURES

PM-109.1 Imminent danger: When, in the opinion of the code official, there is imminent danger of failure or collapse of a building or structure which endangers life, or when any structure or part of a structure has fallen and life is endangered by the occupation of the structure, or when there is actual or potential danger to the building occupants or those in the proximity of any structure because of explosives, explosive fumes or vapors or the presence of toxic fumes, gases or materials, or operation of defective or dangerous equipment, the code official is hereby authorized and empowered to order and require the occupants to vacate the premises forthwith. The code official shall cause to be posted at each entrance to such structure a notice reading as follows: “This Structure is Unsafe and its Occupancy has been Prohibited by the Code Official.” It shall be unlawful for person to enter such structure except for the purpose of securing the structure, making the required repairs, removing the hazardous condition, or of demolishing the same.

PM-109.2 Temporary safeguards: Notwithstanding other provisions of this code, whenever, in the opinion of the code official, there is imminent danger due to an unsafe condition, the code official shall order the necessary work to be done, including the boarding-up of openings, to render such structure temporarily safe whether or not the legal procedure herein described has been instituted: and shall cause such other action to be taken as the code official deems necessary to meet such emergency.

PM-109.3 Closing streets: When necessary for the public safety, the code official shall temporarily close structures and close, or order the authority having jurisdiction to close, sidewalks, streets, public ways and places adjacent to unsafe structures, and prohibit the same from being utilized.

PM-109.4 Emergency repairs: For the purposes of this section, the code official shall employ the necessary, labor and materials to perform the required work as expeditiously as possible.

PM-109.5 Costs of emergency repairs: Costs incurred in the performance of emergency work shall be paid from the treasury of the jurisdiction on approval of the code official. The legal counsel of the jurisdiction shall institute appropriate action against the owner of the premises where the unsafe structure is or was located for the recovery of such costs.

PM-109.6 Hearing: Any person ordered to take emergency measures shall comply with such order forthwith. Any affected person shall thereafter, upon petition directed to the appeals board, be afforded a hearing as described in this code.

SECTION PM-111.0 DEMOLITION

PM-110.1 General: The code official shall order the owner of any premises upon which is located any structure, which in the code official’s judgement is so old, dilapidated or has become so out of repair as to be dangerous, unsafe, unsanitary or otherwise unfit for human habitation or occupancy, and such that it is unreasonable to repair the structure, to raze and remove such structure; or if such structure is capable of being made safe by repairs, to repair and make safe and sanitary or to raze

and remove at the owner's option; or where there has been a cessation of normal construction of any structure for a period of more than two years, to raze and remove such structure.

PM-110.2 Order: All notices and orders shall comply with Section PM-107.0.

PM-110.3 Failure to comply: if the owner of a premises fails to comply with a demolition order within the time prescribed, the code official shall, cause the structure to be razed and removed, either through an available public agency or by contract or arrangement with private persons and the cost of such razing and removal shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate.

PM-110.4 Salvage materials: When any structure has been ordered razed and removed, the governing body or other designated officer under said contract or arrangement aforesaid shall have the right to sell the salvage and valuable materials at the highest price obtainable. The net proceeds of such sale, after deducting the expenses of such razing and removal, shall be promptly remitted with a report of such sale or transaction, including the items of expense and the amounts deducted, for the person who is entitled thereto, subject to any order of a court if such a surplus does not remain to be turned over, the report shall so state.

SECTION PM-111.0 MEANS Of APPEAL

PM-111.1 Application for appeal: Any person affected by a decision of the code official or a notice or order issued under this code shall have the right to appeal to the board of appeals, provided that a written application for appeal is filed within 20 days after the day the decision, notice or order was served. An application for appeal shall be based on a claim that the true intent of this code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this code do not fully apply, or the requirements of this code are adequately satisfied by other means.

PM-111.2 Membership of the board: The board of appeals shall consist of five members appointed by the chief appointing authority as follows: one for five years, one for four years, one for three years, one for two years, and one for one year. Thereafter, each new member shall serve for five years or until a successor has been appointed.

PM-111.2.1 Qualifications: The board of appeals shall consist of five individuals, one from each of the following professions or disciplines:

1. Registered design professional that is a registered architect; or a builder or superintendent of building construction with at least ten-years experience, five of which shall have been in responsible charge of work.

2. Registered design professional with structural engineering or architectural experience.

3. Registered design professional with mechanical or plumbing engineering experience; or a mechanical or plumbing contractor with at least ten-years experience, five of which shall have been in responsible charge of work.

4. Registered design professional with electrical engineering experience; or an electrical contractor with at least ten-years experience, five of which shall have been in responsible charge of work.

5. Registered design professional with fire protection engineering experience; or a fire protection contractor with at least ten-years experience, five of which shall have been in responsible charge of work.

PM-111.2.2 Alternate members: The chief appointing authority shall appoint two alternate members who shall be called by the board chairman to hear appeals during the absence or disqualification of a member. Alternate members shall possess the same qualifications required for board membership, and shall be appointed for five years or until a successor has been appointed.

PM-111.2.3 Chairman: The board shall annually select one of its members to serve as chairman.

PM-111.2.4 Disqualification of member: A member shall not hear an appeal in which that member has any personal, professional or financial interest.

PM-111.2.5 Secretary: The chief administrative officer shall designate a qualified clerk to serve as secretary to the board. The secretary shall file a detailed record of all proceedings in the office of the chief administrative officer.

PM-111.2.6 Compensation of members: Compensation of members shall be determined by law.

PM-111.3 Notice of meeting: The board shall meet upon notice from the chairman, within ten days of the filing of an appeal, or at stated periodic meetings.

PM-111.4 Open hearing: All hearings before the board shall be open to the public. The appellant, the appellant's representative, the code official, and any person whose interests are affected shall be given an opportunity to be heard.

PM-111.4.1 Procedure: The board shall adopt and make available to the public through, the secretary, procedures under which a hearing will be conducted. The procedures shall not require compliance with strict rules of evidence but shall mandate that only relevant information be received.

PM-111.5 Postponed hearing: When five members are not present to hear an appeal, either the appellant or the appellant's representative shall have the right to request a postponement of the hearing.

PM-111.6 Board decision: The board shall modify or reverse the decision of the code official by a concurring vote of three members.

PM-111.6.1 Resolution: The decision of the board shall be by resolution. Certified copies shall be furnished to the appellant and to the code official.

PM-111.6.2 Administration: The code official shall take immediate action in accordance with the decision of the board.

PM-111.7 Court review: Any person, whether or not a previous party of the appeal, shall have the right to apply to the appropriate court for a writ of certiorari to correct errors of law. Application for review shall be made in the manner and time required by law following the filing of the decision in the office of the chief administrative officer.

(Ord. passed 11-27-1995; Am. Ord. passed 11-27-1995)

§ 150.03 STATE CONSTRUCTION CODE ADOPTED.

(A) *Code adopted.* The city hereby adopts by reference the Michigan *State Construction Code* in its entirety, for all purposes, including enforcement thereof within the corporate limits of the city, as authorized and provided by the provisions of Public Act 230 of 1972, being M.C.L.A. §§ 125.1501 *et seq.*, as amended, otherwise known as the State Construction Code Act of 1972.

(B) *Agency designated.* Pursuant to the provisions of the *State Construction Code*, in accordance with Public Act 230 of 1972, being M.C.L.A. §§ 125.1501 *et seq*., as amended, the Building Official of the city is hereby designated as the enforcing agency to discharge the responsibilities of the city under the Act. The city hereby assumes responsibility for the administration and enforcement of the Act throughout its corporate limits.

(C) *Name of city to be inserted.* The name of the city shall be inserted where appropriate in the *State Construction Code*, and all divisions and sections thereof, as the "name of jurisdiction" designated with responsibility for enforcement of such codes.

(D) *Fees.* Fees for the various permits required by the *State Construction Code*, and all divisions and sections thereof, shall be established by resolution of the City Council.

(E) *Violations.* Any person who shall violate a provision of the *State Construction Code* herein adopted, and all divisions and sections thereof, or who shall fail to comply with any of the requirements thereof, or who shall erect, construct, alter or repair a building or structure in violation of an approved plan or directive of the Building Official, or of a permit or certificate issued under the provisions of this code, shall be punished as provided in § 10.99.

Penalty, see § 10.99

§ 150.04 ONE AND TWO-FAMILY DWELLING CODE ADOPTED.

(A) Where not in conflict with any provisions of the *State Construction Code* herein adopted, the *One- and Two-Family Dwelling Code*, 1983 Edition, the appendices added to that code, as promulgated by the Building Officials and Code Administrators International, Inc., are hereby adopted by reference.

(B) The purpose of this section is to regulate the fabrication, erection, construction, enlargement, alteration, repair, location and use of detached one and two-family dwellings, their appurtenances and accessory structures in the city.

§ 150.05 COPIES OF CODES TO BE AVAILABLE.

The City Clerk is directed to keep printed copies of the *State Construction Code*, including all divisions thereof, including the *Basic Building Code, BOCA One- and Two-Family Dwelling Code, Mechanical Code, Plumbing Code*, and *Electrical Code*, together with such other codes as may be hereafter incorporated therein, and all appendices thereto, available for inspection and distribution to the public, at such cost as the City Council shall by resolution determine, at the office of the City Clerk at all times.

§ 150.06 VIOLATION OF A STOP-WORK ORDER.

(A) Any person, firm, corporation, trust, partnership or other legal entity which continues to work in or about a structure after having been served with a stop-work order, except such work as expressly directed in order to remove a violation or unsafe condition, shall be responsible for a municipal civil infraction and shall be punished by a civil fine in accordance with § 10.22 of this code and shall further be liable for the payment of the costs of prosecution in an amount of not less than $9 and not more than $500.

(B) Each day that a violation continues to exist shall constitute a distinct and separate offense, and shall make the violator liable for the imposition of fines for each day.

(C) Any violation of the provisions of this chapter shall constitute a nuisance per se and the foregoing penalties shall be in addition to the abatement of the violating condition and injunctive or other relief which may be ordered by the court as prescribed by the laws of the State of Michigan for the abatement of a city ordinance designated as a municipal civil infraction.

(Ord. passed 8-9-1999)

§ 150.07 EXCAVATIONS.

(A) *Deep excavations.* Whenever an excavation is made to a depth of more than four feet below the established curb, the person who causes the excavation to be made, if afforded the necessary license to enter the adjoining premises, shall preserve and protect from injury at all times and at his or her own expense such adjoining structure or premises which may be affected by the excavation. If the necessary license is not afforded, it shall then be the duty of the owner of the adjoining premises to make his or her building or structure safe by installing proper underpinning or foundations or otherwise. The owner, if it be necessary for the prosecution of his or her work, shall be granted the necessary license to enter the premises where the excavation or demolition is contemplated.

(B) *Shallow excavations.* Whenever an excavation is made to a depth less than four feet below the curb, the owner of a neighboring building or structure, the safety of which may be affected by the proposed excavation, shall preserve and protect from injury and shall support his or her building or structure by the necessary underpinning or foundations. If necessary for that purpose, the owner shall be afforded a license to enter the premises where the excavation is contemplated.

Penalty, see § 10.99

DANGEROUS BUILDINGS

§ 150.25 DEFINITION.

For the purpose of this subchapter, the following definition shall apply unless the context clearly indicates or requires a different meaning.

DANGEROUS BUILDING. Any building or structure which has one or more of the following defects or is in one or more of the following conditions:

(1) A door, aisle, passageway, stairway or other means of exit does not conform to the approved fire code of the city;

(2) A portion of the building or structure is damaged by fire, wind, flood or by any other cause in such a manner that the structural strength or stability of the building or structure is appreciably less than it was before such catastrophe and does not meet the minimum requirements of the *State Construction Code* for a new building or similar structure, purpose or location;

(3) A part of the building or structure is likely to fall or to become detached or dislodged, or to collapse and thereby injure persons or damage property;

(4) A portion of the building or structure has settled to such an extent that walls or other structural portions have materially less resistance to wind than is required in the case of new construction by the *State Construction Code*;

(5) The building or structure, or any part of the building or structure, because of dilapidation, deterioration, decay, faulty construction, or because of the removal or movement of some portion of the ground necessary for the support, or for some other reason, is likely to partially or completely collapse, or some portion of the foundation or underpinning of the building or structure is likely to fail or give way;

(6) The building or structure, or any part of the building or structure, is manifestly unsafe for the purpose for which it is used;

(7) The building or structure is damaged by fire, wind or flood, or is dilapidated or deteriorated and becomes an attractive nuisance to children who might play in the building or structure to their danger, or becomes a harbor for vagrants, criminals or immoral persons, or enables persons to resort to the building or structure for committing a nuisance or an unlawful or immoral act;

(8) A building or structure used or intended to be used for dwelling purposes, including the adjoining grounds, because of dilapidation, decay, damage, faulty construction or arrangement, or otherwise, is unsanitary or unfit for human habitation, is in a condition that the Health Officer determines is likely to cause sickness or disease, or is likely to injure the health, safety or general welfare of people living in the dwelling;

(9) A building or structure is vacant, dilapidated and open at door or window, leaving the interior of the building exposed to the elements or accessible to entrance by trespassers; and/or

(10) A building or structure remains unoccupied for a period of 180 consecutive days or longer, and is not listed as being available for sale, lease or rent with a real estate broker licensed under

M.C.L.A. §§ 339.2501 *et seq*. For purposes of this division (10), "building or structure" includes but is not limited to a commercial building or structure. This division (10) does not apply to either of the following:

(a) A building or structure as to which the owner or agent does both of the following:

1. Notifies the Police Department that the building or structure will remain unoccupied for a period of 180 consecutive days. The notice shall be given to the Police Department by the owner or agent not more than 30 days after the building or structure becomes unoccupied; and

2. Maintains the exterior of the building or structure and adjoining grounds in accordance with the *State Construction Code*.

(b) A secondary dwelling of the owner that is regularly unoccupied for a period of 180 days or longer each year, if the owner notifies the Police Department that the dwelling will remain unoccupied for a period of 180 consecutive days or more each year. An owner who has given the notice prescribed by this division (10)(b) shall notify the Police Department not more than 30 days after the dwelling no longer qualifies for this exception. As used in this division (10)(b), ***SECONDARY DWELLING*** means a dwelling such as a vacation home, hunting cabin or summer home that is occupied by the owner or a member of the owner's family during part of the year.

Statutory reference:

Similar provisions, see M.C.L.A. § 125.539

§ 150.26 MAINTENANCE OF DANGEROUS BUILDING UNLAWFUL.

It is unlawful for any owner or agent thereof to keep or maintain any structure or part thereof which is a dangerous building, as defined in § 150.25 above.

Penalty, see § 10.99

Statutory reference:

Similar provisions, see M.C.L.A. § 125.538

§ 150.27 NOTICE; CONTENTS; HEARING.

(A) If a building or structure is found to be a dangerous building, the City Council or the City Manager shall issue a notice that the building or structure is a dangerous building.

(B) The notice shall be served on the owner, agent or lessee that is registered with the enforcing agency under M.C.L.A. § 125.525. If an owner, agent or lessee is not registered under M.C.L.A. § 125.525, the notice shall be served on each owner of or party in interest in the building or structure in whose name the property appears on the last local tax assessment records.

(C) The notice shall specify the time and place of a hearing on whether the building or structure is a dangerous building. The person to whom the notice is directed shall have the opportunity to show cause at the hearing why the hearing officer should not order the building or structure to be demolished, otherwise made safe, or properly maintained.

(D) The hearing officer shall be appointed by the Mayor to serve at the Mayor's pleasure. The hearing officer shall be a person who has expertise in housing matters including but not limited to an engineer, architect, building contractor, building inspector or member of a community housing organization. An employee of the city shall not be appointed as hearing officer. The city shall file a copy of the notice that the building or structure is a dangerous building with the hearing officer.

(E) The notice shall be in writing and shall be served upon the person to whom the notice is directed either personally or by certified mail, return receipt requested, addressed to the owner or

party in interest at the address shown on the tax records. If a notice is served on a person by certified mail, a copy of the notice shall also be posted upon a conspicuous part of the building or structure. The notice shall be served upon the owner or party in interest at least ten days before the date of the hearing included in the notice.

Statutory reference:

Similar provisions, see M.C.L.A. § 125.540

§ 150.28 HEARING; ORDER; COSTS.

(A) At the hearing described in § 150.27 above, the hearing officer shall take testimony of the enforcing agency, the owner of the property, and any interested party. Not more than five days after completion of the hearing, the hearing officer shall render a decision either closing the proceedings or ordering the building or structure demolished, otherwise made safe, or properly maintained.

(B) If the hearing officer determines that the building or structure should be demolished, otherwise made safe, or properly maintained, the hearing officer shall so order, fixing a time in the order for the owner, agent or lessee to comply with the order. If the building is a dangerous building under division (10) of the definition of “dangerous building” in § 150.25 above, the order may require the owner or agent to maintain the exterior of the building and adjoining grounds owned by the owner of the building, including but not limited to the maintenance of lawns, trees and shrubs.

(C) If the owner, agent or lessee fails to appear or neglects or refuses to comply with the order issued under division (B), the hearing officer shall file a report of the findings and a copy of the order with the City Council not more than five days after noncompliance by the owner and request that necessary action be taken to enforce the order. A copy of the findings and order of the hearing officer shall be served on the owner, agent or lessee in the manner prescribed by § 150.27 above.

(D) The City Council shall fix a date not less than 30 days after the hearing prescribed in § 150.27 above for a hearing on the findings and orders of the hearing officer and shall give notice to the owner, agent or lessee in the manner prescribed by § 150.27 of the time and place of the hearing. At the hearing, the owner, agent or lessee shall be given the opportunity to show cause why the order should not be enforced. The City Council shall either approve, disapprove or modify the order. If the City Council approves or modifies the order, the City Council shall take all necessary action to enforce the order. If the order is approved or modified, the owner, agent or lessee shall comply with the order within 60 days after the date of the hearing under this division (D). In the case of an order of demolition, if the City Council determines that the building or structure has been substantially destroyed by fire, wind, flood or other natural disaster, and the cost of the repair of the building or structure will be greater than the state equalized value of the building or structure, the owner, agent or lessee shall comply with the order of demolition within 21 days after the date of the hearing under this division (D).

(E) The cost of the demolition, of making the building or structure safe, or of maintaining the exterior of the building or structure, or grounds adjoining the building or structure incurred by the city to bring the property into conformance with this subchapter shall be reimbursed to the city by the owner or party in interest in whose name the property appears.

(F) The owner or party in interest in whose name the property appears upon the last local tax assessment records shall be notified by the City Assessor of the amount of the cost of the demolition, of making the building or structure safe, or of maintaining the exterior of the building or structure or grounds adjoining the building or structure by first class mail at the address shown on the records. If the owner or party in interest fails to pay the cost within 30 days after mailing by the City Assessor of the notice of the amount of the cost, the city shall have a lien for the cost incurred by the city to bring the property into conformance with this subchapter. The lien shall not take effect until notice of the lien has been filed or recorded as provided by law. A lien provided for in this division (F) does not have priority over previously filed or recorded liens and encumbrances. The lien for the cost shall be

collected and treated in the same manner as provided for property tax liens under the General Property Tax Act, being M.C.L.A. §§ 211.1 *et seq*.

(G) In addition to other remedies under this subchapter or state law, the city may bring an action against the owner of the building or structure for the full cost of the demolition, of making the building or structure safe, or of maintaining the exterior of the building or structure or grounds adjoining the building or structure. The city shall have a lien on the property for the amount of a judgment obtained pursuant to this division (G). The lien provided for in this division (G) shall not take effect until notice of the lien is filed or recorded as provided by law. The lien does not have priority over prior filed or recorded liens and encumbrances.

Statutory reference:

Similar provisions, see M.C.L.A. § 125.541

§ 150.29 JUDICIAL REVIEW.

An owner aggrieved by any final decision or order of the City Council may appeal the decision or order to the circuit court by filing a petition for an order of superintending control within 20 days from the date of the decision.

Statutory reference:

Similar provisions, see M.C.L.A. § 125.542

SIGNS

§ 150.30 TEMPORARY SIGN REGULATIONS.

Statement of purpose. The purpose of this section is to regulate temporary signs as defined in § 154.140 of the Zoning Code and similar outdoor advertising in a manner which will permit the identification and/or advertising of a business, product, or event while maintaining the protection of the city's appearance and the general welfare of the public.

(A) *Regulation of sign requirements.* All temporary signs shall be subject to the following regulations to be enforced by the Zoning Administrator, unless otherwise provided in this section. Unless otherwise permitted within this section or within § 154.141 of the Zoning Code, no signage shall be displayed within the city. All defined terms within the Zoning Code shall also apply to this section.

(B) *Sign permit procedure.* All proposed temporary signs shall be subject to prior approval by the Zoning Administrator unless otherwise noted within this section. All applications for approval of proposed signs shall indicate size, type, materials, structural supporting devices, and duration of display. A scale drawing of the proposed sign and sign location shall be provided with all applications. If the application is made by the building tenant, the same must have written permission for the proposed sign from the property owner. Sign approval shall be valid for a display period as indicated on the application. If the approved sign is not installed within that period, a new application must be submitted. Unless otherwise permitted, all temporary signs must be removed by the end of the period for which they were approved.

(C) *Banners.* Unless approved by City Council, each non-residential use shall be permitted to display one banner at a time, and said banner shall meet the following requirements:

(1) The banner shall be no larger than 16 square feet in area;

(2) The banner shall be located entirely on private property;

(3) The banner shall be displayed for no more than three 14-day periods between January 1 and December 31 of any year; and

(4) The banner shall not be illuminated.

(D) *Sandwich boards.* Each business shall be permitted to have one sandwich board subject to the following conditions:

(1) The sandwich board shall not have an area greater than 6 square feet;

(2) The sandwich board may be located within the public right-of-way but shall not be placed in a manner that may obstruct the general flow of pedestrian traffic or in a manner that causes a vision obstruction;

(3) The sandwich board shall not be greater than 42 inches in height from grade;

(4) The sandwich board shall only be displayed when the business is open; and

(5) The sandwich board shall not be illuminated.

(E) *Construction signs.* Construction signs shall be subject to the following standards:

(1) Development sites currently under construction or have a valid site plan shall be permitted to have one sign per street or water frontage;

(2) Construction signs shall only be permitted with an approved site plan;

(3) Construction signs shall not exceed 32 square feet in area;

(4) Construction signs shall not be located in the public right-of-way;

(5) Construction signs shall be removed before the final certificate of occupancy is issued; and

(6) Construction signs shall not be illuminated.

(F) *Temporary signs not requiring a permit.* The following signs shall be permitted without requiring a permit.

(1) *Real estate signs.* Real estate signs shall be permitted and shall meet the following standards:

(a) Only one real estate sign shall be permitted per frontage along a public right-of-way or waterfront;

(b) Real estate signs shall not exceed six square feet;

(c) Real estate signs shall be removed within 30 days of the sale of a property;

(d) Real estate signs shall be located entirely on the same property as the property for sale; and

(e) Real estate signs shall not have any illumination.

(2) *Rental signs.* Signage advertising for the rental of a dwelling is permitted and shall meet the following standards:

(a) Only one rental sign shall be permitted per rental;

(b) Rental signs shall not exceed four square feet in size; and

(c) Rental signs shall be surface mounted to the structure or located inside of a window.

(3) *Garage sale signs.* Signage for garage sales shall be permitted subject to the following standards.

(a) Garage sale signs shall be no larger than two square feet;

(b) No more than three garage sale signs shall be permitted per sale;

(c) Garage sale signs shall not be attached to any pole, tree, sign, or similar feature within the public right-of-way and shall not create a pedestrian obstruction or a traffic vision obstruction;

(d) Garage sale signs shall be displayed no sooner than 48 hours before the sale; and

(e) Garage sale signs shall be removed within 24 hours of the end of sale.

(4) *Election signs.* Election signs are permitted and shall meet the following standards:

(a) Election signs shall not be larger than four square feet in size;

(b) Election signs shall be removed 48 hours after the election of which they were intended;

(c) Election signs shall be located entirely on private property; and

(d) Election signs shall not be erected or attached to a tree, utility pole, rock, or similar feature.

(5) *Flags.* Official governmental flags may be displayed at a commercial business or residential properties without the issuance of a permit subject to the following standards:

(a) Flags shall not exceed 24 square feet;

(b) If the flags hang over a sidewalk or other pedestrian walkway, the bottom of the flag shall be no less than seven feet from grade directly below the flag;

(c) Any illumination shall not shine into neighboring structures, onto other signs, or have a light source that is visible from the public right-of-way; and

(d) Residential properties which do not contain a commercial business may also display flags from an educational institution or sports teams, or other decorative flags, not exceeding 24 square feet.

(6) *Opinion signs.* Signs displaying a noncommercial message regarding a religious, political, or personal opinion may be displayed without a permit subject to the following:

(a) Signs shall not be larger than four square feet;

(b) Signs shall only be placed on private property with the permission of the property owner, not in the right-of-way; and

(c) Signs shall be no higher than six feet above grade.

(G) *Further regulations pertaining to all temporary signs.* Unless permitted elsewhere within this section, temporary signs shall meet the following standards:

(1) Temporary signs shall not be installed within the public right-of-way;

(2) Pennants, feather flag signs, windfeather signs, and portable signs as defined in § 154.140 of the Zoning Ordinance shall be prohibited;

(3) Temporary signs shall not create a traffic vision obstruction; and

(4) Temporary signs shall not exceed 28 feet in height from grade.

(H) *Exceptions.* City Council or a designee shall have the authority to waive any of the requirements of this section subject to the following:

(1) The sign does not create a traffic vision obstruction;

(2) The sign does not create a pedestrian traffic obstruction;

(3) The sign (typo) is compatible with the surroundings and is not uniquely out of character for the community; and

(4) The sign does not create a situation which could be detrimental to health, safety, or welfare.

(I) *Administration and enforcement.*

(1) *Administration.* The Zoning Administrator shall administer and enforce this section and shall have the right to enter and inspect periodically all properties during the process of the work. He or she shall inspect the construction at least once upon completion of the work to insure compliance with this section. A violation of this chapter shall constitute a nuisance per se.

(2) *Interpretation/appeal.* The Zoning Administrator shall have the authority to render binding interpretations of provisions of this section and shall administer the same. An aggrieved party may appeal any interpretation/determination made by the Zoning Administrator in writing to the City Council within 21 days of any such determination/interpretation. City Council may wave the requirements and standards of this section if the proposed sign:

(a) Does not create a pedestrian or vehicle traffic obstruction or hazard;

(b) Is not permanent in nature;

(c) Does not create glare or nuisance to neighboring properties;

(d) Is consistent with the character of the city; and

(e) Is consistent with the city’s master plan.

(3) *Revocation of permit.* The Zoning Administrator shall have the authority to revoke any permit issued pursuant to this section if the requirements of the permit and the provisions of this section are being violated, and in such case shall have the power to issue a stop-work order. An aggrieved party may appeal within 21 days of any such determination/interpretation.

(4) *Assistance of building inspector or engineer.* The Zoning Administrator may seek the advice and assistance of the City Building Inspector or such licensed engineer as he or she may designate if he or she feels it necessary to assure compliance with this section, and the Building Inspector or licensed engineer shall render such assistance when requested to do so.

(5) *Stop work orders.* Upon notice from the Zoning Administrator that any use being conducted or that any work or construction is being done contrary to the provisions of this section, such use or work shall cease immediately. The stop work order shall be in writing and shall be given to the owner of the property involved (as shown on the most recent property tax bill). Any person who shall continue to work on and/or construct a structure, land or building or use it after having been served with a stop work order, except such work as that person is expressly directed by the city to perform to remove a violation, shall be in violation of this section.

(J) *Penalties.*

(1) Any person, firm, corporation, trust, partnership or other legal entity which violates or refuses to comply with any provision of this section shall be responsible for a municipal civil infraction and shall be punished by a civil fine in accordance with § 10.22, Chapter 10 of this code, and shall be liable for payment of the costs of prosecution in an amount of not less than $9 and not more than $500.

(2) Each day that a violation continues to exist shall constitute a distinct and separate offense and shall make the violator liable for the imposition of fines for each day.

(3) The foregoing penalties shall be in addition to the abatement of the violating condition and injunctive or other relief which may be ordered by the court as prescribed by the laws of the state for the abatement of a public nuisance or the violation of a city ordinance designated as a municipal civil infraction.

(Ord. 101122-1, passed 11-22-2010; Am. Ord. 160808-2, passed 8-8-2016; Am. Ord. 181112-2, passed 11-12-2018)

CHAPTER 151: FLOOD DAMAGE PREVENTION

Section

§ 151.01 STATUTORY AUTHORIZATION.

The legislature of the state has, in Michigan Zoning Enabling Act, M.C.L.A. §§ 125.3101 - 125.3702, delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety and general welfare of its citizenry.

§ 151.02 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

AREA OF SPECIAL FLOOD HAZARD. The land in the floodplain within a community subject to a 1% or greater chance of flooding in any given year.

BASE FLOOD. The flood having a 1% chance of being equaled or exceeded in any one year.

DEVELOPMENT. Any human-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, mobile home placement, excavation or drilling operations located within the area of special flood hazard.

FLOOD INSURANCE RATE MAP (FIRM). The official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

FLOOD INSURANCE STUDY. The official report provided by the Federal Insurance Administration that includes flood profiles, the flood boundary-floodway map, and the water surface elevation of the

base flood.

VARIANCE. A grant of relief from the requirements of this chapter which permits construction in a manner that would otherwise be prohibited by this chapter.

§ 151.03 BASIS FOR ESTABLISHING AREAS OF SPECIAL FLOOD HAZARD.

The area of special flood hazard identified by the Federal Insurance Administration in a scientific and engineering report entitled “The flood insurance study for the Village of Saugatuck,” dated February 1, 1980, with accompanying flood insurance rate maps and flood boundary maps - floodway maps, is hereby adopted by reference and declared to be a part of this chapter. The flood insurance study is on file at the office of the City Clerk.

§ 151.04 DEVELOPMENT PROHIBITION.

All development shall be prohibited within areas of special flood hazard as established in § 151.03.

Penalty, see § 10.99

§ 151.05 VARIANCE PROCEDURE.

The City Council shall hear and decide appeals and requests for variances from the requirements of this chapter consistent with the standards of 44 C.F.R. § 60.3(d) and 44 C.F.R. § 60.5(a) of the rules and regulations of the National Flood Insurance Program, being generally 44 C.F.R. §§ 59 *et seq*.

§ 151.06 DESIGNATION AND DUTIES OF THE ADMINISTRATOR.

The City Clerk is hereby appointed Administrator and is to review all development and subdivision proposals to insure compliance with this chapter.

§ 151.99 PENALTY.

(A) Any person, firm, corporation, trust, partnership or other legal entity which violates or refuses to comply with any provision of this chapter shall be responsible for a municipal civil infraction and shall be punished by a civil fine in accordance with § 10.22, Chapter 10 of this code and shall be liable for payment of the costs of prosecution in an amount of not less than $9 and not more than $500.

(B) Each day that a violation continues to exist shall constitute a distinct and separate offense, and shall make the violator liable for the imposition of fines for each day.

(C) The foregoing penalties shall be in addition to the abatement of the violating condition and injunctive or other relief which may be ordered by the court as prescribed by the laws of the State of Michigan for the abatement of a public nuisance or the violation of a city ordinance designated as a municipal civil infraction.

(Ord. passed 8-9-1999)

CHAPTER 152: HISTORIC DISTRICT REGULATIONS

Section

§ 152.01 PURPOSE.

Historic preservation is declared to be a public purpose, and it is the intent of this chapter to establish procedures as set forth in Public Acts 169 of 1970, being M.C.L.A. §§ 399.201 - 399.215, as amended by Public Act 125 of 1980, being M.C.L.A. §§ 399.203 - 399.205, Public Act 230 of 1986, being M.C.L.A. §§ 399.201 - 399.215, and Public Act 96 of 1992, being M.C.L.A. §§ 399.201 - 399.215, to regulate the construction, addition, moving, excavation and demolition, and exterior alteration and repair of structures or resources within the Historic District in order to:

(A) Safeguard the heritage of the City of Saugatuck by ensuring that the Historic District(s) continue to reflect the architecture, archaeology, engineering, culture, local village/rural character and the contextual aesthetic of the city;

(B) Stabilize and improve property values in each district and surrounding areas;

(C) Foster civic beauty;

(D) Strengthen the local economy; and

(E) Promote the use of historic districts for the education, pleasure and welfare of the citizens of the city, county, state and country.

(Ord. passed 3-27-2000; Am. Ord. 080324-1, passed 3-24-2008)

§ 152.02 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ADDITION. A new structure built onto an existing structure.

ALTERATION. Work that changes the exterior detail of a resource regardless whether the work changes the resource's basic size or shape.

CENTER. The Michigan Historical Center of the Department of History, Arts and Libraries.

CERTIFICATE OF APPROPRIATENESS. Written approval of a permit application for work determined to be consistent with the requirements and purposes of this chapter.

COMMISSION. An historic district commission created by the City Council pursuant to Public Act 169 of 1970 as amended, being M.C.L.A. §§ 399.201 - 399.215.

COMMITTEE. An historic district study committee appointed by the City Council under § 152.04.

CONSTRUCTION. The building of a new structure, whether free standing or an addition.

DEMOLITION. 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. Neglect in maintaining, repairing or securing a resource that results in deterioration of an exterior feature of the resource or loss of structural integrity of the resource.

DENIAL. The written rejection of a permit application for work that is determined to be inconsistent with the requirement of this chapter.

HISTORIC DISTRICT. 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. The identification, evaluation, establishment and protection of resources significant in history, architecture, archaeology, engineering or culture.

HISTORIC RESOURCE. A publicly or privately owned building, structure, site, object, feature or open space that contributes significant to the architectural, archaeological, engineering, cultural history, local village/rural character, or the contextual aesthetic of the city, county, state or country.

NATURAL MATERIALS. Materials produced or existing by nature.

NOTICE TO PROCEED. Written permission to issue a permit for work determined to be consistent with the requirements of this chapter, but which is allowed under one of the exceptions to the application of those guidelines.

OPEN SPACE. Undeveloped land, a naturally landscaped area, or a formal or man-made landscaped area that provides a connective link or a buffer between other resources.

ORDINARY MAINTENANCE. To maintain the exterior of a resource in good or sound condition by taking care of ordinary wear and tear. ***ORDINARY MAINTENANCE*** does not change the external appearance of the resource except through elimination of the usual and expected effects of weathering (e.g. scraping and repainting a house with the same color). ***ORDINARY MAINTENANCE*** shall not constitute work for purposes of this chapter.

REPAIR. To restore the exterior of a decayed or damaged resource to a good or sound condition by replacing a decayed or damaged element or feature (e.g. a window, the siding, a bracket, or door) with one of identical design using either original material or other material as permitted by the Commission. A repair that changes the external appearance of a resource constitutes work for purposes of this chapter.

RESOURCE. One or more publicly or privately owned historic or non-historic buildings, structures, sites, objects, features or open spaces located within a historic district.

STANDING COMMITTEE. A permanent body established by the City Council under Public Act 169 of 1970, as amended, being M.C.L.A. §§ 399.201 - 399.215, to conduct the activities of a historic district study committee on a continuing basis.

WORK. Construction, addition, alteration, repair, moving, excavation or demolition.

(Ord. passed 3-27-2000; Am. Ord. passed 4-28-2003; Am. Ord. 080324-1, passed 3-24-2008)

§ 152.03 APPLICATION AND PERMIT REQUIRED.

A permit shall be obtained before any work affecting the exterior appearance of a resource is performed within a historic district. The Building Inspector shall not issue a building permit and no resource in a historic district shall be constructed, moved, excavated or demolished, nor its exterior altered or repaired, nor signs and fences constructed or altered, unless application is made and the applicant has received either a certificate of appropriateness or a notice to proceed from the Commission pursuant to the requirements set forth in this chapter.

(Ord. passed 3-27-2000; Am. Ord. 080324-1, passed 3-24-2008)

§ 152.04 CREATION, MODIFICATION, AND ELIMINATION OF HISTORIC DISTRICTS.

(A) *Generally.* The creation, modification, and elimination of historic districts shall be in accordance with Public Act 169 of 1970, as amended, being M.C.L.A. §§ 399.201 - 399.215.

(B) *Creation or modification of historic districts.* The City Council may, by ordinance, establish one or more historic districts or modify the boundaries of an existing historic district. Before creating or modifying a historic district, the City Council shall, by resolution, appoint a Historic District Study Committee. The Committee shall contain a majority of persons who have a clearly demonstrated interest in or knowledge of historic preservation and shall contain representation from one or more duly organized local historic preservation organizations.

(1) The Committee shall do all of the following:

(a) Conduct a photographic inventory of resources within each proposed historic district following procedures established or approved by the Center.

(b) Conduct basic research on each proposed historic district and the historic resources located within that district.

(c) Determine the total number of historic and non-historic resources within the proposed historic district and the percentage of historic resources of that total. In evaluating the significance of historic resources, the 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 C.F.R. part 60, and criteria established or approved by the Center, if any.

(d) Prepare a preliminary historic district study committee report that addresses at a minimum all of the following:

1. The charge of the Committee.

2. The composition of the Committee membership.

3. The historic district or districts studied.

4. The boundaries for each proposed historic district in writing and on maps.

5. The history of each proposed historic district.

6. 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.

(e) Transmit copies of the preliminary report for review and recommendations to the City Planning Commission, the Center, the Michigan Historical Commission, and to the State Historic Preservation Review Board.

(f) Make copies of the preliminary report available to the public pursuant to subsection (4).

(2) Not less than 60 calendar days after the transmittal of the preliminary report, the Committee shall hold a public hearing in compliance with the Open Meetings Act, Public Act 267 of 1976, as amended, being M.C.L.A. §§ 15.261 to 15.275. Public notice of the time, date, and place of the hearing shall be given in the manner required by Public Act 267 of 1976, as amended, being M.C.L.A. §§ 15.261 to 15.275. Written notice shall be mailed by first-class mail not less than 14 calendar days before the hearing to the owners of properties within the proposed historic district, as listed on the tax rolls of the city.

(3) After the date of the public hearing, the Committee and the City Council shall have not more than one year, unless otherwise authorized by the City Council, 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 City Planning Commission to the City Council. If the recommendation is to establish or expand a historic district or districts, the final report shall include a draft of a proposed ordinance or ordinances.

(b) After receiving a final report that recommends the establishment of a historic district or districts, the City Council, at its discretion, may introduce and pass or reject an ordinance or ordinances. If the City Council passes an ordinance or ordinances establishing one or more historic districts, the City Clerk shall file a copy of the ordinance or those ordinances, including a legal description of the property or properties located within the historic district or districts with the Register of Deeds. If a majority of the property owners within the proposed historic district, as listed on the city tax rolls, have approved the establishment of the historic district pursuant to a written petition or petitions, the City Council shall not pass an ordinance establishing the historic district less than 60 days after presentation of the petition or petitions. A written petition shall not be a prerequisite to the establishing, modifying, or eliminating of a historic district unless the City Council, in its discretion, determines otherwise.

(4) A writing prepared, owned, used, in the possession of, or retained by a committee in the performance of an official function shall be made available to the public in compliance with the Freedom of Information Act, Public Act 442 of 1976, as amended, being M.C.L.A. §§ 15.231 to 15.246.

(C) *Elimination of all or part of a historic district.* If considering elimination of a historic district, a committee shall follow the procedures set forth in division (B) for issuing 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 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.

(D) *Historic District Study Committee.* Before establishing additional historic districts or modifying or eliminating an existing historic district, a Historic District Study Committee appointed by the City Council shall comply with the procedures set forth in divisions (B) and (C) and shall consider any previously written committee reports pertinent to the action. To conduct these activities, the city may retain the initial Historic District Study Committee appointed by the City Council under division (B),

establish a standing committee, or establish a committee to consider only specific proposed districts and then be dissolved.

(E) *Review of permit applications in proposed historic districts.* Upon receipt of substantial evidence showing the presence of historic architectural, archaeological, engineering, or cultural significance of a proposed historic district, the City Council may, at its discretion, adopt a resolution requiring that all applications for permits within the proposed historic district be referred to the Commission. The 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 Council approves or rejects the establishment of the historic district by ordinance, whichever occurs first.

(F) *Emergency moratorium.* If the City Council determines that pending work will cause irreparable harm to resources located within an established historic district or a proposed historic district, the City Council may, by resolution, declare an emergency moratorium of all such work for a period not to exceed six months. The City Council 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. passed 3-27-2000; Am. Ord. 080324-1, passed 3-24-2008)

§ 152.05 HISTORIC DISTRICT BOUNDARIES.

The following historic districts are hereby established:

(A) All of that part of the Kalamazoo Plat which lies south of Mary Street, west of Griffith Street and north and east of the Kalamazoo River;

(B) All of those properties located within Flint Assessor’s Plat which are southerly and easterly of the Kalamazoo River and south of the south line of Herbert Street and Herbert Street extended to the Kalamazoo River;

(C) Block 1 and Block 2 of Bandle’s Addition along with all of those parcels of property lying northerly of a line extending from the southeast corner of Lucy Street to the southeast corner of Elizabeth and Mill Streets;

(D) All of those properties lying between Lake Street and the Kalamazoo River along with the first 132 feet of all parcels of land which lie east of Griffith Street and north and east of Culver Street and Lake Street (the intent is to include both sides of Lake Street and Culver Street); and

(E) All the lands east of the Kalamazoo River and west of Holland and Griffith Streets from Mary Street on the south to Lucy Street on the north; also to include all properties west of Elizabeth Street and east of Griffith Street and bounded on the north by Mason Street and bounded on the south by Allegan, Lake and Culver Streets.

(Ord. passed 3-27-2000; Am. Ord. 080324-1, passed 3-24-2008)

§ 152.06 HISTORIC DISTRICT COMMISSION.

(A) *Creation*. In order to execute the purposes of this chapter, the Saugatuck Historic District Commission was established on December 14, 1981.

(B) *Membership*. The Commission shall consist of seven members who are residents of the City of Saugatuck, and shall be appointed by the Mayor with approval of the City Council. A majority of the members shall have a clearly demonstrated interest in or knowledge of historic preservation, and, if available, either reside in or own property in the historic district. The Commission shall include a member nominated by a local preservation organization, if available, a licensed architect, registered in

the State of Michigan, qualified in the design, rehabilitation and construction of historic structures, if available.

(1) *Terms of office*. Members of this Commission shall serve for terms of three years. The terms of all commissioners commence on the first day of the month established by the City Council as the beginning of member terms, with no more than three member terms commencing in a single calendar year. Members may be reappointed after their terms expire.

(2) *Vacancies*. In the event of a vacancy on the Commission, interim appointments shall be made within 60 days by the Mayor with approval of the City Council to complete the unexpired term of the position.

(C) *Meetings*. All meetings of the Commission shall be open to the public and any person or his or her duly authorized representative shall be entitled to appear and be heard on any matter before the Commission. Meetings of the Commission shall be held in compliance with the Open Meetings Act, Public Act 267 of 1976, as amended, being M.C.L.A. §§ 15.261 to 15.275. Public notice of the time, date, and place of the meeting shall be given in the manner required by Public Act 267 of 1976, as amended, being M.C.L.A. §§ 15.261 to 15.275. 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 Commission.

(D) *Records*. The Commission shall keep a record of its resolutions, proceedings, and actions. 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 44 of 1976, as amended (Freedom of Information Act), being M.C.L.A. §§ 15.231 - 15.246.

(E) *Rules of procedure*. The Commission shall establish rules of procedure to conduct meetings pursuant to the state statutes and local ordinances. The rules of procedure shall be maintained on file at City Hall.

(Ord. passed 3-27-2000; Am. Ord. 080324-1, passed 3-24-2008)

§ 152.07 APPLICATION AND REVIEW PROCEDURE; DUTIES OF THE HISTORIC DISTRICT COMMISSION.

(A) *Application.* Application for a building permit to construct, alter, repair, move, or demolish any structure or install or alter any signage or fence structure in a historic district shall be made to the Historic District Administrator who shall notify the Commission of the receipt of the application and shall convey the application, supporting plans and documents, and any other pertinent information, to the Commission.

(B) *Supporting documents.* When applying for a building permit under division (A), the applicant shall provide the following supporting documents, where applicable:

(1) Photographs of the structure and its relationship to adjacent structures.

(2) A plot plan with the placement of the proposed addition, or location of fencing to be constructed.

(3) Elevation drawings of the exterior of the structure.

(4) Samples of all proposed exterior finishes and materials.

(5) Photographs showing, in detail, the problem areas to be addressed during the proposed repair or alteration.

(6) A scale drawing of all proposed signage, including design, colors, lettering style, type of illumination (if any), placement or location on the lot or building, and the type of support(s) for the sign(s).

(7) If an application for signage is made by tenants of a building located within a historic district, the tenants must obtain written permission from the building owner to install or alter the proposed sign(s).

(C) *Review of application by the Commission.* Unless otherwise provided for by this chapter, the Commission shall review applications and plans for the construction, alteration, repair, moving, partial or total demolition of resources and the installation or alteration of signs and fencing in a historic district before a certificate of appropriateness, notice to proceed, or building permit can be granted or issued.

(1) *Exterior features.* The Commission shall review and act upon applications for work affecting the exterior appearance of a resource.

(2) *Interior features.* The Commission shall review and act upon applications for work affecting the interior appearance of a resource only where the work will cause visible change to the exterior appearance of the resource.

(3) *Fences and signs.* The Commission shall review and act upon applications concerning the installation, construction, repair, or alteration of all fences and signs located within a historic district.

(D) *Guidelines.*

(1) In reviewing applications and plans submitted under this chapter, the Commission shall follow U.S. Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Structures as set forth in 36 C.F.R. part 67, as amended. Additional guidelines may be developed and followed if they are equivalent in guidance to the Secretary's standards and guidelines and are approved by the Center. Any additional guidelines must be adopted by the Commission and approved by the City Council. In reviewing applications and plans, the Commission shall also give consideration to:

(a) The historical or architectural significance of the resource and its relationship to the historic value of the surrounding area.

(b) The compatibility of the exterior of the structure and the space around it with the visual or historical context of the surrounding area.

(c) The impact of the exterior of the structure and the space around it on the village/rural character and contextual aesthetic of the city.

(d) Other factors which the Commission considers to be pertinent.

(2) In exercising its authority to approve or deny an application under this chapter, the Commission shall exercise its educated judgment on a case-by-case basis in interpreting these guidelines and the following the applicable standards.

(E) *Experts.* The Commission shall have the power to consult with experts, when necessary, to aid in its deliberations.

(F) *Decision.* The Commission shall act within 60 days after the date a complete application is filed, unless an extension is agreed upon in writing by the applicant and the Commission. The Commission shall issue a certificate of appropriateness or a notice to proceed if it approves of the plans submitted to it for review. Failure to act by the Commission within 60 days shall be considered to constitute approval of the application and the Historic District Administrator shall issue a notice to proceed to the Building Inspector.

(G) *Certificate of appropriateness or notice to proceed.*

(1) The Commission shall file with the Historic District Administrator a certificate of appropriateness or notice to proceed if the Commission approves the application. No building permit

shall be issued or work begun until the certificate of appropriateness or notice to proceed has been filed.

(2) Any changes or alterations made to the original approved plans shall be submitted to the Commission for approval under § 152.08. Alterations made without the Commission's approval shall be considered work without a permit under § 152.09.

(3) Any work performed under an approved application or part thereof must be completed within one year from the date of approval. Upon the expiration of one year following the date of approval, the application and permit become void and the applicant must reapply for a permit, unless the applicant applies for an extension, which shall be for no longer than one year, and such extension is approved by the Commission.

(4) Issuance of a certificate of appropriateness or notice to proceed does not absolve the applicant from its obligation to comply with the Zoning and Building Code requirements of the city or other applicable local, state or federal requirements.

(H) *Denial of plans.* If the Commission denies plans submitted to it for review, no permit shall be issued or work begun or performed. The Commission shall state its reasons for denying the plans and shall transmit a record of such action and reasons therefore in writing to the Historic District Administrator and to the applicant. The Commission may advise the applicant regarding what work is appropriate under this chapter and the applicant may make modifications to the original plans. The applicant shall have the right to resubmit the application and modified plans to the Commission for approval.

(Ord. passed 3-27-2000; Am. Ord. 080324-1, passed 3-24-2008)

§ 152.08 DEVIATION FROM APPROVED PLANS.

(A) If an owner whose plans have received a certificate of appropriateness or notice to proceed wishes to change the approved plans in any way, regardless how minor the changes, the owner shall apply to the Commission for approval of such changes prior to commencing work that incorporates the changes.

(B) If the Commission finds that an owner has proceeded with work that involved a deviation from the original approved plans, without seeking approval under division (A), it shall cause a stop work order to be issued with regard to the portion of the work that involves the change(s).

(1) The owner shall thereafter apply to the Commission for approval of the desired change to the original approved plans.

(2) If the desired changes are not approved, the owner shall dismantle the unapproved work and proceed with the work as originally approved.

(C) If the owner does not or cannot comply with the division (B), the Commission may seek an order from the circuit court allowing the Commission or its agents to enter the property and conduct work necessary to restore the resource to its former condition or modify the work so that it complies with the original plans as approved by the Commission. 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.

(Ord. passed 3-27-2000; Am. Ord. 080324-1, passed 3-24-2008)

§ 152.09 WORK WITHOUT A PERMIT.

If the Commission finds that work has begun on a structure or resource for which an application for a permit has not been made, or for which application has been made, but has not yet been approved or denied by the Commission pursuant to this chapter, the Commission shall cause a stop work order to be issued.

(A) The owner shall thereafter apply to the Commission for approval of the work under all applicable sections of this chapter.

(B) If the plans for the work are approved by the Commission with modifications that impact that portion of the work already done, the owner shall dismantle the unapproved portion of the work and proceed with the work as approved.

(C) If the plans for the work are not approved by the Commission, the Commission may require the owner to restore the resource to the condition the resource was in before the inappropriate work was commenced or to modify the work so that it qualifies for a certificate of appropriateness.

(D) If the owner does not comply with the restoration or modification requirement within a reasonable time, the Commission may seek an order from the 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.

(E) If the owner does not or cannot comply with the order of the court, the Commission may seek an order from the circuit court allowing the Commission or its agents to 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 shall be charged to the owner, and may be levied by the city as a special assessment against the property.

(Ord. passed 3-27-2000; Am. Ord. 080324-1, passed 3-24-2008)

§ 152.10 PRESERVATION, MOVING, AND DEMOLITION OF HISTORIC RESOURCES.

(A) If the Commission receives an application for work that will adversely affect the exterior of a resource that the Commission considers valuable to the city, state or nation, and the Commission determines that the alteration or loss of that resource will adversely affect the purpose of the this chapter, the Commission shall attempt to establish with the owner of the resource an economically feasible plan for preservation of the resource.

(B) Work, including moving or demolition of a historic resource located in a historic district, shall be permitted through the issuance of a notice to proceed by the Commission if any of the following conditions prevail and if the proposed work can be demonstrated by a finding of the 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 the occupants of the structure and if, in the opinion of the Commission, demolition is the only reasonable way to improve or correct this condition.

(2) The resource is a deterrent to a major improvement program that will be of substantial benefit to the community and which outweighs the benefit to the public interest and the general welfare of the citizens of the city derived from the historic, architectural, or contextual significance of the structure.

(3) Retention of the resource would cause undue financial hardship to the owner, provided that any hardship or difficulty claimed by the owner is not self-created or is not the result of a failure to maintain the property in good repair which itself is not the result of financial hardship of the owner. All feasible alternatives to eliminate the financial hardship should have been attempted and exhausted, 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.

(4) Retention of the structure would not be in the interest of the community.

(C) If the Commission receives an application for demolition of a historic resource, the Commission may, because of the complexity of the issues involved and the potential for irretrievable loss to the city occasioned by the demolition of a historic resource, delay a determination on the application for a

period of up to 60 days, during which time it may hold a public hearing to gauge public sentiment and interest or work with the applicant to find a method to save or preserve the historic resource.

(Ord. passed 3-27-2000; Am. Ord. 080324-1, passed 3-24-2008)

§ 152.11 DEMOLITION BY NEGLECT.

(A) If the Commission finds that a resource within a historic district or a proposed historic district is threatened with demolition by neglect, the Commission shall encourage the owner of the resource to do what is necessary to restore or maintain the exterior of the structure or its structural integrity.

(B) If the Commission or Historic District Administrator finds that a resource within a historic district or proposed historic district is deteriorating to such an extent that it creates a potential hazard to the public safety and welfare, thus raising the possibility of the city issuing a demolition order under Chapter 150 of this title, the Commission shall inform the owner that if work is not undertaken to improve the condition of the building, a demolition order will be issued.

(C) In either situation described in divisions (A) or (B), the Commission shall provide the owner of the resource with information regarding the Michigan historic preservation tax credit and any other funding, of which the Commission is aware, that may be available from either public or private sources.

(D) The Commission may require the owner to repair all conditions contributing to demolition by neglect.

(E) If the owner does not or cannot correct the condition of neglect within a reasonable time, the Commission or its agents may seek and obtain an order from the circuit court allowing the Commission or its agents to enter the property and conduct work 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.

(Ord. passed 3-27-2000; Am. Ord. 080324-1, passed 3-24-2008)

§ 152.12 COMMUNITY OUTREACH.

The Commission shall be responsible for broadly disseminating information about this chapter and its requirements to the public.

(Ord. passed 3-27-2000; Am. Ord. 080324-1, passed 3-24-2008)

§ 152.13 CONSTRUCTION.

Nothing in the chapter shall be construed to prevent ordinary maintenance of any resource, structure, sign, or fence located within a historic district.

(Ord. passed 3-27-2000; Am. Ord. 080324-1, passed 3-24-2008)

§ 152.14 APPEALS.

(A) An applicant aggrieved by a decision of the Commission concerning a permit application may file an appeal with the State Historic Preservation Review Board of the Michigan Historical Center of the Department of History, Arts and Libraries. The appeal shall be filed within 60 days after the decision is furnished to the applicant.

(B) A permit applicant aggrieved by the decision of the State Historic Preservation Review Board may appeal the decision to the circuit court having jurisdiction over the Commission whose decision was appealed to the State Historic Preservation Review Board.

(C) 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 Commission, may appeal the decision directly to the circuit court, except that a permit applicant aggrieved by a decision of the Commission may not appeal to the circuit court without first exhausting the right to appeal to the State Historic Preservation Review Board.

(Ord. passed 3-27-2000; Am. Ord. 080324-1, passed 3-24-2008)

§ 152.15 HISTORIC PRESERVATION; FINANCING.

(A) *Grants, gifts, and programs.* The City Council 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 Council may make the Commission, a standing committee, or other agency its duly appointed agent to accept and administer grants, gifts, and program responsibilities.

(B) *Acquisition of historic resources.* If all efforts by the Commission to preserve a resource fail, or if it is determined by the City Council that public ownership is most suitable, the City Council, if it considers the action 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 Commission or standing committee. The Commission is responsible for maintaining publicly owned resources using public funds committed for that use by the City Council. Upon recommendation of the Commission, the City Council may sell resources acquired under this section with protective easements included in the property transfer documents, if appropriate.

(Ord. passed 3-27-2000; Am. Ord. 080324-1, passed 3-24-2008)

§ 152.16 SIGNS.

(A) *Purpose.* The purpose of this section is to regulate signs and outdoor advertising to ensure that the appearance of signs and outdoor advertising is consistent with, and assists in preserving the character of, the historic district in which the signs or outdoor advertising are located.

(B) *Regulation.* All signs and outdoor advertising within a historic district are subject to the §§ 154.005, 154.140, as amended, and 154.142, in addition to the provisions of this chapter.

(C) *Guidelines.* The Commission may adopt additional guidelines for the approval of signs and outdoor advertising that are equivalent in guidance to the U.S. Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Structures as set forth in 36 C.F.R. part 67, as amended.

(D) *Historic signs.* If the Commission determines that an existing sign is of historic significance, the Commission shall allow such sign to be repaired or restored, regardless whether it would otherwise meet the requirements of this section.

(Ord. passed 3-27-2000; Am. Ord. 080324-1, passed 3-24-2008)

§ 152.17 FENCING.

(A) *Approval required.* Applications for fencing located in a historic district shall be submitted to the Commission for approval. Fencing shall be permitted in historic districts contingent upon the appearance and appropriateness of the fending in relation to nearby structures or resources, and the historic district as a whole.

(B) *Regulation.* All fencing within a historic district is subject to the § 154.143, in addition to the provisions of this chapter.

(Ord. passed 3-27-2000; Am. Ord. 080324-1, passed 3-24-2008)

§ 152.99 PENALTY.

(A) Any person, firm, corporation, trust, partnership or other legal entity which violates or refuses to comply with any provision of this chapter or any order of the Building Inspector issued to enforce this chapter, shall be responsible for municipal civil infraction and shall be punished by a civil fine of $250 for a first violation, $500 for a second violation, and $1,000 for a third subsequent violation and shall further be liable for the payment of the costs of prosecution in an amount of not less than $9 and not more than $500.

(B) Any person, firm, corporation, trust, partnership or other legal entity which demolishes any structure in a Historic District in violation of this chapter shall be responsible for a municipal civil infraction and shall be punished by a civil fine of $1,500 for a first violation, $2,500 for a second violation and $5,000 for a third or any subsequent violation and shall further be liable for the payment of the costs of prosecution in any amount of not less than $9 and not more than $500.

(C) Each day that a violation continues to exist shall constitute a distinct and separate offense, and shall make the violator liable for the imposition of fines for each day.

(D) Any violation of the provisions of this chapter shall constitute a nuisance per se and the foregoing penalties shall be in addition to the abatement of the violating condition and injunctive or other relief which may be ordered by the court as prescribed by the laws of the State of Michigan for the abatement of a city ordinance designated as a municipal civil infraction.

(E) A person, individual, partnership, firm, corporation, organization, institution or agency of government that violates this chapter 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. passed 3-27-2000; Am. Ord. 080324-1, passed 3-24-2008)

CHAPTER 153: SUBDIVISION REGULATIONS

Section

§ 153.01 DIVISION OF LOTS IN RECORDED PLATS.

(A) Pursuant to Public Act 288 of 1967 (the Subdivision Control Act), being M.C.L.A. Ch. 560, as amended, every division of a lot in a recorded subdivision shall be subject to the provisions of this chapter.

(B) The owner seeking approval to divide a lot shall file an application with the planning and zoning administrator, which shall set forth the reasons for the proposed division and shall be accompanied by survey, showing original and resulting dimensions, and legal descriptions. The planning and zoning administrator may consult with the assessor or other City officials before making a decision.

(C) Where a separate building site is being created by division of a lot in a recorded plat, no building permit shall be issued or any building construction commenced until the suitability of the land

for safe installation of public water and sewer service has been approved by the Kalamazoo Lake, Sewer and Water Authority.

(D) No lot in a recorded plat shall be divided into more than four parcels and the resulting building lots shall not be less in area than permitted by the Zoning Code (Chapter 154) in the applicable zoning district.

(Ord. passed 10-23-1995; Am. Ord. 161114-1, passed 11-14-2016) Penalty, see § 10.99

Statutory reference:

Land Division Act, state regulations, see M.C.L.A. §§ 560.101 et seq.

§ 153.99 PENALTY.

(A) Any person, firm, corporation, trust, partnership or other legal entity which violates or refuses to comply with any provision of this chapter shall be responsible for a municipal civil infraction and shall, be punished by a civil fine in accordance with § 10.22, Chapter 10, of this code and shall be liable for payment of the costs of prosecution in an amount of not less than $9 and not more than $500.

(B) Each day that a violation continues to exist shall constitute a distinct and separate offense, and shall make the violator liable for the imposition of fines for each day.

(C) The foregoing penalties shall be in addition to the abatement of the violating condition and injunctive or other relief which may be ordered by the court as prescribed by the laws of the State of Michigan for the abatement of a public nuisance or the violation of a city ordinance designated as a municipal civil infraction.

(Ord. passed 8-9-1999)

CHAPTER 154: ZONING CODE

Section

Site Plan Review

Special Land Uses

Planned Unit Development

Off-Street Parking

GENERAL PROVISIONS

§ 154.001 ORDINANCE CONTINUED.

The City Council of Saugatuck City in the County of Allegan, under authority of Public Act 207 of 1921, being M.C.L.A. §§ 125.3101 *et seq.*, as amended, having adopted this Zoning Ordinance pursuant to Ord. 80-133, as amended, the City of Saugatuck, pursuant to its Charter, hereby continues those ordinances in effect as Ch. 154 of the Saugatuck city code. The continued administration of this ordinance, amendments to this chapter, and all matters concerning the operation of this chapter, shall be done pursuant to Public Act 110 of 2006, being M.C.L.A. §§ 125.3101 *et seq.*, as amended.

(Ord. passed 6-24-1996; Am. Ord. 02-02, passed 2-11-2002; Am. Ord. 071008-1, passed 10-8-2007)

Editor's Note:

Public Act 207 of 1921 has been rescinded by the state legislature and replaced by Public Act 110 of 2006, being M.C.L.A. §§ 125.3101 et seq.

§ 154.002 SHORT TITLE.

This chapter shall be commonly known as the Saugatuck City Zoning Ordinance.

(Ord. passed 6-24-1996; Am. Ord. 02-02, passed 2-11-2002)

§ 154.003 PURPOSES.

(A) The city zoning ordinance is hereby established in accordance with the needs of the city. The text, zoning map and schedules contained herein shall constitute this chapter.

(B) The chapter is expressly adopted for the following purposes:

(1) To protect and promote the public health, safety and welfare of the city;

(2) To promote and implement the policies, objectives and strategies of the city land use plan;

(3) To prevent land use conflicts through the appropriate location of compatible land uses;

(4) To protect sensitive natural resources, including but not limited to wetlands, sand dunes, woodlands and floodplains;

(5) To protect land values; and

(6) To promote and provide for orderly growth.

(Ord. passed 6-24-1996; Am. Ord. 02-02, passed 2-11-2002)

§ 154.004 RULES OF CONSTRUCTION.

(A) For the purpose of this chapter, certain numbers, abbreviations, terms and words used herein shall be used, interpreted and defined as set forth in this chapter.

(B) Unless the context clearly indicates to the contrary, words used in the present tense include the future tense; words used in the singular number include the plural; and words used in the plural include the singular; the word herein means in this chapter; and the word regulation means the regulation of this chapter; and the words this chapter shall mean this chapter and the maps and schedules included herein as enacted or subsequently amended.

(C) A person includes an individual, a corporation, a partnership and an unincorporated association of persons such as a club; shall is always mandatory and not discretionary, may is permissive; a lot includes a plot or parcel; a building includes a structure; a building or structure includes any part thereof; used or occupied as applied to any land or building shall be construed to include the words intended, arranged maintained for or designed to be used or occupied.

(D) Unless the context clearly indicates the contrary, where a regulation involves two or more items, conditions, provisions or events connected by the conjunction and, or, either...or, the conjunction shall be interpreted as follows:

(1) ***AND*** indicates that all the connected items, conditions, provisions or events shall apply;

(2) ***OR*** indicates the connected items, conditions, provisions or events may apply singly or in any combination; and

(3) ***EITHER...OR*** indicates that the connected items, conditions, provisions or events shall apply singly, but not in combination.

(E) The city is the City of Saugatuck in the County of Allegan, State of Michigan; the City Council or Council, Board of Appeals or Board and Planning Commission or Commission are, respectively, the City Council, Zoning Board of Appeals and Planning Commission of the city.

(Ord. passed 6-24-1996; Am. Ord. 02-02, passed 2-11-2002)

§ 154.005 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ABUTTING (LOT OR PARCEL). A lot or parcel which shares a common border with the subject lot or parcel.

ACCESSORY USE, BUILDING OR STRUCTURE. A use, building or structure which is clearly incidental to, not attached to, customarily found in connection with, devoted exclusively to, subordinate to, and located on the same lot as the principal use to which it is related.

ADJACENT (LOT OR PARCEL). A lot or parcel which abuts or which is directly across a street right-of way from any lot or parcel line of the subject lot or parcel.

ALLEY. Any dedicated public way affording a secondary means of access to abutting property, and not intended for general traffic circulation.

ALTERATIONS. As applied to a building or a structure, a change or rearrangement in the structural parts or in the exit facilities, or an enlargement, whether by extending on a side or by increasing in height or the moving from one location or position to another.

AMUSEMENT AND RECREATION SERVICES. A commercial operation that offers rides, games, entertainment or similar activities to patrons for compensation.

AMUSEMENT ARCADE. Any place of business or establishment containing four or more coin-operated amusement devices.

APARTMENT. A dwelling unit within a building containing other dwelling units or commercial tenant spaces.

ART GALLERY. A retail establishment offering the display, production and/or sale of art.

ATTIC. The unfinished space found directly between a pitched or flat roof and the ceiling of the uppermost finished section of a building.

AUTOMOTIVE SERVICES. A facility for the sale of automotive parts, tools, or accessories and the repair, sale, or rental of motorcycles, passenger vehicles, light duty trucks, or similar motor vehicles.

AVERAGE GRADE. See ***GRADE, AVERAGE***.

BASEMENT. The portion of a building used for living space or storage that is partly or wholly below finished grade, but so located that the vertical distance from the average grade to the floor is greater than the vertical distance from the average grade to the ceiling. A ***BASEMENT*** shall not be counted as story (see Appendix, Figure 1). A cellar is a basement.

BED AND BREAKFAST ESTABLISHMENT. A residential structure occupied by the owner(s) or resident manager, which has sleeping rooms available for rent by transient people on a short-term basis.

BERM. A mound of earth graded, shaped and improved with landscaping in such a fashion as to be used for visual and/or audible screening purposes.

BILLIARDS, POOL HALL. A commercial establishment containing pool tables or billiards games available for use for compensation to the establishment owner.

BOAT, COMMERCIAL. Any vessel used for the purpose of generating revenue, excepting vessels leased or chartered to others for non-revenue generating purposes. Also, any vessel, such as, but not limited to a tugboat or freighter, used for commercial purposes without regard to the carrying capacity.

BOAT, RECREATIONAL. Any vessel used by the owner or lessee thereof for a non-revenue generating purpose. Also, any vessel leased, rented or chartered to another for the latter’s non-commercial use.

BOWLING ALLEY. A commercial establishment containing one or more long, narrow lanes or alleys for the game of tenpin or similar game.

BREWERY, DISTILLERY, AND WINERY. The means of producing alcoholic beverages out of fruit, grain, or other products by the means of distillation of fermentation into a consumable product for resale.

BUFFER ZONE. A strip of land reserved for plant material, berms, walls or fencing, or combination thereof, to serve as a visual and/or sound barrier between properties.

BUILDABLE AREA. The net lot area, less areas subject to flooding, permanent water bodies, watercourses, land encumbered by easements, required setbacks and Michigan Department of Environmental Quality and Michigan Department of Natural resources regulations.

BUILDING. Any structure, either temporary or permanent, having a roof supported by columns, walls, or any other supports, which is used for the purpose of housing, sheltering, storing or enclosing persons, animals or personal property, or carrying on business activities.

BUILDING INSPECTOR. An individual appointed by the City Council delegated to administer the Building Code.

BUILDING LINE. See ***SETBACK***.

BUILDING, PRINCIPAL. A building in which is conducted the main or principal use(s) of the lot on which the building is located.

BULKHEAD. A wall or restraining structure constructed along a waterway to prevent the earth behind it from sliding or eroding. A ***BULKHEAD*** may constitute a pier, dock or quay for mooring watercraft.

BUSINESS, PROFESSIONAL OFFICES. A building, or portion of a building, occupied by an establishment in which a person or persons offer a professional service for a fee or charge including but not limited to: offices for finance, insurance and real estate functions, legal services, engineering, architectural and planning services, accounting, auditing and bookkeeping services, and professional medical services such as, but not limited to doctors offices, dental office or physical therapy.

CELLAR. See ***BASEMENT.***

CERTIFICATE OF OCCUPANCY. A document signed by the Building Inspector as a condition precedent to the commencement of a use or the construction/reconstruction of a structure or building which acknowledges that the use, structure or building complies with the provisions of this chapter.

CHARTER FISHING TOUR. A commercial establishment where individuals offer compensation to be taken by boat into nearby bodies of water to catch fish.

CHURCHES and ***SYNAGOGUES.*** See ***RELIGIOUS FACILITY***.

CITY. The City of Saugatuck, a chartered municipal corporation.

CLUB, LODGE, CHARITABLE OR CIVIC ORGANIZATION. An organization of persons for special purposes or for the promulgation of sports, arts, science, literature, politics or the like, but not for profit, and without payment of dividends to members. Activities associated with these entities include traditional civic activities such as but not limited to: meetings, community hall rental for private parties, fund raising sales, social events, educational activities, puppet shows and movies, veteran support, exhibitions, and other activities. The sale or distribution of alcohol and/or gambling or playing at any game of chance for money or other stakes is permitted only with a properly issued state licenses.

COMMON LAND and ***COMMON OPEN SPACE.*** A parcel or parcels of land with the improvements thereon, the use, maintenance and enjoyment of which are intended to be shared by the owners and/or occupants of the individual dwelling units in a subdivision, site condominium, planned unit development, or comparable land development type or which is to be shared by the owners and/or occupants of a commercial or industrial project in which common land and/or common open space has been provided for. Common land and/or common open space may also be made available to the general public if designated as such by the city.

COMMON PARTY WALL. A wall shared in common between abutting dwelling units, between abutting nonresidential principal structures, or between a principal structure and a garage or similar attached structure.

COMMUNITY CENTER. A facility which provides a venue for community organizations to meet, social/entertainment events for the community, and other activities of interest to and primarily for the benefit/enjoyment of the community. Such activities may include social events sponsored by, or for the benefit of, individual members of, or groups within, the community, provided that the latter does not become the principal function of the facility. Excluded from the activities that fall under this definition are trade shows and conventions, excepting, however, art shows, antique fairs and garden shows.

CONDOMINIUM PROJECT. A plan or project consisting of not less than two condominium units if established and approved in conformance with the Condominium Act, Public Act 59 of 1978, being M.C.L.A. §§ 559.101 *et seq*., as amended.

CONDOMINIUM SUBDIVISION. A division of land on the basis of condominium ownership, which is not subject to the provisions of the Land Division Act of 1967, Public Act 288 of 1967, being M.C.L.A. §§ 560.101 *et seq.*, as amended. Any condominium unit or portion thereof, consisting of vacant land shall be equivalent to the term “lot” for the purposes of determining compliance of a condominium subdivision with the provisions of this chapter pertaining to minimum lot size, minimum lot width, and maximum lot coverage.

CONDOMINIUM SUBDIVISION PLAN. The drawings attached to the master deed for a condominium subdivision which describe the size, location, area, horizontal and vertical boundaries and volume of each condominium unit contained in the condominium subdivision, as well as the nature, location and size of common elements.

CONDOMINIUM UNIT. The portion of a condominium project designed and intended for separate ownership and use, as described in the master deed, regardless of whether it is intended for residential, office, industrial, business or recreational use as a time-share unit, or any other type of use. A ***CONDOMINIUM UNIT*** may consist of either vacant land or space which either encloses or is enclosed by a building structure.

CONTRACTOR'S STORE. A commercial establishment that offers tools and materials to those in the trades industry, including construction, electrical and plumbing.

CREST. The line at which the first lakeward facing slope of a critical dune ridge breaks to a slope of less than 18 feet for a distance of at least 20 feet, if the area extent where this break occurs is greater than 0.10 acre in size.

CULTURAL/PERFORMING ARTS FACILITY. A building or group of buildings used for the enrichment and education of the community and its visitors through means such as the presentation of live performances, plays, concerts, movies, non-commercial art galleries and exhibitions, artists’ studios. museum exhibitions, or other similar activities not listed here with the approval of the Planning Commission.

DECK. An above-ground, unroofed wood or wood substitute framed floor structure used for outdoor leisure living area, which may or may not be attached to a building.

DEED RESTRICTION. A restriction on the use of a lot or parcel of land that is set forth in the deed and recorded with the County Register of Deeds. It is binding on subsequent owners and is sometimes also known as a restrictive covenant.

DENSITY. The number of dwelling units situated on or to be developed per net or gross acre of land.

DISTILLERY. See ***BREWERY, DISTILLERY, AND WINERY.***

DOCK. Means the same as ***PIER***, defined herein.

DOMESTIC AND BUSINESS REPAIR ESTABLISHMENTS. A building, or portion of a building, occupied by an establishment in which a person, or persons, repair and/or restore equipment or similar items, which are not intended for resale on the premises. Domestic and business repair establishments shall not include the repair of automobile or motorized vehicles.

DREDGED MATERIAL. That material which is excavated or dredged from a body of water.

DWELLING UNIT. A dwelling unit is any building or portion thereof having independent cooking, bathing, and sleeping, facilities, which is occupied wholly as the home, residence, or sleeping place, either permanently or transiently, with an independent entrance not located within another dwelling. In no case shall a motor home, trailer coach, automobile chassis, tent, or portable building be considered a dwelling. In case of mixed occupancy where a building is occupied in part as a dwelling unit, the part so occupied shall be deemed a dwelling unit for the purpose of this section and shall comply with

the provisions thereof relative to dwellings. A ***DWELLING UNIT*** shall include both manufactured units (mobile homes and modular homes) and site built units. Hotels, motels, bed and breakfasts, and inns are not included in the definition of a ***DWELLING UNIT***.

DWELLING UNIT, ACCESSORY. A dwelling unit located on the same lot as a principal use, located either within the principal use or within a detached accessory building.

DWELLING, MULTIPLE-FAMILY. A building or portion thereof, used or designed for use, as an apartment for three or more families living independently of each other. This definition does not include mobile homes, single-family attached dwellings or two-family dwellings.

DWELLING, SINGLE-FAMILY ATTACHED. A group of two or more single-family dwelling units joined to one another by a common party wall, but not a common floor-ceiling. Each unit shall have its own outside entrance. For the purposes of this chapter, dwellings such as semi-detached, row-houses, patio- houses and townhouses shall be deemed single-family attached dwellings.

DWELLING, SINGLE-FAMILY DETACHED. A dwelling unit exclusively for use by one family which is entirely surrounded by open space or yards on the same lot and which meets the single family detached dwelling standards of the ordinance.

DWELLING, TWO-FAMILY. A detached building used or designed for use exclusively by two families living independently of each other, providing each family with its own cooking, sleeping and bathing facilities in separate dwelling units. It may also be termed a duplex or a two-flat.

EASEMENT. A grant of one or more of the property rights by a property owner to and/or for use by the public, or another person or entity.

EFFICIENCY (STUDIO). A dwelling unit of not more than one room in addition to a kitchen and a bathroom.

EQUIPMENT RENTAL AND LEASING. A commercial establishment that rents or leases tangible goods for offsite use.

ESSENTIAL PUBLIC SERVICES. Municipal fire stations and garages, police stations and garages, city offices, post offices, and public works buildings, and such accessory structures as may be necessary in conjunction therewith, and the erection, construction, alteration or maintenance by public utilities or municipal departments or commissions of underground or overhead telephone, cable television, gas, electrical, steam or water transmission, or distribution system, collection, communication, supply or disposal system (including towers, structures, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, electric substations, telephone substations, gas regulator stations and other similar equipment and accessories in connection therewith) reasonably necessary for the furnishing and adequate service by such public utilities or municipal departments or commissions for the public health, safety or general welfare shall be considered ***ESSENTIAL PUBLIC SERVICES***. Cellular wireless antennas/towers are not included in the definitions of ***ESSENTIAL PUBLIC SERVICES***.

EXHIBITION SPACE. An area used for the display of art, merchandise or similar items.

FAMILY. A person living alone in a single dwelling unit or two or more persons whose domestic relationship is of a continuing, non-transient character and who reside together as a single housekeeping unit in a single dwelling unit. ***FAMILY*** does not include a collective number of individuals occupying a motel or hotel, fraternity, sorority, society, club, boarding and lodging house, or any other collective number of individuals whose domestic relationship is of a transient or seasonal nature.

FARM MARKET. A public market at which farmers and or similar vendors sell fresh produce, including but not limited to fruits, vegetables, meats, and eggs, farm products including baked goods,

cheese, or honey, and other products, but no more than 20% of the number of vendor spaces can be used to sell jewelry, pottery, apparel, fine arts, or similar non-farm items.

FENCE. A structure or other object or objects, including growing plants, erected to act as a boundary marker, or erected for the purpose of restricting access to or from a lot or parcel of land, whether enclosing all or part of the lot or parcel.

FENCE, BARRIER. Fences containing barbed wire, electric charges, sharp materials at the top, or other measures to prevent entry by animals or persons.

FENCE, TEMPORARY. A fence erected for a limited time to protect a construction site from vandalism and unauthorized entry.

FINGER PIER. A pier or dock (less than four feet wide) extending at right (or similar) angles from the main pier and often located parallel with the shoreline.

FLOATING HOME.

(1) Any structure or item which is waterborne or is supported by means of flotation (or suspension over a river or lake), designed to be used without a permanent foundation; used, intended, or designed to be built, used, rented, leased, let, or hired out to be occupied; or which is occupied for living purposes with facilities for living and sleeping, and often cooking and eating as well. The term ***FLOATING HOME*** shall also include a "floating house," "liveaboards," "ark," "barge," and any other boat or vessel which is designed or used primarily for living or as a house, domicile or dwelling rather than for water transport or recreational purposes. The definition of ***FLOATING HOME*** can also include a "houseboat" which exhibits any of the following traits:

(a) Is over 25 feet long;

(b) Is over 15 feet in height above the water when calm;

(c) Cannot be readily propelled through the water at a speed of at least 15 miles per hour; or

(d) Is not certified by the United States Coast Guard or other government agency as a water-worthy boat or watercraft.

(2) When determining whether a boat, vessel or float is a "floating home" for purposes of this chapter, the Zoning Administrator (or such other official as the City Council may designate) shall also consider the following:

(a) Whether the structure or item is usually kept at a fixed mooring point;

(b) Whether the structure or item is actually used on a regular basis for transportation or navigation;

(c) Whether the structure or item has a permanent or continuous connection to the shore for electrical, plumbing, water, or other utility service;

(d) Whether the structure or item has the performance characteristics of a vessel typically used for navigation or transportation on water;

(e) Whether the structure or item can be readily removed from the water;

(f) Whether the structure or item is used for intermittent or extended human habitation or occupancy;

(g) Whether the structure or item clearly has a means of substantial and continuous propulsion, and appropriate power/size ratio;

(h) Whether the structure or item is safe to navigate or use for transportation purposes;

(i) Whether the structure or item has a factory or manufacturer installed and operable water propulsion system;

(j) That a structure or item could occasionally move from place to place in the water, or that it qualifies under a federal or state regulatory program as a vessel or boat, are factors that would not be determinative; and

(k) Such other factors as are relevant to determining the nature of the item or vessel at issue.

FLOOD HAZARD AREA. The area designated as a flood hazard area (100-year floodplain) on the city's Flood Insurance Rape Map (FIRM), issued by the Federal Emergency Management Agency (FEMA), as from time to time amended.

FLOOR AREA, GROSS. The sum of all horizontal areas of all floors of a building or buildings, measured from the outside dimensions of the outside face of the outside wall. Unenclosed and uncovered porches, court yards or patios shall not be considered as part of the gross area except where they are utilized for commercial purposes such as the outdoor sale of merchandise.

FLOOR AREA, GROSS FINISHED. The sum of all gross horizontal areas of all floors of a building or buildings measured from the inside dimensions of the inside face of the outside wall. Unenclosed and uncovered porches, court yards or patios shall not be considered as part of the ***GROSS FINISHED FLOOR AREA***.

FLOOR AREA RATIO. A quantitative relation between the total gross floor area of a structure (minus the square footage of areas such as basements, unfinished attics, or garages) and the lot area.

FLOOR AREA, USABLE. For the purposes of computing parking requirements, building floor area shall be the usable floor area of a building. ***USABLE FLOOR AREA*** is that area to be used for the sale of merchandise or services, or for use to serve patrons, clients or customers. Floor area used for the storage or processing of merchandise, hallways, stairways and elevator shafts, or for restrooms and janitorial service rooms, shall be excluded from this computation of usable floor area. ***USABLE FLOOR AREA*** shall be measured from the interior faces of the exterior walls, and total usable floor area for a building shall include the sum of the usable floor area for all floors.

FOOD AND BEVERAGE SERVICES. The offering of food and beverages as an accessory to a primary use.

FOREDUNE. One or more low linear dune ridges that are parallel and adjacent to the shoreline of a lake or river and are rarely greater than 20 feet in height. The lakeword face of a foredune is often gently sloping and may be vegetated with dune grosses and low shrub vegetation or may have an exposed sand face.

FRONTAGE, PRIMARY ENTRY. The side of the building that houses the main entrance to the business or service.

GARAGE. A building or structure, or part thereof, used or intended to be used for the parking and storage of vehicles.

GASOLINE SERVICE STATIONS. A premises, or portion, occupied by on establishment engaged primarily in the retail selling of gasoline and lubricating oils directly to ultimate consumers on the premises and not for resale. ***GASOLINE SERVICE STATIONS*** may include the retail selling of minor automotive accessories or the performing of minor automotive repair work in the premises for a fee or charge provided such activities are incidental and accessory to the principal retail selling of gasoline and lubricating oils.

GRADE, AVERAGE. The arithmetic average of the lowest and highest natural grade elevations in an area within five feet of the foundation line of a building or structure (see Appendix, Figure 3).

GRADE, FINISHED. The lowest point of elevation between the exterior wall of the structure and a line five feet from the exterior wall of the structure.

GRADE, NATURAL. The elevation of the ground surface in its natural state, before man-made alterations. This is also the finished grade if it is unaltered.

GREENBELT. A planting strip or buffer strip of a definite width reserved for the placement of shrubs, trees, and/or grasses to serve as an obscuring screen, aesthetic feature and/or buffer strip in carrying out the requirements of the ordinance. In addition to the above features, a ***GREENBELT*** may also consist of berming and fencing as approved or required by the city.

GROSS SITE AREA. The total area of a site including floodplains, wetlands and waterbodies.

HEDGE. A row of bushes or shrubs used as a fence.

HEIGHT (BUILDING OR STRUCTURE). The vertical distance measured from the average grade to the highest point of flat roofs, to the deck line of mansard roofs, and the average height between eaves and the ridge of gable, hip and gambrel roofs.

HOME BUSINESS. A home occupation exhibiting a level of impact exceeding the home occupation standards of this chapter due to increased levels of non-resident employees, client trips, identification signage and/or other external factors. A ***HOME BUSINESS*** shall meet the home business standards of the ordinance.

HOME OCCUPATION. An occupation customarily conducted in a dwelling unit or accessory building that is a clearly incidental and secondary use of the dwelling and which meets the home occupation standards of the ordinance. Without limiting the foregoing, a single-family residence used by an occupant of the residence to give instruction in a craft or fine art within the residence shall be considered a home occupation.

HOTEL (INN). A building comprised of attached, furnished, sleeping rooms, containing bathroom facilities, which are accessible by interior hallways, in which transient lodging or boarding are offered to the public for compensation. A hotel may contain a restaurant(s), gift and specialty shop(s), swimming pool and exercise facilities, lounge(s), and conference rooms(s); provided these uses are clearly accessory to the hotel. A hotel shall not be considered or construed to be a motel, bed and breakfast establishment, multiple- family dwelling, or similar facility.

INDUSTRY (also ***GENERAL INDUSTRIAL***). Commercial, wholesale, warehousing and manufacturing uses and facilities as permitted by this chapter whose external effects (e.g. noise, vibration, odor, fumes, smoke and/or heat and the like) are discernible by normal human senses at or beyond the property lines of the site at which the industrial use is located. The impacts shall not result in appreciable negative impact to surrounding land uses, buildings and structures, and residents.

INDUSTRY, LIGHT. Commercial, wholesale, warehousing and manufacturing uses and facilities as permitted by this chapter whose external effects (e.g. noise, vibration, odor, fumes, smoke, and/or heat and the like) are not discernible by normal human senses beyond the property lines of the site at which the light industrial use is located.

INN. See ***HOTEL***.

LAND USE PLAN. A document containing the approved future development policy and future land use map for the city, together with supporting documentation, as most recently adopted or amended by the Planning Commission pursuant to Public Act 33 of 2008, being M.C.L.A. §§ 125.3801 through 125.3885, as amended.

LANDSCAPING. Materials (trees, shrubs, flowers, hardscape and the like) when used to control erosion or improve the yards or surfaces of a parcel.

LITTORAL MATERIAL. Material existing on shore or in the water which is subject to erosion and displacement by wave forces.

LOADING SPACE. An off-street space on the same lot with a building, or group of buildings, for the temporary parking of a vehicle while loading or unloading merchandise, materials or passengers.

LOT. A description of land as identified on a recorded plat, a defined area of land with a legal description and parcel identification number, or a unit within a condominium subdivision.

LOT AREA. The area contained within the lot lines or property boundary including street right-of-way if so included in the property description.

LOT, CORNER. A lot or parcel that has two sides bordering two streets at their point of intersection.

LOT COVERAGE. The area of a lot, stated in terms of a percentage, that is covered by buildings and/or structures located thereon. This shall include all buildings, roofed porches, arbors, breezeways, decks 24 inches above grade or higher, roofed patios, whether open or fully roofed; but shall not include fences, walls, driveways, sidewalks, hedges used as fences, decks less than 24 inches above grade or detached stairways, ground-floor stairways, wheelchair ramps, patios or in-ground swimming pools. Stairway landings (provided the landing does not exceed the building code minimum area requirement by more than 10%) shall not be considered in determining lot coverage. *Lot coverage* shall be measured from the wall or foundation of the building or structure.

LOT DEPTH. The horizontal distance between the front and rear lot lines, measured along the midpoint between the side lot lines (see Appendix, Figure 5).

LOT, FLAG. A lot or parcel whose access to the public street is by a narrow, private right-of-way that is either a part of the lot or an easement across another property (see Appendix, Figure 7).

LOT FRONTAGE. The length of the front lot line.

LOT, INTERIOR. A lot or parcel other than a corner lot that, with the exception of a through lot, has only one lot line fronting on a street.

LOT LINES. The lines bounding a lot or parcel (see Appendix, Figure 7).

(1) ***LOT LINE, FRONT.*** The lines separating the parcel from any street right-of-way, private road or other access easement (see Appendix, Figure 7).

(2) ***LOT LINE, REAR.*** The lot line opposite and most distant from the front lot line. In the case of a triangular or otherwise irregularly shaped lot or parcel, an imaginary line at least ten feet in length entirely within the lot or parcel, parallel to and at a maximum distance from the front lot line (see Appendix, Figure 7).

(3) ***LOT LINE, SIDE.*** Any lot line other than a front or rear lot line, as defined above (see Appendix, Figure 7).

LOT OF RECORD. A tract of land which is part of a subdivision shown on a plat or map or a condominium unit which is part of a condominium project which has been recorded in the Office of the Register of Deeds for Allegan County, Michigan; or a tract of land described by metes and bounds which is the subject of a deed or land contract which is likewise recorded in the Office of the Register of Deeds.

LOT, THROUGH. An interior lot or parcel having frontage on two more or less parallel streets.

LOT, WATERFRONT. A lot or parcel abutting a lake, pond, stream or river.

LOT WIDTH. The horizontal distance between side lot lines measured parallel to the front lot line at the minimum required front setback line (see Appendix, Figure 7).

LUMBER YARD. A commercial operation that may mill, cut and store lumber for wholesale or retail use.

MAJOR CONSTRUCTION. All waterfront construction and set forth in §§ 154.205*et seq*. requiring a major construction permit.

MAJOR RECREATIONAL EQUIPMENT. For the purposes of these regulations, major recreational equipment is defined as including boats and boat trailers, recreational trailers, pick-up campers or coaches (designated to be mounted on automotive vehicles), self-propelled dwellings, tent trailers and the like, and cases of boxes used for transporting recreational equipment, whether occupied by the equipment or not.

MANUFACTURED HOME. A dwelling unit which is designed for long-term residential use and is wholly or substantially constructed at an off-site location. ***MANUFACTURED HOME*** includes mobile homes and modular housing units.

MARINA. A waterfront basin or facility providing secure mooring or berthing of watercraft for use by the general public, and often offering supplies, repair, fuel, parking, toilet facilities and other facilities available to the general public incidental to the berthing and mooring of watercraft. Private yacht clubs offering mooring or berthing facilities, although not necessarily available to the general public, shall be considered a ***MARINA*** under this chapter.

MARINA, FULL SERVICE. A dock or docks, marina, waterfront area or a basin with mooring or docking services for boats and yachts. To be considered a full service marina, the marina shall provide at a minimum all of the following on-site services:

(1) Off-street parking in accordance with § 154.130;

(2) Electrical supply inspected and approved by a registered code official;

(3) Potable water distribution inspected and approved by a registered code official;

(4) Weekly pump out (or more frequently) of grey water and black water appropriately disposed of in accordance with state law;

(5) Solid waste dumpster with screening in accordance with Chapter 50;

(6) Working toilet (not portable toilets) and showers for users of the marina; and

(7) Is open to the general public.

MARINE CONTRACTOR. A commercial operation that provides services commonly associated with boating, docks and sea walls.

MASTER DEED. The document recorded as part of a condominium subdivision to which are attached as exhibits and incorporated by reference the approved by-laws for the condominium subdivision and the condominium subdivision plan.

MINOR CONSTRUCTION. All waterfront construction as set forth in §§ 154.206*et seq*. requiring a minor construction permit.

MOBILE HOME. A structure, transportable in one or more sections, which is built on a chassis and designed to be used as a dwelling with or without permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air conditioning and electrical systems contained in the structure. A ***MOBILE HOME*** shall not include modular homes, motor homes, recreational vehicles or travel trailers. (See the Mobile Home Commission Act, Public Act 96 of 1987, being M.C.L.A. §§ 125.2301 *et seq*.)

MOORING BUOY. A floating device secured to the bottom of the waterway by means of a mechanical device or weight used to attach or moor a watercraft.

MOTEL. A commercial enterprise oriented to the public traveling by motor vehicle, with individual sleeping rooms typically exiting directly to the outside, with patron parking located at or near each room exit. A motel may contain an accessory restaurant, gift and specialty shop, lounge, swimming pool, and exercise facilities.

MOTOR COURT. A grouping of single story attached, semi-detached, or detached, furnished rental units each containing a bedroom, bathroom, and closet space, with or without a kitchen, less than 700 square feet in floor area, in which transient, overnight, lodging, or boarding are offered to the public for compensation. A motor court may contain shared amenities (for example, a swimming pool) for renters of the units and their guests but not separate commercial uses (for example, restaurants, gift or retail shops).

MOTOR HOME. A self-propelled, licensed vehicle prefabricated on its own chassis, intended for recreational activities and temporary occupancy.

MOTEL/MOTOR COURT. A series of attached, semi-detached or detached, furnished, rental units each containing a bedroom, bathroom and closet space in which transient, overnight, lodging or boarding are offered to the public for compensation. The design of a motel is oriented to the public traveling by motor vehicle with individual sleeping rooms typically exiting directly to the outside with patron parking located at or near each room exit. A motel may contain a restaurant, gift and specialty shop, lounge and swimming pool and exercise facilities, provided, these are uses clearly accessory to the motel.

MUSEUM. A structure or portion of a structure whose principal use is the preservation and exhibiting of artistic, historical or scientific objects. The structure and operation ore operated on a not-for-profit basis and the parent organization has obtained a tax exempt status from the Internal Revenue Service.

NONCONFORMING LOT OF RECORD (SUBSTANDARD LOT). A lot lawfully existing at the effective date of this chapter, or affecting amendment, and which fails to meet the area and/or dimensional requirements of the zoning district in which it is located.

NONCONFORMING STRUCTURE. A structure, or portion thereof, lawfully existing at the effective date of this chapter, or affecting amendment, and which fails to meet the requirements of the zoning district in which it is located.

NONCONFORMING USE. A use lawfully existing in a building or on land at the effective date of this chapter, or affecting amendment, and which fails to conform to the use regulations of the zoning district in which it is located.

NUISANCE. Shall be held to embrace public nuisance as known in common law or in equity jurisprudence; and whatever is dangerous to human life or detrimental to health; and any dwelling or building which is overcrowded with occupants or is not provided with adequate ingress or egress to or from the same, or is not sufficiently supported, ventilated, sewered, drained, cleaned or lighted in reference to its intended or actual use; and whatever renders the human food or drink unwholesome, are also severally in contemplation of this chapter, nuisances and all such nuisances are hereby declared illegal.

NURSERY, FLOWER, PLANT OR GARDEN SHOP. A commercial operation that sells vegetation and accessory items to the public for retail.

ORDINARY HIGH WATER MARK. The regulatory line established by the U.S. Army Corps of Engineers General Permit for construction on the Kalamazoo River, dated February 5, 1981, shall constitute the ordinary high water mark.

OVERHANG. The distance any moored or berthed watercraft extends into the water beyond an approved dock, pier, finger pier or spring piling location.

PARCEL. A defined area of land with a legal description and parcel identification number.

PARK. An open area intended to be used for passive or active recreation by the public or a private group of individuals.

PARKING AREA, OFF-STREET (PARKING LOT). A land surface or facility providing vehicular parking spaces off of a street along with adequate drives and aisles for maneuvering so as to provide access for entrance and exit for the parking of three or more automobiles or trucks.

PARKING SPACE. Any space used for the off-street parking of motor vehicles.

PATIO. An outdoor leisure living area flush with the earth or elevated with earth and finished with a hard durable surface such as, but not limited to, concrete, brick, or tiles.

PERSONAL SERVICE ESTABLISHMENTS. A building, or portion of a building, occupied by an establishment in which a person, or persons, offers a service directly to the personal needs of consumers normally served on the premises for a fee or charge. The type of specialized aid or assistance provided by a personal service establishment includes but is not limited to the following: beauty and barber services, spa services, dance and yoga classes, and tattoo parlors. ***PERSONAL SERVICE ESTABLISHMENTS*** do not include ***BUSINESS, PROFESSIONAL OFFICES.***

PIERS. A platform extending from the shore over water and supported by piles, pillars, columns or floatation devices used to secure and protect watercraft. The terms ***PIER*** and ***DOCK***, as used in this chapter, shall be synonymous.

PLANNED UNIT DEVELOPMENT. A planned unit development (PUD) is designed to accomplish the objectives of this Zoning Code through a land development project review process based on the application of site planning criteria to achieve integration of the proposed land development project with the characteristics of the project area. It is a form of land development comprehensively planned as an entity via a site plan which permits flexibility in building, siting, usable open spaces and the preservation of significant natural features. The development may contain residential, nonresidential or a mixture of land uses as provided by the individual zoning district.

PLAT. A map of a subdivision of land.

PRACTICAL DIFFICULTY. A situation whereby a property owner can establish a “minimum practical” legal use of a legal lot or parcel, meeting all of the dimensional standards of the zoning district which the lot is located. Situations occurring due to the owners desire to establish a use greater than the “minimum practical” standard or to enhance economic gain greater than associated with a “minimum practical” standard or created by an owner subsequent to the adoption dote of this chapter is not a practical difficulty.

PRINCIPAL BUILDING. The main building on a lot in which the principal use exists.

PRINCIPAL USE. The main use to which the premises are devoted and the main purpose for which the premises exist.

PRIVATE RECREATION CAMP. A non-commercial camp of charitable, institutional or philanthropic nature, not open to use by the general public, and which is typically comprised of seasonal overnight lodging facilities and cabins. Such a camp may contain caretaker residences, conference facilities, kitchens and dining halls, meeting rooms, recreation facilities, assembly buildings, places of worship, gardens, an infirmary and accessory uses and buildings necessary to support the above uses.

PRIVATE ROAD (PRIVATE STREET). A street or drive which provides access to two or more adjacent properties which is constructed and maintained by the owner or owners, which is not dedicated for the general public use.

RECREATION VEHICLE. A vehicle primarily designed and used as a temporary living quarters for recreational, camping or travel purposes, including a vehicle having its own motor power or a vehicle

mounted on or drawn by another vehicle. (See the Mobile Home Commission Act, Public Act 96 of 1987, being M.C.L.A. §§ 125.2301 *et seq*., as amended).

RECREATION VEHICLE PARK. All lands and structures which are owned and operated by private individuals, or business or corporation which ore predominantly intended to accommodate recreational vehicles and provide for outdoor recreational activities.

RECREATIONAL TRANSPORTATION RENTAL FACILITIES. Facility offering the rental of motorized or non-motorized recreational vehicles, such as bicycles, boats, golf carts, or scooters with a maximum speed of 30 miles per hour on level surfaces or calm waters, but not including cars, trucks, motor homes, or similar traditional passenger motor vehicles.

RELIGIOUS FACILITY. A building, or buildings, the primary use of which is regular assembly of persons for religious worship or services, together with non-commercial accessory uses. ***RELIGIOUS FACILITY*** shall include churches, synagogues, mosques and temples when used for purposes of customary religious activities.

RENTAL OCCUPANCY CERTIFICATE. A certificate from the City of Saugatuck authorizing a property owner to use a dwelling unit as a short-term rental unit.

RESEARCH LABORATORY. A facility for the conduct of scientific research.

RESTAURANT. An establishment in which food or beverages are prepared, served, and consumed either on or off the premises, directly to the public for compensation.

RETAIL STORE. A commercial operation that offers the sale of tangible goods to the general public for compensation.

RIGHT-OF-WAY. A public street, alley or other thoroughfare or easement permanently established for passage of persons or vehicles.

RIPARIAN RIGHTS. The rights that go with the property along a natural body of water such as a river or a lake. Only the land which abuts a natural body of water has ***RIPARIAN RIGHTS***. A riparian property owner has the right to:

(1) Access the water abutting the land;

(2) Install a dock anchored to the bottomland adjacent to the property;

(3) Anchor a boat on the bottomland adjacent to the property or secure it to the property owners' dock;

(4) Use water from the lake or stream for domestic purpose; and

(5) Control any temporarily or periodically exposed bottomland from the waters edge to the high water mark against trespass.

RIPARIAN RIGHTS AREA. The area over the water along a waterfront property when the parcel's side yard lines are extended out to the thread of the river as defined by the State of Michigan law.

ROAD FRONTAGE. The length of the lot line which borders a public road, street, highway or alley.

SATELLITE DISH ANTENNA. A device incorporating a reflective surface that is solid, open mesh, or bar configured; is in the shape of a shallow dish, parabola, cone or horn. Such a device shall be used to transmit and/or receive television, radio or other electromagnetic communication signals between terrestrially and/or extra terrestrially-based sources. This definition includes but is not limited to, what are commonly referred to as satellite earth stations, TVRO's (television reception only satellite antennas), and satellite microwave antennas.

SCREENING. The erection or construction of a greenbelt buffer zone, earthen berm, solid wall or fence for the purpose of obscuring views, limiting noise or objectionable lighting between incompatible land uses or adjacent to a street or highway.

SCREENING, PRIVACY. A sight-obscuring barrier erected adjacent or around including but not limited to a patio, deck, courtyard, swimming pool or outdoor spa/hot tub, designed to screen but not enclose the area behind it or within its confines.

SETBACK. The area between the lot line and a line of a distance determined within the ordinance in which construction of buildings or structures shall not be permitted unless otherwise permitted by this chapter. In the event a lot is traversed by a public or private road, and the location of the road has not been described by a right-of-way or other such easement description, setback shall be measured from the edge of the improved road surface. For waterfront properties the setback shall be measured to the ordinary high water mark. The *setback* shall be measured from the front, rear, or side property line to the nearest point of the foundation of a structure, or from the front, rear or side property line to the nearest support post or area directly below a cantilevered floor of a structure.

(1) ***SETBACK, REQUIRED FRONT YARD.*** The distance as determined within a particular zoning district between the front lot line and a parallel line in which no structures may be constructed, excluding approved fences or signs.

(2) ***SETBACK, REQUIRED REAR YARD.*** The distance as determined within a particular zoning district between the rear lot line and a parallel line in which no structures may be constructed, excluding approved fences or signs.

(3) ***SETBACK, REQUIRED SIDE YARD.*** The distance as determined within a particular zoning district between the side lot line and a parallel line in which no structures may be constructed, excluding approved fences or signs.

SHORT-TERM RENTAL UNIT. A dwelling unit which is rented to a person for less than 31 consecutive days, or is advertised to be rented for any period less than 31 days.

SIGN. Any words, lettering, parts of letters, figures, numerals, phrases, sentences, emblems, devices, designs, trademarks, logos or pictures, or combination thereof, intended to be used to attract attention to or convey information about a person, place, business, firm, profession, association, product or merchandise when placed out of doors in view of the general public. Also, the above when positioned inside in such a way as to be in view of the general public through a window or a door for the purpose of attracting the general public into a business. See §§ 154.140 through 154.144.

SITE PLAN REVIEW. The submission of plans and scaled drawing(s) illustrating existing conditions and proposed uses and structures for review, as part of the process of securing a zoning permit.

SPECIALTY GIFT SHOP. A retail facility which sells goods which may be rare in quantity or availability, handmade, or express a local or regional theme, as part of its retail stock.

SPECIAL LAND USE. A use of land whose characteristics may create nuisance-like impacts on adjoining lands unless carefully sited according to standards established in this chapter (see §§ 154.080 through 154.092). Approval for establishing a special land use is indicated by issuance of a special land use permit.

SPRING PILES. A beam of timber, concrete or steel beams, driven into the water bottom as a means of securing watercraft, or to facilitate the maneuvering of watercraft.

STORY. The portion of a building included between the surface of any floor and the surface of the next floor above it, or if there is no floor above it, then the space between the floor and the ceiling next above it (see Appendix, Figure 1).

STREET. A public thoroughfare which affords the principal means of access to abutting property.

STRUCTURAL CHANGES OR ALTERATIONS. Any change in the supporting members of a building, such as bearing walls, columns, beams or girders, or any substantial change in the roof or foundation.

STRUCTURE. Anything constructed or erected, the use of which requires a permanent location on the ground or attachment to something having a permanent location on the ground; excepting anything lawfully in a public right-of-way including but not limited to utility poles, sewage pumping stations, utility manholes, fire hydrants, electric transformers, telephone boxes, and related public facilities and utilities defined as essential public services.

THEATER. A commercial operation that offers the viewing of movies or live performance to the public for compensation.

TOWNHOUSES. A row of three or more attached 1-family dwellings, in which each dwelling has its own front entrance and rear entrance.

TVRO. Television reception only satellite antennas.

UNNECESSARY HARDSHIP. A situation whereby a property owner, due to conditions of a lot or parcel cannot use the lot or parcel for any legal use allowed by this Zoning Code, within the district in which the lot is located. Situations occurring due to the owner's desire to establish an alternate use when allowed use options are available or due to situations created by an owner subsequent to the enactment of this chapter shall not be deemed an unnecessary hardship

VARIANCE. A relaxation of certain standards of this Zoning Code by the Zoning Board of Appeals.

VARIANCE, USE. A variance allowing a use within a specific zoning district which is otherwise not allowed in that zone district.

VARIANCE, NON-USE. A variance allowing relaxation of a dimensional or area requirement as specified by the underlying zone district.

VETERINARY HOSPITAL OR CLINIC. A facility offering the medical care and treatment of animals.

WETLANDS. Those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. ***WETLANDS*** generally include swamps, marshes, bogs and similar areas.

YARD. The open space on a lot, with a building, as defined herein. (see Appendix, Figure 7):

(1) ***FRONT YARD.*** The open space extending the full width of the lot, the depth of which is the minimum horizontal distance between the front lot line and the nearest point of the foundation.

(2) ***REAR YARD.*** The open space extending the full width of the lot, the depth of which is the minimum horizontal distance between the rear lot line and the nearest point of the foundation of the main building.

(3) ***SIDE YARD.*** The open space between any building and the side lot line, extending from the front yard to the rear yard, the width of which is the minimum horizontal distance from the nearest point of the side lot line to the nearest point of the foundation of the building.

ZONING ADMINISTRATOR. Planning Director or other individual appointed by the City Council to administer this chapter.

ZONING DISTRICT. A portion of the city within which specific regulations and requirements, or various combinations thereof apply as provided in this chapter.

(Ord. passed 6-24-1996; Am. Ord. 040927, passed - -; Am. Ord. passed 4-27-1998; Am. Ord. 02-02, passed 2-11-2002; Am. Ord. passed 10-14-2002; Am. Ord. 060710-1, passed 7-10-2006; Am. Ord.

070611-1, passed 6-11-2007; Am. Ord. 080324-3, passed 3-24-2008; Am. Ord. 080414-1, passed 4-14-2008; Am. Ord. 090824-1, passed 8-24-2009; Am. Ord. 100726-1, passed 7-26-2010; Am. Ord. 101122-1, passed 11-22-2010; Am. Ord. 110214-1, passed 12-14-2011; Am. Ord. 111212-1, passed 12-12-2011; Am. Ord. 121008-1, passed 10-8-2012; Am. Ord. 130408-1, passed 4-8-2013; Am. Ord. 140714-1, passed 7-14-2014; Am. Ord. 161114-1 passed 11-14-2016; Am. Ord. 170522-1, passed 5-22-2017; Am. Ord. 180529-1, passed 5-29-2018; Am. Ord. 180813-1, passed 8-13-2018; Am. Ord. 200622-1, passed 6-22-2020; Am. Ord. 201109-D, passed 11-9-2020; Am. Ord. 210726-A, passed 7-26-2021)

§ 154.006 INTERPRETATION OF CHAPTER.

(A) In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements, adopted for the promotion of the public health, safety and the general welfare.

(B) Whenever the requirements of this chapter are at variance with the requirements of any other lawfully adopted rules, regulations or ordinances, the more restrictive, or higher standard shall control.

(C) This chapter shall not abridge the provisions of a validly adopted building code, mobile home ordinance, subdivision ordinance, condominium ordinance, or other regulations.

(Ord. passed 6-24-1996; Am. Ord. 02-02, passed 2-11-2002)

ZONING DISTRICTS AND DISTRICT REGULATIONS

§ 154.020 EFFECT OF ZONING.

(A) Zoning affects every structure and use.

(B) Except as hereinafter specified, no building, structure or premises shall hereafter be used or occupied, and no building or part thereof or other structure shall be erected, moved, placed, reconstructed, extended, enlarged or altered, except in conformance with the regulations herein specified for the zoning district in which it is located.

(Ord. passed 6-24-1996; Am. Ord. 02-02, passed 2-11-2002) Penalty, see § 154.999

§ 154.021 APPLICATION OF REGULATIONS.

(A) The regulations set by this chapter throughout the city and within each district shall be minimum regulations and shall apply uniformly to each class or kind of structure, land or use.

(B) All buildings, structures or land may hereafter be constructed, altered or changed in use or occupancy only when in conformity with all of the regulations herein specified for the district in which it is located.

(C) No building or other structure shall hereafter be altered:

(1) To accommodate or house a greater number of persons or families than permitted by the zoning district; or

(2) To have narrower or smaller rear yards, front yards, side yards, other than permitted.

(D) No yard or lot existing at the time of the passage of this chapter shall be subdivided or reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this chapter shall meet at least the minimum requirements established by this chapter.

(Ord. passed 6-24-1996; Am. Ord. 02-02, passed 2-11-2002) Penalty, see § 154.999

§ 154.022 GENERAL REGULATIONS.

(A) *Zoning permit required; conformance to zoning*. In accordance with other city codes, ordinances and regulations duly adopted by the City Council, and in accordance with this chapter, no building or structure shall hereafter be erected, relocated or altered in its exterior dimension or use, and no excavation for any building shall be begun until a zoning and building permit has been issued. With respect to this Zoning Code, eligibility for a zoning permit shall be established upon conformance with the provisions contained in this chapter. This shall apply to all new construction, as well as to additions and improvements to existing structures. (See §§ 154.171 through 154.173 for application and procedures.)

(1) A zoning permit is required for detached accessory buildings or structures.

(2) Zoning permits will not be necessary for normal repairs to existing structures, or for minor improvements such as painting, new roofs and similar minor repairs and improvements or for minor landscaping.

(B) *Certificate of occupancy required*. No building or dwelling subject to the provisions of this chapter shall be occupied, inhabited or used until a certificate of occupancy is issued. (See §§ 154.171 through 154.173 for application and procedures.)

(C) *Structures*.

(1) *Restoring unsafe buildings*. Nothing in this chapter shall prevent the strengthening or restoring to a safe condition any part of any building or structure declared unsafe by the Building Inspector or the County Health Inspector and after approval by the Zoning Administrator.

(2) *Minimum floor area for dwelling units*. Each new dwelling shall have a minimum gross floor area in accordance with the following standards:

(a) *Single-family detached*. Each new dwelling unit shall have a minimum finished gross floor area of 600 square feet of floor area;

(b) *Single-family attached, including two-family and townhouses*. Each new dwelling unit shall have a minimum finished gross floor area of 900 square feet with a minimum of 600 square feet on the ground floor for units of more than one story; and

(c) *Multiple-family dwellings*.

Gross Floor Area/Unit in Square Feet	
Efficiency	375 square feet
One bedroom	600 square feet
Two bedrooms	780 square feet
Three bedrooms	940 square feet
In excess of 3 bedrooms	940 plus 80 square feet for each additional bedroom

(3) *Sewage disposal facilities required*. Each dwelling unit and principal structure shall be equipped with adequate water-carried sewage disposal facilities to comply with the city sanitary code in effect at the time of the erection or modification of the dwelling unit or principal structure.

(4) *Structure to have access*. Every principal structure hereafter erected or moved shall be on a lot adjacent to a public street, or with access to an approved private street, and all structures shall be so located on lots as to provide safe and convenient access for servicing, fire protection and required off-street parking. Every easement for a private drive, street or road shall be a minimum of 15 feet wide.

(5) *Principal building*. Only one principal building and permitted accessory uses may be erected on any lot of record, except as may be permitted for planned unit development projects, special land uses or condominium developments

(D) *Height limit.* In the case of a principal building, the vertical distance measured from the average grade to the highest point of flat roofs, to the deck line of mansard roofs, and the average height between eaves and the ridge of gable, hip and gambrel roofs, shall not exceed 28 feet unless otherwise specified in this chapter. In no case shall the overall peak building height be greater than 32 feet when measured from the natural average grade.

(E) *Height limit exceptions*. The following may be exempted from height limit requirements, provided that no portion of the excepted structure may be used for human occupancy:

(1) Those purely ornamental in purpose such as belfries, cupolas, domes and ornamental towers/monuments, provided they do not exceed 40 feet in height above the average grade of the lot or parcel on which the feature will be located;

(2) Those necessary appurtenances to mechanical or structural functions, such as radio towers, masts and aerials, television antennas, wire transmission structures or other structures where the manufacturing process requires a greater height but do not exceed 100 feet in height;

(3) Public utility structures, but not including communication towers, except upon receipt of a special use permit;

(4) Wind power electrical generating towers shall not exceed 70 feet in height and the distance from the base of the tower to any lot line shall be ten feet more than the height of the tower; and

(5) Church spires and flag poles shall not exceed 50 feet in height.

(F) *Lots*.

(1) *New lots to be buildable.* All newly created lots shall have the net buildable area appropriate to the zone district in which it is located and appropriate access to a public or approved private road.

(2) *Minimum lot size regulations to be met.* No new lot shall be created which does not meet the minimum lot size regulations of this chapter.

(3) *Corner lots.* On a corner lot, each lot line which abuts a street shall be deemed to be a front lot line, and the required yard along both lot frontages shall be required front yard. The owner shall elect, and so designate in his or her application for the zoning permit, which of the remaining two required yards shall be the required side yard and which the required rear yard.

(4) *Waterfront lots.* Notwithstanding any other provisions of this chapter, all structures on a waterfront lot shall have a setback of 25 feet from the waterfront. The lot line which abuts the street shall be deemed to be the front lot line, and the two remaining yards shall both be required side yards.

(5) *Flag lots.* Where there is no other way to gain access to undeveloped land due to limited street frontage, new flag lots may be permitted to be used, provided that the flag lot has at least 20 feet of frontage on a public street, that this right-of-way serves only one lot, and that there is at least a distance equivalent to the lot width of a conforming lot between flag lots. The minimum front, side and rear yard requirements of the district in which a flag lot is located must be met on the portion of the lot excluding the right-of-way. (See Appendix, Figure 7).

(6) *Lot division.*

(a) No lot or lots in common ownership, and no yard, court, parking area or other space, shall be divided, altered or reduced to make such area or dimension less than the minimum required by the zone district in which it is located. No lot line adjustments shall be made which create or increase non-conformity with the minimum area or dimensions of the zone district in which it is located.

(b) After a land division is approved by the city, a document accomplishing the division must be filed by the property owner or the property owner's agent with the Allegan County Register of Deeds Office within 90 days of the approval, or the approval will lapse. (See Saugatuck City Code § 153.01; land division ordinance for division of non-platted lots).

(7) *More than one nonconforming lot may be considered only one lot.* If more than one lot of record is held in common ownership and the lots are contiguous, undeveloped and substandard in size relative to the required minimum lot size in the zoning district, they shall for the purpose of this chapter, be held as one lot or as many lots as shall leave no lot substandard.

(G) *Permitted yard encroachments.* Whenever otherwise lawfully permitted the following may be permitted to encroach upon the minimum yard area and setback requirements of this chapter:

(1) Eaves, cornices or pilasters a maximum of two feet;

(2) Approved fences and signs;

(3) Flower boxes, a maximum of one foot;

(4) Sidewalks, driveways, parking lots;

(5) Utility meters or service points;

(6) Detached stairways on slopes with landings, provided the landing(s) do(es) not exceed the minimum requirement of the building code by more the 10%;

(7) Rails, cables, stairways, and motorized lifts on steep slopes, extending from ground floor doorways or detached from a structure;

(8) Front steps less than 36 inches high and wheel chair ramps;

(9) Decks not more than 30 inches above the surrounding finished grade at any point are permitted to encroach on required side and rear yards, provided they are not closer than seven feet to any side or rear property line;

(10) Patios not higher than 12 inches above the surrounding finished grade at any point are permitted to encroach on required side and rear yard setbacks provided they are no closer than 3 feet to any side or rear property line provided there still remains adequate access in the event of an emergency;

(11) Patios between 12 inches and 30 inches above the surrounding finished grade at any point my encroach on required side and rear yards, provided that they or not closer than seven feet to an side or rear property line provided there still remains adequate access in the event of an emergency;

(12) Hot tubs, spas, and in ground swimming pools along with their associated or contiguous patios and decks, may encroach into ½ of the required side or rear yard setbacks, but in no case shall be closer than seven feet to any property line. No such structures shall be permitted in the front yard. Waterfront pool enclosure fencing as required by the State Construction Code shall conform with § 154.143(F)(6);

(13) Driveways and landscaping;

(14) Arbors, trellises, yard ornaments, statuary, flagpoles;

(15) Plantings, shrubs, landscaping and indigenous vegetation;

(16) Sandboxes, swings, picnic tables, barbecues and similar accessory recreational equipment;

(17) Pad-mounted air-conditioning, heating or ventilating equipment, located in side or rear yards provided that they are no closer than two feet from any side or rear yard lot line;

(18) Uses not specifically itemized, but which are similar in nature to any of the foregoing uses.

(H) *Accessory buildings and structures*. All new accessory buildings and structures shall conform with all of the following requirements.

(1) Accessory buildings shall not be erected within ten feet of any other building.

(2) Maximum area, maximum lot coverage and minimum setback standards for accessory buildings and structures are as listed below.

(a) Maximum area shall not exceed the ground floor area of the main building.

(b) Maximum lot coverage shall not exceed the lot coverage requirements as shown in district regulations.

(c) Minimum setback shall meet the schedule of regulations for the district.

(3) Accessory buildings and structures shall not be erected on a lot or parcel prior to the establishment of a principal structure. Where two or more abutting lots are held under one ownership, the owner may erect an accessory building on a lot separate from that on which the principal building is located.

(4) Accessory buildings and structures shall not occupy any portion of the required setback area.

(5) Accessory buildings and structures that are portable in nature shall comply with the regulations herein, including the minimum setback requirements for principal buildings specified in the dimension and area regulations for the zoning district in which they are located. This shall include, but not be limited to, buildings and structures constructed on skids and/or frames, and those without attachment to a foundation. All accessory buildings shall be required to obtain a zoning permit prior to installation.

(6) Accessory buildings and structures that do not fall into any of the categories specified herein shall meet the minimum setback requirements for principal buildings specified in the dimension and area regulations for the zoning district in which they are located.

(7) Habitation of accessory structures. No accessory building or structure, including, without limitation, a garage or cellar, whether fixed or portable, may be used or occupied as a dwelling unless permitted in accordance with the provisions of divisions (M) or (W).

(I) *Parking*.

(1) *Off-street parking*. All buildings located in the city shall provide off-street parking adequate for the use intended, as specified in § 154.135.

(2) *Parking, storage or use of major recreational or commercial equipment*. No major recreational or commercial equipment shall be parked or stored in any required front yard, provided, however, that the equipment may be parked for not more than 24 hours during loading or unloading. No such equipment shall be used for permanent living or housekeeping purposes when parked or stored in any location not approved for such use.

(J) *Regulations applicable to single-family dwellings located outside of manufactured home parks*. Any single-family dwelling, whether constructed and erected on a lot or a manufactured home, shall be permitted outside a manufactured home park only if it complies with all of the following requirements:

(1) If the dwelling unit is a manufactured home, the manufactured home must either be new and certified by the manufacturer and/or appropriate inspection agency as meeting the Mobile Home Construction and Safety Standards of the U.S. Department of Housing and Urban Development, as amended, or any similar successor or replacement standards which may be promulgated, or used and

certified by the manufacturer and/or appropriate inspection agency as meeting the standards referenced above, and found, on inspection by the Building Inspector or his or her designee, to be in excellent condition and safe and fit for residential use;

(2) The dwelling unit shall comply with all applicable building, electrical, plumbing, fire, energy and other similar codes which are or may be adopted by the city, provided, however, that where a dwelling unit is required by low to comply with any federal or state standards or regulations for construction, and where such standards or regulations for construction are different than those imposed by city codes, then and in such event the more restrictive standard or regulation shall apply. Appropriate evidence of compliance with such standards or regulations shall be provided to the City Building Inspector;

(3) The dwelling unit and the lot on which the unit is placed shall comply with all restrictions and requirements of this chapter including, without limitation, the minimum lot area, minimum lot width, minimum residential floor area, required yards and maximum building height requirements of the underlying zone district;

(4) If the dwelling unit is a manufactured home, the manufactured home shall be installed with the wheels removed;

(5) The dwelling unit shall be firmly attached to a permanent continuous foundation constructed on the building site, such foundation to have a wall of the same perimeter dimensions as the dwelling unit and to be constructed of such materials and type as required by the Building Code for on-site constructed single-family dwellings. If the dwelling unit is a manufactured home, its foundation shall fully enclose the chassis, undercarriage and towing mechanism;

(6) If the dwelling unit is a manufactured home, it shall be installed pursuant to the manufacturers set-up instructions and shall be secured to the building site by an anchoring system or device complying with the rules and regulations, as amended, of the Michigan Mobile Home Commission, or any similar or successor agency having regulatory responsibility for manufactured home parks;

(7) Permanently attached steps or porch areas at least three feet in width shall be provided where there is an elevation difference greater than eight inches between the first floor entry of the dwelling unit and the adjacent grade; and

(8) No basement, cellar, garage or damaged or incomplete structure shall be used as a dwelling.

(K) *Home business; purpose*. Home businesses are allowed in residential areas of the city as a means for a person or persons to work out of their home with a slightly higher level of intensity than a home occupation but still resulting in a minimal impact on the adjacent properties and the neighborhood and a moderate amount of activity on the premises. A home business may be permitted subject to all of the following.

(1) Unless otherwise provided for the by zone district, home businesses shall be subject to site plan review and approval by the Planning Commission. The adjacent property owners within 300 feet shall be notified of the home business request. The notice shall indicate the nature of the request, the time, date and place at which the request will be considered by the Planning Commission; and, shall indicate the opportunity and process for public comment on the application.

(2) Not more than two persons, plus members of the immediate family residing on the premises, shall use, be located or stationed at the home for business purposes.

(3) The home business shall be operated entirely within the main building, permitted garage (attached or detached), or permitted accessory building.

(4) The use of the dwelling for the home business shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and shall not use on area exceeding more than 50% of the main floor area of the dwelling unit. Not more than 75% of the garage or permitted accessory

structure may be used in the conduct of the home business. Pursuant to use of the garage or permitted accessory structure, the home business shall not result in the displacement and outside placement of equipment and materials (e.g. lawn mower, snow blower, garden equipment, recreation equipment and the like) normally stored in the garage or accessory structure as associated with the residential nature of the premises.

(5) There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of the home business, other than one sign, not exceeding two square feet in area, non-illuminated, and mounted on the wall of the main building facing the street which shall comply with all provisions of the sign requirements. No over-the-counter retail sales or other sales of merchandise or products shall be conducted upon the premises except for incidental products related to the home business or those goods actually produced on the premises.

(6) The home business shall not generate more than eight client trips per day to the home during the hours of 8:00 a.m. to 8:00 p.m. Clients shall not be received during other hours unless approved by the Planning Commission. Any need for parking generated by the conduct of the home business shall be provided off street.

(7) No equipment or process shall be used in such home business which creates noise, vibration, glare, fumes, odors or electrical interference detectable to the normal human senses at or beyond the property line of the site at which the home business is conducted. Pursuant to electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or cause fluctuation in line voltage off the premises.

(8) The home business shall not require any type of special construction beyond that customarily associated with a single-family dwelling.

(9) The home business shall not involve the storage or use of any significant amount of materials for which there is a high risk of flammability or explosion. For purposes of this section, ***SIGNIFICANT AMOUNT*** shall be defined as any amount and/or use and/or type of material that would be classified by the City Building Code as requiring any form of special construction beyond that customarily associated with single-family dwellings.

(10) In reviewing and approving a home business, the Planning Commission shall determine that:

(a) The request for a home business is consistent with the residential character of the neighborhood; and

(b) The proposed home business will have a minimal impact on the adjacent properties and on the neighborhood.

(11) The Planning Commission may require conditions which are considered necessary to ensure the residential integrity of the premises and the neighborhood.

(12) Approved home businesses are subject to the provisions of city code Chapter 110.

(L) *Home occupation*. Home occupations are allowed in residential areas of the city as a means for a person or persons to work at home with minimal visibility and impact on the adjacent properties and the neighborhood and a minimal amount of activity on the premises. The home occupation shall comply with all of the following regulations:

(1) Home occupations shall be approved by the Zoning Administrator who upon receipt of a completed application has determined that the proposed home occupation meets the provisions of the Ordinance;

(2) Only those members of the immediate family residing on the premises, plus not more than one non-resident, shall be engaged in the home occupation;

(3) The use of the dwelling for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants and shall not use on area exceeding more than 50% of the main floor area of the dwelling unit;

(4) There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of the home occupation; signs advertising the home occupation are not allowed;

(5) The home occupation shall be operated entirely within the main building, permitted garage (attached or detached), or permitted accessory building;

(6) No over the counter retail sales or other sales of merchandise or products shall be conducted upon the premises except for incidental products related to the home occupation or those goods actually produced on the premises. Sales may be made if goods and services are not transferred on the premises;

(7) Home occupations shall not generate more than eight client trips per week to the home during the hours of 8:00 a.m. to 8:00 p.m. Clients shall not be received during other hours. Any need for parking generated by the conduct of the home occupation shall be met off the street;

(8) No equipment or process shall be used in a home occupation which creates noise, vibration, glare, fumes, odors or electrical interference detectable to the normal human senses at or beyond the property line of the site at which the home occupation is conducted. Pursuant to electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or cause fluctuation in line voltage off the premises;

(9) The home occupation shall not require any type of special construction beyond that customarily associated with a single-family dwelling;

(10) The home occupation shall not involve the storage or use of any significant amount of materials for which there is a high risk of flammability or explosion. For purposes of this section, significant amount shall be defined as any amount and/or use and/or type of material that would be classified by the City Building Code as requiring any form of special construction beyond that customarily associated with single-family dwellings;

(11) Pursuant to the use of a garage or accessory structure, the home occupation shall not result in the displacement and outside placement of equipment and materials (e.g. lawn mower, snow blower, garden equipment, recreation equipment and the like) normally stored in the garage or accessory structure as associated with the residential nature of the premises;

(12) Instruction in a craft or fine art shall be considered a home occupation, provided, however, all requirements of this section shall be complied with; and

(13) Approved home occupations are not subject to the provisions of Chapter 110.

(M) *Temporary buildings, structures and uses*.

(1) *Generally*. Temporary buildings, structures and uses are permitted in all districts unless otherwise provided. Temporary buildings and structures not greater than 300 square feet in area may be placed on a lot or parcel of record and used only under the following conditions and as authorized by a temporary zoning permit issued by the Zoning Administrator.

(a) *Fire damage*. During renovation of a permanent building damaged by fire. The temporary building or structure must be removed when repair of fire damage is complete, but in no case shall it be located on the lot or parcel for more than 180 days.

(b) *Construction*. Temporary buildings and structures not used for dwelling purposes, incidental to construction work shall be removed within 15 days after construction is complete, but in no case

shall the building or structure be allowed more than 12 months, unless expressly authorized after petition to the Zoning Board of Appeals.

(c) *Churches and schools*. Temporary buildings and structures incidental to a church or school, provided that all wiring, plumbing, fire protection and exits are approved by the Fire Chief, Building Inspector, and by relevant state agencies..

(d) *Christmas tree sales*. The display and sale of Christmas trees in the City Center Commercial (C-1), or at a school, church, campground or nursery is permitted by a temporary zoning permit, provided it is incidental and accessory to the principal use. The temporary zoning permit for the display and sale on an open lot shall be valid for a period not to exceed 45 days, and any temporary building or structure shall be removed by December 31. All unsold trees must be removed from the property by December 31 of each calendar year.

(e) *Auctions*. The public auction of property shall be permitted for not more than five days and no sales activity shall occur within 30 feet of any street or road right-of-way.

(f) *Recreational trailers.* Recreational trailers, pick-up campers or coaches designed to be mounted on automotive vehicles, self-propelled dwellings, tent trailers and the like may be permitted to be occupied for dwelling purposes in a residential zone district for up to three consecutive days, three times a year on a property which is owner occupied. For purposes of this section ***OWNER OCCUPIED PROPERTY*** means that there is located on the same property a single family home that is not used as a short term rental for any part of a year.

(2) *Performance guarantee*. The Zoning Administrator may require a performance guarantee in the form of cash, check, savings certificate or performance bond which will be deposited with the City Clerk in an amount equal to the estimated cost of removing any temporary structure authorized under this section should the temporary structure not be removed by an applicant at the end of an authorized period. The applicant shall similarly sign an affidavit holding the city harmless against any claim for damages if the city were to subsequently use the performance guarantee to remove the temporary structure after its authorized period had expired. The performance guarantee shall be returned when all the terms and conditions of the temporary zoning permit have been met and the temporary use or structure has been removed.

(3) *Applications*. A written temporary zoning permit application for all temporary buildings, structures, and uses shall contain the following information:

(a) The applicant’s name;

(b) The location and effective dates of the temporary use;

(c) Conditions specified by which the permit is issued, such as:

1. Use and placement of signs;
2. Provision of security and safety measures;
3. Control of nuisance factors; and
4. Submission of performance guarantee;

(4) *Permits*. A temporary zoning permit may be approved, modified, conditioned, or denied by the Zoning Administrator consistent with the standards set forth in this section. The Zoning Administrator may refer the application to the Planning Commission where reasonably warranted.

(5) *Conditions of approval*.

(a) The nature and intensity of the temporary use and the size and placement of any temporary structure shall be planned so that the temporary building, structure, or use will be compatible with

existing development.

(b) The building, structure, or use shall not be typically located within a permanent building or structure.

(c) The parcel shall be of sufficient size to adequately accommodate the temporary building, structure, or use.

(d) The location of the temporary building, structure, or use shall be such that adverse effects on surrounding properties will be minimal, particularly regarding the traffic generated by the temporary building, structure, or use.

(e) Off-street parking areas are of adequate size for the particular temporary building, structure, or use and properly located, and the entrance and exit drives are laid out so as to prevent traffic hazards and nuisances.

(f) Signs shall conform to the provisions of this chapter and any other city ordinance regulating signs.

(g) Any lighting shall be directed and controlled so as to not create a nuisance to neighboring property owners.

(h) The Zoning Administrator may impose conditions with the issuance of the permit which are designed to insure compliance with the requirements of this chapter. The Zoning Administrator may revoke a permit for nonconformance with the requirements of this section and a permit issued thereunder.

(i) Permits which are renewable shall have an application filed for renewal at least 15 days prior to the expiration date of the current permit, except that applications for renewal or extension of a permit for less than 15 days may be applied for no later than three days prior to the expiration date of the current permit.

(6) *Revocation*. Upon expiration or revocation of a temporary zoning permit for a temporary use, the temporary building, structure, or use shall cease and all temporary structures, dwellings or buildings shall be removed from the parcel of land. A temporary zoning permit may be revoked or modified by the Zoning Administrator if any one of the following findings are documented by the Zoning Administrator:

(a) That material circumstances have changed;

(b) That the temporary zoning permit was obtained by misrepresentation or fraud;

(c) That one or more of the conditions of the temporary zoning permit have not been met; or

(d) That the use is in violation of any statute, ordinance, law or regulation.

(7) *Appeal*. An appeal of a decision by the Zoning Administrator relative to denial or revocation of a temporary zoning permit for a temporary building, structure, or use or renewal thereof may be taken to the Zoning Board of Appeals.

(N) *Surfacing of parking lots and pedestrian walks*. All areas provided for use by commercial or industrial vehicles and all pedestrian walks shall be surfaced with bituminous asphalt, concrete or similar materials as approved by the city and properly drained. See § 154.130.

(O) *Refuse containers*. Refuse containers shall be screened. Screening shall consist of vegetation or solid fencing. Containers (including the container site and container lids) shall be properly secured and maintained to prevent unauthorized use, to avoid odors, and to prevent infestation by rodents and vermin. Refuse container screening shall be designed and constructed consistent with the character of surrounding development. See § 154.142 and Chapter 152.

(P) *Ingress and egress*. In all districts, provisions shall be made for safe and efficient ingress and egress to the public streets and highways serving the property without creating undue congestion or interference with normal traffic flow. Pursuant to the above requirement, the city may require an applicant to provide a traffic impact analysis demonstrating compliance with the above standard if the city determines that a proposed project has a reasonable potential of resulting in congestion and/or on unsafe traffic situation. The traffic impact analysis shall be performed by a qualified Traffic Engineer.

(Q) *Infrastructure design and construction*. The design and construction of all streets, sidewalks, water systems, sanitary systems, storm sewer systems, surface water retention and detention systems, fire protection/suppression systems, and other such infrastructure shall meet or exceed city standards.

(R) *Bed and breakfast establishments*. Bed and Breakfast Establishments (B&B), as defined by this chapter, are permitted as special land uses in certain districts. In addition to compliance with the special land use standards and provisions, all B&Bs shall meet the following criteria.

(1) Rooms utilized for guest sleeping shall not exceed two occupants per room not including children under the age of 12. Each room for guest sleeping shall contain at least 100 net square feet of room size.

(2) The B&B facility and operation shall meet all applicable building, health and related safety codes. All sleeping rooms shall contain a separate smoke detector in proper working order. Each floor of the dwelling shall contain a fire extinguisher in proper working order in conformance with all applicable fire codes.

(3) The guest room charge shall include the preparation and serving of breakfast to overnight guest. No additional breakfast fee shall be charged.

(4) No separate or individual cooking facilities shall be provided for the use of guests, including existing cooking facilities.

(5) The B&B operation may include a wall sign, attached flat against the front face of the dwelling, not to exceed two square feet in area. The sign shall be non-illuminated and designed and constructed consistent with the architectural and aesthetic character of the dwelling to which the sign shall be affixed. In lieu of a wall sign, the Planning Commission may permit a free-standing sign, not to exceed four square feet. (See § 154.141 and Chapter 152).

(6) No guest shall reside on the premises for more that 14 consecutive days, and not more than 30 days in any one year.

(7) Off-street parking shall be provided as required by the parking regulations of this chapter. See § 154.130.

(8) The use of outdoor yard areas, open decks, pools and the like shall not result in the production of excessive off-site noise, odor and other external disturbances. Said determination to be based on the judgement of the Zoning Administrator. Approval of the B&B operation may be conditioned upon the installation of screening, fencing, plantings and/or other such installations and conditions to help ensure compatibility of the B&B operation with the surrounding area.

(9) An existing residential structure may be converted to a bed and breakfast and exterior additions to an existing residential structure for the purpose of providing additional rental rooms shall only be allowed if all of the following conditions are met:

(a) The parcel of property must meet all of the provisions of this chapter for the particular zone in which the proposed bed and breakfast is located; and

(b) All of the special land use permit requirements of this subchapter shall be met.

(S) Reserved.

(T) Reserved.

(U) Reserved.

(V) *Short-term rental unit.*

(1) The owner of the dwelling unit which is to be rented for any period of less than 30 days, shall obtain a short term rental certificate from the city before the dwelling is rented or used;

(2) The property owner or applicant shall include the following information on the certificate application:

(a) Address of the subject parcel containing the dwelling unit to be rented;

(b) Name and contact information, including e-mail, of the owner of the dwelling unit;

(c) Name and contact information, including e-mail, of the required local representative or the rental agency, within 45 miles of the City of Saugatuck;

(d) Proposed maximum occupancy of the dwelling unit;

(e) Owner's signature stating that the dwelling unit will be operated in conformance with all applicable ordinance requirements; and

(f) The property owner shall notify the city of any changes to the approved application within 30 days of the date of the change, including change of mailing address, contract information, or rental agency.

(3) The short-term rental unit shall meet all applicable building, health, fire, and related safety codes at all times and shall be inspected by the Saugatuck Township Fire District within 30 days of the submittal of the application. Violations found by the Saugatuck Township Fire District shall be corrected within 15 days of notification from the Fire Inspector. No certificate shall be issued until after the fire inspection has been completed and approved. The property owner or rental agency shall submit a completed safety checklist, designed by the Saugatuck Township Fire District, to the city for the second and third year of each certificate cycle for the certificate to remain in good standing.

(4) Signs shall be subject to the applicable provisions of § 154.141 of this chapter;

(5) The use of outdoor yard areas, open decks, pools and the like shall not result in the production of excessive off-site noise, odor, other external disturbances or other nuisances as regulated within the City Code of Ordinances;

(6) In no event shall the owner of the short-term rental unit or their agent rent solely an individual room in the short-term rental unit to a person, family, or other group of persons, nor shall the renter of the dwelling so sublet any room. All dwelling units rented for short term use shall be fully rented under a single contract;

(7) The use of tents, campers, or similar temporary sleeping facilities shall be prohibited;

(8) A short term rental certificate shall be valid for three seasons (January 1 through December 31) unless there is a change of ownership for the subject parcel;

(9) Occupancy of each dwelling unit shall be limited based on the calculations in the BOCA National Property Maintenance Code as approved in § 150.03; and

(10) All short term rentals shall have a local representative who resides within 45 miles of the outer boundaries of the city. This contact shall have access to the property at all times and shall have working knowledge of the house.

(W) *Accessory dwelling unit.* An accessory dwelling unit, as defined in § 154.005 of this chapter shall meet the following criteria:

(1) Occupancy shall be limited to invited guests;

(2) Rental of an accessory dwelling, separate from a detached single-family dwelling, shall be prohibited without receiving special land use approval from the Planning Commission as authorized in § 154.092(J);

(3) An accessory dwelling unit shall have a minimum of 375 square feet of gross floor area and shall not exceed the lesser of 30% of the gross floor area contained within the detached single-family dwelling unit or 600 square feet of gross floor area; except, in the CRC zone district when the parcel on which the accessory dwelling unit is located is two or more acres in area, the floor area of an accessory dwelling unit shall not exceed the lesser of 30% of the gross floor area of the principal residence or 1,500 square feet. For purposes of this section, the floor area of an accessory dwelling unit is the total finished floor area intended for living, sleeping, bathing, eating and cooking.

(4) An accessory dwelling, which is not located within the detached single-family residential dwelling, shall not be located between the front door of the detached single-family dwelling and the public right-of-way, unless located above an existing detached accessory structure;

(5) An accessory dwelling shall be subject to all applicable setback and lot coverage requirements of a detached single-family dwelling in the district if which it is located;

(6) An accessory dwelling unit shall only be permitted on a lot where the principle use is an existing detached single-family dwelling unit;

(7) No more than one accessory dwelling unit is permitted on any lot;

(8) Accessory dwellings shall not be permitted to have independent electric, gas, or water meters from the detached single-family dwelling unit;

(9) An accessory dwelling unit located within a detached single-family dwelling unit shall have a separate entrance from the exterior of the structure and shall not have interior access to the detached single-family dwelling unit;

(10) A lot with an accessory dwelling unit shall provide one additional parking space on a fully improved surface of concrete, asphalt, or brick, gravel, stone, or other surface approved by the city; and

(11) Accessory dwelling units may be included with the rental of a detached single-family dwelling on the same property if it is done so under a single contract.

(Ord. passed 6-24-1996; Am. Ord. 02-02, passed 2-11-2002; Am. Ord. passed 5-10-2004; Am. Ord. 070611-1, passed 6-11-2007; Am. Ord. 090824-1, passed 8-24-2009; Am. Ord. 100726-1, passed 7-26-2010; Am. Ord. 111212-1, passed 12-12-2011; Am. Ord. 140714-1, passed 7-14-2014; Am. Ord. 150427-2, passed 4-27-2015; Am. Ord. 161114-1 passed 11-14-2016; Am. Ord. 161128-2, passed 11-28-2016; Am. Ord. 170213-2, passed 2-13-2017; Am. Ord. 170522-1, passed 5-22-2017; Am. Ord. 181112-1, passed 11-12-2018; Am. Ord. 181226-2, passed 12-26-2018) Penalty, see § 154.999

§ 154.023 LI-1 BLUE STAR DISTRICT (LIND).

(A) *Generally*.

(1) It is the intent of this district to serve as a transitional zone between the adjacent residential districts and the commercial district in the abutting township.

(2) Properties which abut a residential zone shall utilize adequate screening, green belts or buffers to minimize the impacts on the residential zone.

(3) This district will allow uses which traditionally do not cause excessive noise, vibration, odors, visual blight, pollution, use hazardous processes, and are not manufacturing or fabricating base industries.

(4) The district will provide business and industry a location in the city which is consistent with the density and area needs which cannot be found in central business district or industrial district.

(B) *Permitted uses*:

(1) Equipment rental and leasing;

(2) Nursery, flower, plant or garden shops, provided all incidental equipment and supplies, including fertilizer, tools and containers, are kept within a completely enclosed structure;

(3) Amusement and recreation services;

(4) Contractor's stores (plumbing, heating, electrical and the like), provided all operations and storage are conducted within an enclosed structure;

(5) Lumber yards;

(6) Marine contractors;

(7) Veterinary hospitals or clinics;

(8) Off-street parking;

(9) Storage buildings; and

(10) Art gallery.

(C) *Special land uses*. Special land uses are subject to review and approval by the Planning Commission in accordance with §§ 154.060 through 154.068 and §§ 154.080 through 154.092:

(1) Automobile parts stores, enclosed structures only;

(2) Lodge hall, private clubs, veterans clubs;

(3) Research laboratory;

(4) Bowling alleys;

(5) Billiards, pool halls;

(6) Automotive services;

(7) Recreational transportation rental facilities; and

(8) Gas stations.

(D) *Dimensions and area regulations*:

Front setback	50 feet
Side setbacks	15 feet
Rear setback	25 feet
Minimum lot area	one acre
Maximum lot coverage	25%
Minimum lot width	150

(E) *Parking*. Parking shall be provided in paved and lighted lots. Parking lots shall be provided in rear and side yards only.

(F) *Landscaping*. Front yards shall utilize existing vegetation wherever possible. Landscaping plans for front yards shall be submitted to the Planning Commission for review and approval. Berms may be substituted for some landscaping.

(G) *Driveways and curb cuts*. The location of a driveway curb cut to any street shall be:

(1) Fifty feet from an intersection of any two streets;

(2) Fifty feet from another driveway, regardless of which side of the street the drive is located on, as measured along a line drawn parallel to the center line of the street;

(3) The width of a driveway shall be a minimum of 20 feet and not greater than 35 feet; and

(4) There shall be one driveway curb cut per property.

(H) *Outside storage*. Storage or warehousing of materials, goods, display cases and any related items shall not be permitted outside of any building in the LI-1 district.

(Ord. passed 6-24-1996; Am. Ord. 02-02, passed 2-11-2002; Am. Ord. passed 12-9-2002; Am. Ord. 101122-1, passed 11-22-2010; Am. Ord. 111212-1, passed 12-12-2011; Am. Ord. 140714-1, passed 7-14-2014)

§ 154.024 C-1 CITY CENTER COMMERCIAL DISTRICT (CC).

(A) *Generally.*

(1) This district is designed to promote and preserve the Central Business District character of the city.

(2) The district permits intense retail and commercial uses.

(3) Residential uses and business and professional offices are encouraged on the second and third floors of buildings in the district.

(4) Utilization of existing undeveloped land in the district is encouraged when done in a manner consistent with the character of the district.

(B) *Permitted uses:*

(1) Essential public services;

(2) Retail stores;

(3) Personal service establishments;

(4) Art galleries;

(5) Single-family, two-family, and multiple-family dwelling units on second or third floors;

(6) Home occupations;

(7) Short-term rental units on second or third floors; and,

(8) Business, professional offices on second and third floors only.

(C) *Special land uses.* Special land uses are subject to review and approval by the Planning Commission in accordance with §§ 154.060 through 154.068 and §§ 154.080 through 154.092:

(1) Bed and breakfast;

(2) Hotel/inn;

(3) Motel/motor court;

(4) Theater;

(5) Parking facility;

(6) Restaurants;

(7) Rental of accessory dwellings;

(8) Recreational transportation rental facilities; and

(9) Brewery, distillery, and winery.

(D) *Dimension and area regulations.*

(1) Permitted uses and special uses: 4. Theater, 5. Parking facility, 6. Restaurants, 8. Recreational transportation rental facilities, and 9. Brewery, distillery, and winery.

Front setback	0 feet
Side setback	0 feet*
Rear setback	0 feet*
Minimum lot area	4,356 square feet
Minimum lot width	33 feet of street frontage
Maximum lot coverage	100%*
* Subject to Fire Code Regulations	

(2) Special uses: 1. Bed and breakfast, 2. Hotel/inn, 3. Motel/motor court, and 7. Rental of accessory dwellings.

Front setback	0 feet
Side setback	0 feet*
Rear setback	0 feet*
Minimum lot area	8,712 square feet
Minimum lot width	66 feet
Maximum lot coverage	100%*
* Subject to Fire Code Regulations	

(Ord. passed 6-24-1996; Am. Ord. 050711, passed - -; Am. Ord. 02-02, passed 2-11-2002; Am. Ord. 090824-1, passed 8-24-2009; Am. Ord. 100726-1, passed 7-26-2010; Am. Ord. 101122-1, passed 11-22-2010; Am. Ord. 110214-1, passed 12-14-2011; Am. Ord. 111212-1, passed 12-12-2011; Am. Ord. 140714-1, passed 7-14-2014; Am. Ord. 200622-1, passed 6-22-2020; Am. Ord. 201109-D, passed 11-9-2020)

§ 154.025 R-4 CITY CENTER TRANSITIONAL RESIDENTIAL DISTRICT (CER).

(A) *Generally.*

(1) The purpose of the Transitional Residential Zone is to create a buffer zone from the high intensity City Center Commercial Zone to the low intensity Community Residential Zone.

(2) This zone will permit a limited number of mixed uses but intentions are to promote residential land uses.

(3) As a transitional zone its character shall be reviewed more frequently to assess the needs of the adjoining zones.

(4) This zone is not intended to be static but rather to adjust with the development needs of the community.

(B) *Permitted uses:*

(1) Dwelling, single-family detached, with a floor area ratio that does not exceed 0.3:1;

(2) Dwelling, two-family;

(3) Essential public services;

(4) Bed and breakfasts;

(5) Home occupations; and

(6) Short-term rental unit.

(C) *Special land uses.* Special land uses are subject to review and approval by the Planning Commission in accordance with §§ 154.060 through 154.068 and §§ 154.080 through 154.092 :

(1) Home businesses;

(2) Rented accessory dwelling units in accordance with § 154.092(J); and

(3) Dwelling, single-family detached, with a floor area ratio that exceeds 0.3:1.

(D) *Dimension and area regulations.*

Front setback	20 feet
Side setback	7 feet
Rear setback	10 feet
Minimum lot area	8,712 square feet
Minimum lot width	66 feet
Maximum lot coverage	25%*
* Maximum lot coverage in this district may be increased to a maximum of 35% for properties that are below, the required minimum lot area following a hearing and approval by the Zoning Board of Appeals at which time consideration of factors affecting adjoining properties will be reviewed. All other dimension and area regulations shall be met. **The following formula shall be used in calculating the allowable lot coverage and shall be rounded to the nearest whole percentage: minimum lot area divided by actual lot area multiplied by 25%.**	

(Ord. passed 6-24-1996; Am. Ord. 02-02, passed 2-11-2002; Am. Ord. passed 6-24-2002; Am. Ord. 090824-1, passed 8-24-2009; Am. Ord. 100726-1, passed 7-26-2010; Am. Ord. 140714-1, passed 7-14-2014; Am. Ord. 161114-1, passed 11-14-2016; Am. Ord. 170911-1, passed 9-11-2017)

§ 154.026 R-1 COMMUNITY RESIDENTIAL DISTRICT (CR).

(A) *Generally*.

(1) This district is designed to protect and promote low density single-family residential uses and development in the city.

(2) The purpose of this district is to preserve the residential character of the district and to provide a mechanism for orderly development in undeveloped areas.

(3) Residential land use is the only use that will be permitted or encouraged in this district.

(B) *Permitted uses*:

(1) Dwelling, single-family detached, with a floor area ratio that does not exceed 0.3:1;

(2) Essential public services;

(3) Home occupations; and

(4) Short-term rental unit.

(C) *Special land uses*. Special land uses are subject to review and approval by the Planning Commission in accordance with §§ 154.060 through 154.068 and §§ 154.080 through 154.092:

(1) Home businesses;

(2) Religious facilities;

(3) Rented accessory dwelling units in accordance with § 154.092(J); and

(4) Dwelling, single-family detached, with a floor area ratio that exceeds 0.3:1.

(D) *Dimension and area regulations*.

Front setback	20 feet
Side setback	7 feet
Rear setback	10 feet
Minimum lot area	8,712 square feet
Minimum lot width	66 feet
Maximum lot coverage	30%

(Ord. passed 6-24-1996; Am. Ord. 02-02, passed 2-11-2002; Am. Ord. 090824-1, passed 8-24-2009; Am. Ord. 100628-1, passed 6-28-2010; Am. Ord. 100726-1, passed 7-26-2010; Am. Ord. 140714-1, passed 7-14-2014 ; Am. Ord. 170911-1, passed 9-11-2017)

§ 154.027 CONSERVATION, RECREATION AND CAMP DISTRICT (CRC).

(A) *Generally*.

(1) This district is designed to maximize preservation of the existing environment by providing for a private recreation camp and low density residential uses.

(2) It is a restrictive zone, intended to permit development only after an in-depth review and zoning approval. This is in order to help protect and enhance natural resources, amenities and natural

wildlife habitats, to ensure the availability of adequate utilities and public services, and to protect public health, safety and welfare.

(3) The purpose of this district is to accommodate private recreation camps and residential uses so that they generally relate to one another and the surrounding uses in terms of site design, architectural compatibility, and access and so that potential conflicts are minimized.

(4) The zone is also regulated by critical dunes legislation, M.C.L.A. §§ 324.35301 *et seq.*, as amended, and the Shorelands Protection Act, M.C.L.A. §§ 324.32301 *et seq.*, as amended, and any other applicable state and/or federal regulations.

(B) *Permitted uses*:

(1) Essential public services;

(2) Private recreation camps that existed prior to July 10, 2006, provided that the Planning Commission has certified a site plan and supporting documentation indicating existing land uses, and building locations, heights and their capacity; and

(3) Park or preserve.

(C) *Special land uses*. Special land uses are subject to review and approval by the Planning Commission in accordance with §§ 154.060 through 154.068 and §§ 154.080 through 154.092 or as defined in the section under special requirements.

(1) Single-family homes;

(2) Expansion and/or restoration of private recreation camps subject to §§ 154.060 through 154.068 and §§ 154.080 through 154.092, or § 154.043(F)(6); and

(3) Rented accessory dwelling units in accordance with § 154.092(J).

(D) *Regulations for single-family dwelling use*.

Front setback	100 feet
Side setback	50 feet
Rear setback	50 feet
Minimum lot area	2 acres
Minimum lot width	200 feet
Maximum lot coverage	5%

(E) *Private recreation camp dimension and area regulations*:

(1) Setback to a property line or a public street right-of-way not constructed as part of the development: 200 feet; and

(2) Minimum lot area: 40 acres.

(F) *Special requirements.* (Also see § 154.092 for selected special land uses).

(1) *Purpose*. Pursuant to the City Land Use Plan and the intent of the Conservation, Recreation and Camp District (CRC), every building and structure shall conform not only to the following regulations, but also to those of the Sand Dune Protection and Management Act, Public Act 222 of 1976, being M.C.L.A. §§ 324.63701 *et seq.*, updated Part 353 of NREPA, Act 451 of 1994 as amended; and Part 323 of NREPA, Act 451 of 1994 (collectively, the "Act"), if the land in question is

within a designated critical dune or high risk erosion area. Where a standard in the Act is more restrictive than this chapter, or vice versa, the more restrictive standard shall apply.

(2) *Application*. The restrictions of this division (F) shall apply to all lands in the Conservation, Recreation and Camp District (CRC).

(3) *Restrictions and obligations*.

(a) Foredune ridges and all crests shall not be disturbed. In no case shall the natural topography of the dune crest be altered.

(b) Roadways and pathways shall be located in troughs between dune crests and other natural gaps.

(c) Alternation of dune vegetation shall be minimal.

(d) No structure shall be placed within an area that will be affected by the shifting of a dune within 30 years unless the structure has a lesser life. Barring substantial evidence to the contrary, a rate of change of one foot per year shall be used.

(e) Areas with little vegetation may be required to use raised construction piers. Where sand is of indeterminate depth or solid ground is too deep for piling, spread footings shall be used.

(f) Roadways shall have beach grass planted on areas of open sand on the shoulders.

(g) Utilities shall be underground (except for private recreation camps).

(h) No construction shall be permitted lakeward of the foredune ridge.

(i) Raised boardwalks may be required for pedestrian access ways.

(j) Recreational use of all-terrain, off-road vehicles is prohibited.

(4) *Setbacks from water bodies*. Any structure or any part of the septic system shall not be located closer than 40 feet to a water body, or from the edge of perennial vegetation moving lakeward. ***VEGETATION*** shall mean any type of stabilizing ground cover from beach grass through successive stages of vegetation. Where two or more principal structures abutting each side of a proposed principal structure are closer to the water than permitted by these requirements, the new principal structure may be set back in line with the average setback of the existing structures.

(5) *Restoration review*. Where vegetation must be removed, the Planning Commission may require a plan indicating what is to be removed and the reasons why it is to be removed. The plan shall be presented for Commission approval. The Commission may require amendments or impose conditions. The Commission may also require that cleared areas be replanted in dune grass or other suitable natural materials. Restoration must take place within 60 days of the normal planting season after final building inspection.

(6) *Private recreation camp development review for building restoration or replacement*.

(a) The Zoning Administrator may authorize the restoration or replacement of an existing structure for the same use, subject to applicable local and state code requirements. The Zoning Administrator may also authorize an expansion that does not exceed 350 square feet for an individual building if the proposed change is for the express purpose of expanding or upgrading bathrooms or a shower area; complying with handicap access, or meeting Americans with Disabilities Act (ADA) requirements; and does not result in an increase in camp user capacity or intensity. Any such expansion greater than 350 square feet shall be subject to site plan review and special use approval, in accordance with the requirements of §§ 154.060 through 154.068 and §§ 154.080 through 154.092.

(b) The Zoning Administrator may authorize building renovations, expansions or replacements that result in an increase of no more than 50 square feet, or 5% of the area of the original structure,

whichever is greater, or a change of not more than ten feet in building location, measured in any direction; based on a plan previously certified by the Planning Commission.

(c) An increase greater than 5% of the area of the original structure, but less than 250 square feet, or a change in location that is greater than ten feet, shall be subject to site plan review and approval by the Planning Commission in accordance with §§ 154.060 through 154.068 An expansion of 250 square feet or greater, or any change in use, traffic patterns, parking or similar elements, shall be subject to site plan review and special use approval in accordance with the requirements of §§ 154.060 through 154.068 and §§ 154.080 through 154.092.

(G) *Park or preserve regulations.*

(1) Structures shall not be constructed within 25 feet of any property line or right-of-way;

(2) Minimum lot area: 2 acres; and

(3) Structures shall receive site plan review by the Planning Commission prior to construction.

(Ord. passed 6-24-1996; Am. Ord. 02-02, passed 2-11-2002; Am. Ord. 060710-1, passed 7-10-2006; Am. Ord. 100726-1, passed 7-26-2010; Am. Ord. 140714-1, passed 7-14-2014)

§ 154.028 SUMMER RESORT AND PARK ASSOCIATION DISTRICT (SRP).

(A) *Generally*.

(1) The Summer Resort and Park Association District is intended to provide for summer resort and park associations established under Michigan Act No. 230 of 1897 ("Act 230"), as amended, which existed prior to September 21, 1902. This district is designed to maximize preservation of the existing environment. It is a doubly restrictive zone in that these types of developments are not only regulated by this chapter but also by Act 230 and the particular summer resort and park association’s articles and by-laws.

(a) The district regulations are intended to permit further development only after an in-depth environmental review and site plan review and approval process.

(b) However, the intent is to allow for reasonable use, reconstruction, accessory structures and additions to existing uses and structures with minimal administrative review by the city.

(c) Because of the unique nature of this type of ownership, definitions specific only to this district (SRP) are found in division (G) below.

(2) As of the date that this district was initiated in 2006, the entire district is located within a designated critical dunes area as well as a high risk erosion area as defined and regulated by the state of Michigan, Department of Environmental Quality ("DEQ"), under Public Act 451 of 1994, as amended, Parts 323, Shorelands Protection and Management and 353, Sand Dune Protection and Management. Permits from the DEQ are likely required for any activity that might disturb the delicate dunes and shorelands environments.

(B) *Permitted uses*:

(1) Dwelling, single-family detached: existing, according to the city assessor's records, as of December 31, 2005, together with existing or new accessory buildings within the same share area, subject to § 154.027(A), (D), (E), (F) and (G) below; and

(2) Essential public services.

(C) *Special land uses*. Special land uses subject to review and approval by the Planning Commission in accordance with §§ 154.060 through 154.068 and §§ 154.080 through 154.092.

(1) Summer Resort and Park Associations, subject to § 154.092(I).

(a) New summer resort and park associations.

(b) Expansion of an existing summer resort and park association, established under Michigan Public Act 230 of 1897, or any of the related Michigan public acts.

(c) New dwelling, single-family detached: on a "share area" within an existing summer resort and park association, that was vacant, according to the city assessor's records, as of December 31, 2005.

(2) Conversion of an existing summer resort & park association to any other type of ownership, subject to either the platting or condominium requirements of this chapter, and/or the state’s Land Division Act.

(3) Religious facilities, including Sunday schools, subject to § 154.092(I).

(4) Swimming pools, tennis courts or other recreational facilities oriented to the membership of a summer resort and park association and subject to § 154.092(I).

(5) Rented accessory dwelling units in accordance with §154.092(J).

(D) *Dimension and area regulations*. Recognizing that shareholders in a summer resort and park association do not own "lots" but rather "shares" of the association which correspond to the right to occupy a designated portion of the association's property, the following regulations shall apply:

(1) Street front setback, 25 feet (from the centerline of an existing road/street);

(2) Minimum distance between structures, ten feet;

(3) Water body setback, structures that exceed 676 square feet in area must be located landward of the 50-year high-risk erosion setback line. All other structures must be located at least 40 feet landward from the edge of perennial vegetation (as defined in the CRC district);

(4) Outer boundary setback: 25 feet from the outer boundary of the summer resort and park association boundary or any common area or dedicated park, beach or similar area within the summer resort and park association;

(5) Maximum building height, as required in § 154.022(D); and

(6) Maximum share area coverage*: 25% of the calculated share area, (see definitions: shares; share area coverage). * Maximum share area coverage in this district may be increased to a maximum of 35% for share areas with areas calculated to be below the average share area as platted, provided all other dimension and area regulations shall be met. The following formula shall be used in calculating the allowable share area coverage and shall be rounded to the nearest whole percentage: Average platted lot for all occupied share areas divided by the individual platted lot area multiplied by 25%.

(E) *Special requirements*. Any approved construction, uses and activities shall conform to the most restrictive requirements of:

(1) *State environmental review*. Pursuant to the city’s land use plan and the intent of the Peninsula Area Plan, all structures and additions shall conform not only to the regulations of this ordinance, but also to those of Public Act 451 of 1994, Parts 323 and 353 as amended;

(2) *Fire safety review*. Additions to existing structures shall provide for adequate fire and emergency access as determined by the city’s Fire Chief. A formal review and approval by the Fire Chief, in writing, is required for all additions or alterations within ten feet of any unit (platted lot) line or existing structure; and

(3) *Design Review Committee*. All building and/or zoning permits shall be reviewed and approved by the particular summer resort and park association’s design review committee (or its equivalent).

The summer resort and park association shall be the applicant for all permits and all applications shall have the signatures of the design review committee of the summer resort and park association.

(F) *Procedure*. Because of the unusual statutory nature of a summer resort and park association, the fact that the association is the owner of record of all of the properties within such an association, and due to past practice, any proposal shall:

(1) Be submitted only by the association's design review committee and be compared to this Zoning Ordinance;

(2) Be submitted to the DEQ. Once approvals have been obtained from the DEQ, the summer resort and park association involved (as the applicant) shall; and

(3) File all zoning and building permit applications with the City Zoning Administrator for final approval. If a site plan submitted to any of the reviewing bodies differs from that approved by another reviewing body, any permit issued in reliance on that submittal shall be null and void.

(G) *SRP District definitions*. For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

SHARE(S) and ***SHARE AREA.*** A summer resort and park association member's (owner's) "share(s)" or "share area" shall be considered to be similar, for calculations of maximum building size, to a standard subdivision "lot". The recorded summer resort and park association plat shall be used to calculate the share area that corresponds to a member's share(s) area. The share areas shall be the areas of the platted lots as shown on the recorded plat.

SHARE AREA COVERAGE. The area of a share, stated in terms of percentage, which is covered by all buildings and structures as defined in ***LOT COVERAGE*** (see also definitions for: ***PATIO***, and ***DECK***). For the purpose of using these two definitions together in this chapter, the word ***SHARE*** shall be equivalent to the word ***LOT***.

(H) *If the applicable regulations of act 230 are ever invalidated*. Public Act 230 gives a properly-established summer resort and park association quasi-municipal powers, which are in addition to, but do not displace, the police powers and ordinance powers of the city. Should Michigan Public Act 230 of 1897, as amended, or should this chapter of this ordinance ever be declared to be unconstitutional or invalid by a court of competent jurisdiction or appellate court and the court decision is binding within Allegan County, then all of the restrictions and requirements of the Conservation, Recreation and Camp (CRC) zoning district pursuant to this Ordinance shall apply and any summer resort and park association in existence at that time shall for the purposes of this chapter be considered to be a planned unit development special use as regulated in § 154.174(G).

(Ord. 070108-1, passed 1-8-2007; Am. Ord. 100726-1, passed 7-26-2010; Am. Ord. 140714-1, passed 7-14-2014)

§ 154.029 CULTURAL/COMMUNITY DISTRICT.

(A) *Generally*.

(1) The purpose of this district is to provide for development of cultural and community facilities. The range of uses provided for by this district is intended to further enhance the social, cultural and economic synergy of the city's downtown area.

(2) Any development in this district must include community center and cultural/performing arts components.

(B) *Permitted uses*:

(1) Essential public services.

(C) *Special land uses*:

(1) Planned unit development (PUD);

(2) Community center;

(3) Cultural/performing arts facility;

(4) Business, professional offices;

(5) Conference meeting room;

(6) Food and beverage services;

(7) Off-street parking;

(8) Exhibition space; and

(9) Farm market.

(D) *Dimension and area regulations*:

Culver street setback	25 feet
Mason street setback	0
East side setback	10 feet
West side setback	0
Minimum lot area	50,000 square feet
Maximum lot coverage	60%
Minimum lot width	198 feet

(E) *Special requirements*.

(1) *Ingress and egress*. Provisions shall be made for safe and efficient ingress and egress to the public streets and highways serving the property without creating undue congestion or interference with normal traffic flow. Pursuant to the above requirement, the city may require an applicant to provide a traffic impact analysis demonstrating compliance with the above standard if the city determines that a proposed project has a reasonable potential of resulting in congestion and/or an unsafe traffic situation. The traffic impact analysis shall be performed by a qualified Traffic Engineer.

(2) *Permanent seating allowed*. The combined cultural/performing arts facility and the community center may have permanent seating for up to 550 persons. Occupancy limits: the total number of persons in attendance at any time shall be determined by the Michigan Building Code and the Saugatuck Township Fire District Chief - Fire Inspector.

(3) *Food and beverage services*. Food or beverages may only be offered for consumption or for sale on premises to the patrons in attendance at the event. The facility may contain a kitchen which is used by outside caterers to provide food for the events at the facility. Food and beverages shall not be offered for sale outside of the facility.

(Ord. passed 6-24-1996; Am. Ord. 02-02, passed 2-11-2002; Am. Ord. 070312-1, passed 3-12-2007; Am. Ord. 111212-1, passed 12-12-2011; Am. Ord. 130408-1, passed 4-8-2013; Am. Ord. 140714-1, passed 7-14-2014)

§ 154.030 R-2 LAKE STREET DISTRICT (LS).

(A) *Generally*. This district shall be primarily a residential district. The objective of the district is to enhance low density single-family land use and promote visual access to the Kalamazoo River.

(B) *Permitted uses*:

(1) Dwelling, single-family detached;

(2) Essential public services;

(3) Home occupations; and

(4) Short-term rental unit.

(C) *Special land uses*. The following uses are subject to review and approval by the Planning Commission according to the provisions of §§ 154.060 through 154.068 and §§ 154.080 through 154.092:

(1) Bed and breakfasts;

(2) Home businesses;

(3) Rented accessory dwelling units in accordance with § 154.092(J); and

(4) Motor courts.

(D) *Dimension and area regulations*:

Front yard setback	10 feet
Side yard setback	10 feet
Rear yard setback	25 feet
Minimum lot width	66 feet
Minimum lot area	8,712 square feet
Maximum lot coverage	25%

(Ord. passed 6-24-1996; Am. Ord. 02-02, passed 2-11-2002; Am. Ord. 090824-1, passed 8-24-2009; Am. Ord. 100726-1, passed 7-26-2010; Am. Ord. 140714-1, passed 7-14-2014; Am. Ord. 170911-1, passed 9-11-2017; Am. Ord. 180813-1, passed 8-13-2018)

§ 154.031 R-1 MAPLE STREET DISTRICT (MS).

(A) *Generally*.

(1) This district will provide for a larger lot single-family residential development and land use. The purpose of the district is to promote single-family residential land use in a low density setting.

(2) The district promotes preservation of the rural character of the district and its natural resources. Development of this district will promote single-family residential development to the exclusion of all other uses.

(3) The extension of city infrastructure will be concentrated in this district to ensure planned and controlled development.

(B) *Permitted uses*:

(1) Dwelling, single-family detached, with a floor area ratio that does not exceed 0.3:1;

(2) Dwelling, two-family;

(3) Essential public services;

(4) Home occupations; and

(5) Short-term rental unit.

(C) *Special land uses*. Special land uses are subject to review and approval by the Planning Commission in accordance with §§ 154.060 through 154.068 and §§ 154.080 through 154.092:

(1) Home businesses;

(2) Religious facilities;

(3) Rented accessory dwelling units in accordance with § 154.092(J); and

(4) Dwelling, single-family detached, with a floor area ratio that exceeds 0.3:1.

(D) *Dimension and area regulations*:

Front setback	50 feet
Side setback	10 feet
Rear setback	19 feet
Minimum lot area	15,000 square feet
Minimum lot width	80 feet
Maximum lot coverage	25%

(Ord. passed 6-24-1996; Am. Ord. 02-02, passed 2-11-2002; Am. Ord. 090824-1, passed 8-24-2009; Am. Ord. 100726-1, passed 7-26-2010; Am. Ord. 140714-1, passed 7-14-2014; Am. Ord. 170911-1, passed 9-11-2017)

§ 154.032 NEIGHBORHOOD MARINE DISTRICT (NHM).

(A) *Generally.*

(1) The purpose of this district is to promote utilization of the waterfront property with mixed land uses.

(2) The goal of the district is to encourage larger lot development in order to preserve and protect visual access to the waterfront.

(3) Land uses in the district that emphasize water access and usage are desired after appropriate review.

(B) *Permitted uses:*

(1) Dwelling, single-family detached, with a floor area ratio that does not exceed 0.3:1;

(2) Essential public services;

(3) Bed and breakfasts;

(4) Home occupations; and

(5) Short-term rental units.

(C) *Special land uses.* Special land uses are subject to review and approval by the Planning Commission in accordance with §§ 154.060 through 154.068 and §§ 154.080 through 154.092:

(1) Restaurants;

(2) Marinas/commercial boats;

(3) Home businesses;

(4) Rented accessory dwelling units in accordance with § 154.092(J);

(5) Dwelling, single-family detached, with a floor area ratio that exceeds 0.3:1; and

(6) Floating homes moored in a full service marina.

(D) *Dimension and area regulations:*

Front setback	25 feet
Side setback	10 feet
Rear setback	15 feet
Minimum lot area	17,424 square feet
Minimum lot width	132 feet
Maximum lot coverage	35%

(Ord. passed 6-24-1996; Am. Ord. 02-02, passed 2-11-2002; Am. Ord. 090824-1, passed 8-24-2009; Am. Ord. 100726-1, passed 7-26-2010; Am. Ord. 140714-1, passed 7-14-2014; Am. Ord. 170911-1, passed 9-11-2017; Am. Ord. 210726-A, passed 7-26-2021)

§ 154.033 R-1 PENINSULA NORTH (DUNESIDE) DISTRICT (PN-A).

(A) *Generally.* The purpose of this District is to preserve and protect residential water front land uses along Kalamazoo Lake and River. The intent of the District shall be to retain the river front residential character of the area and protect the area's natural resources. Small lot development is permitted in coordination with water oriented residential uses. The Duneside portion of this District (southern end or south of and including parcel number 0357-009-036-00) is a unique area within the city with unique topographic constraints. These regulations are intended to allow accessory structures between the street and the river while retaining the view of the river for all property owners within the District.

(B) *Permitted uses.*

(1) Dwelling, single-family detached, with a floor area ratio that does not exceed 0.3:1.

(2) Essential public services.

(3) Home occupations; and

(4) Short-term rental unit.

(C) *Special land uses.* Special land uses are subject to review and approval by the Planning Commission in accordance with §§ 154.060 through 154.068 and §§ 154.080 through 154.092.

(1) Home businesses;

(2) Rented accessory dwelling units in accordance with § 154.092(J); and

(3) Dwelling, single-family detached, with a floor area ratio that exceeds 0.3:1.

(D) *Dimension and area regulations.* In the event that any lawful nonconforming structure shall be damaged by fire, wind accident, act of God, or other such means or matter, reconstruction or restoration shall be permitted by right under the following conditions: Reconstruction is permitted within the original dimensions at every structural level and/or within the original gross finished floor area, including decks and patios, with the exception that no portion of the structure shall be reconstructed within, or so as to encroach on a public right-of-way or public easement, and all reconstruction or restoration of structures within a flood hazard area shall conform to the State Construction Code. Any expansion shall be in full conformance with the requirements of the zoning district.

Front setbacks	
Road front setback	29 feet from centerline on the west (dune) side of Park Street, and 12 feet from centerline on the east (river) side of Park Street
Water front setback	2 feet from the flood hazard elevation line
Side setback	10 feet*
For lots less than 66 feet wide the side setbacks on each side shall be 10% of the lot width	
Rear setback	10 feet*
Minimum lot area	8,712 square feet
Minimum lot width	66 feet
Maximum lot coverage	25%
Maximum building height	28 feet on the west side (dune) of Park Street, and 15 feet on the east side (river) of Park Street
* Except waterfront yards – see “water front setback” above	

(Ord. passed 6-24-1996; Am. Ord. 02-02, passed 2-11-2002; Am. Ord. 080414-1, passed 4-14-2008; Am. Ord. 090824-1, passed 8-24-2009; Am. Ord. 100726-1, passed 7-26-2010; Am. Ord. 170911-1, passed 9-11-2017)

§ 154.034 R-1 PENINSULA NORTH (RIVERSIDE) DISTRICT (PN-B).

(A) *Generally.* The purpose of this District is to preserve and protect residential water front land uses along Kalamazoo Lake and River. The intent of the District shall be to retain the river front residential character of the area and protect the area's natural resources. Small lot development is permitted in coordination with water oriented residential uses. The riverside portion of this District (northern end or north of and including parcel number 0357-009-035-00) is a unique area within the city with unique topographic constraints. These regulations are intended to allow principal structures between the street and the river while allowing for accessory structures only on the dune side.

(B) *Permitted uses.*

(1) Dwelling, single-family detached, with a floor area ratio that does not exceed 0.3:1.

(2) Essential public services.

(3) Home occupations; and

(4) Short-term rental unit.

(C) *Special land uses.* Special land uses are subject to review and approval by the Planning Commission in accordance with §§ 154.060 through 154.068 and §§ 154.080 through 154.092.

(1) Home businesses;

(2) Rented accessory dwelling units in accordance with § 154.092(J); and

(3) Dwelling, single-family detached, with a floor area ratio that exceeds 0.3:1.

(D) *Dimension and area regulations.* In the event that any lawful nonconforming structure shall be damaged by fire, wind accident, act of God, or other such means or matter, reconstruction or restoration shall be permitted by right under the following conditions: Reconstruction is permitted within the original dimensions at every structural level and/or within the original gross finished floor area, including decks and patios, with the exception that no portion of the structure shall be reconstructed within, or so as to encroach on a public right-of-way or public easement, and all reconstruction or restoration of structures within a flood hazard area shall conform to the State Construction Code. Any expansion shall be in full conformance with the requirements of the Zoning District.

Front setbacks	
Road front	Where the street easement is less than 30' wide: 14 feet from centerline on the west side of Park Street and 12 feet from center line on the river side of Park Street
	Where the street easement is 30' wide or greater: 33 feet from centerline on the river side and 33 feet from centerline on the west side of Park Street.
Water front setback	The water-front setback shall be the average setback for any existing subject structure and all similar structures within 300 feet on either side of the subject property side lot line. The maximum setback shall not exceed 25 feet. No structure shall be constructed within the flood hazard area.
	“Similar structure” shall mean that only principal structures shall be compared to each other, while all accessory structures shall be compared whether garage, gazebo or deck over 24 inches in height.
Side setback	10 feet*
	For lots less than 66 feet wide, the side setbacks shall be 10% of the lot width on each side. Structures less than 3 feet from the lot line are subject to higher construction restrictions of the State Building Code.
Rear setback	10 feet*
Minimum lot area	8,712 square feet
Minimum lot width	66 feet
Maximum lot coverage	25%
* Except waterfront yards – see “water front setback” above	

(Ord. passed 6-24-1996; Am. Ord. 02-02, passed 2-11-2002; Am. Ord. 080414-1, passed 4-14-2008; Am. Ord. 090824-1, passed 8-24-2009; Am. Ord. 100726-1, passed 7-26-2010; Am. Ord. 140714-1, passed 7-14-2014; Am. Ord. 170911-1, passed 9-11-2017)

§ 154.035 R-1 PENINSULA SOUTH DISTRICT (PS).

(A) *Generally.* The Peninsula South District is intended to recognize the character of plats that were created prior to 1968 and, as far as possible, allow for reasonable development. The district is also intended to promote waterfront residential land uses and enhance and protect the existing character of the district. The district objective is to promote visual access to Kalamazoo Lake and River and preserve the environmental characteristics of the zone. This district is designed to be more restrictive than other residential zones because of its proximity to water and the undeveloped portions of the city.

(B) *Permitted uses:*

(1) Dwelling, single-family detached, with a floor area ratio that does not exceed 0.3:1;

(2) Essential public services;

(3) Home occupations; and

(4) Short-term rental units.

(C) *Special land uses.* Special land uses are subject to review and approval by the Planning Commission in accordance with §§ 154.060 through 154.068 and §§ 154.080 through 154.092.

(1) Home businesses;

(2) Rented accessory dwelling units in accordance with § 154.092(J); and

(3) Dwelling, single-family detached, with a floor area ratio that exceeds 0.3:1.

(D) *Dimension and area regulations:*

Front setback	25 feet from right-of-way for lots fronting on Park and Perryman Streets, or 15 feet from all other platted streets and alleys
Side setback	10 feet*
Rear setback	10 feet*
Minimum lot width	66 feet
Maximum lot coverage	25%
Minimum lot area	8,712 square feet
* Except waterfront yards – see § 154.022(F)(4) waterfront lots	

(Ord. passed 6-24-1996; Am. Ord. 02-02, passed 2-11-2002; Am. Ord. 080414-1, passed 4-14-2008; Am. Ord. 090824-1, passed 8-24-2009; Am. Ord. 100726-1, passed 7-26-2010; Am. Ord. 111212-1, passed 12-12-2011; Am. Ord. 140714-1, passed 7-14-2014; Am. Ord. 170911-1, passed 9-11-2017; Am. Ord. 201109-A, passed 11-9-2020)

§ 154.036 R-1 PENINSULA WEST DISTRICT (PW).

(A) *Generally.* The purpose of this District is to promote and protect the natural environmental features of the area such as dunes and open spaces. Residential development on larger lots is encouraged in this District. Density in this District is intended to be less dense than other residential districts in the city to preserve the stability of the District.

(B) *Permitted uses.*

(1) Dwelling, single-family detached, with a floor area ratio that does not exceed 0.3:1;

(2) Essential public services;

(3) Home occupations; and

(4) Short-term rental unit.

(C) *Special land uses.* Special land uses are subject to review and approval by the Planning Commission in accordance with §§ 154.060 through 154.068 and §§ 154.080 through 154.092.

(1) Religious facilities;

(2) Home businesses;

(3) Rented accessory dwelling units in accordance with § 154.092(J); and

(4) Dwelling, single-family detached, with a floor area ratio that exceeds 0.3:1.

(D) *Dimension and area regulations:*

Front setback	25 feet
Side setback	10 feet
Rear setback	25 feet
Minimum lot area	21,780 square feet
Minimum lot width	100 feet
Maximum lot coverage	25%

(Ord. passed 6-24-1996; Am. Ord. passed 9-22-1997; Am. Ord. 02-02, passed 2-11-2002; Am. Ord. 080414-1, passed 4-14-2008; Am. Ord. 090824-1, passed 8-24-2009; Am. Ord. 100726-1, passed 7-26-2010; Am. Ord. 111212-1, passed 12-12-2011; Am. Ord. 140714-1, passed 7-14-2014; Am. Ord. 170911-1, passed 9-11-2017)

§ 154.037 C-4 RESORT DISTRICT.

(A) *Generally*.

(1) The purpose of this district is to provide compatible zoning for existing and future hotels, motels, and bed and breakfasts.

(2) The zone is intended to eliminate a number of nonconforming uses and preserve the historic character of the structures in the district.

(3) It is designed to compliment the waterfront property and permit lodging facilities that are associated and coordinate with the waterfront.

(4) Land use in this district is intensive but limited to provide a specific zone for the use.

(B) *Permitted uses*:

(1) Bed and breakfasts;

(2) Essential public services; and

(3) Short-term rental unit.

(C) *Special land uses*. Special land uses are subject to review and approval by the Planning Commission in accordance with §§ 154.060 through 154.068 and §§ 154.080 through 154.092:

(1) Marinas/commercial boats;

(2) Parking facilities;

(3) Restaurant, where such facilities are designed, constructed and managed as an integral part of an overall motel or hotel operation;

(4) Planned unit developments;

(5) Hotels/inns;

(6) Motels/motor courts;

(7) Swimming pools, tennis courts or other recreational facilities oriented to the clientele of the motel or hotel;

(8) Other uses deemed by the Planning Commission to be accessory to a motel or hotel use;

(9) Dwellings, single-family, regardless of the floor area ratio; and

(10) Rented accessory dwelling units in accordance with §154.092(J).

(D) *Dimension and area regulations:*

(1) All uses except single-family dwellings:

Front setback	15 feet
Side setback	10 feet
Rear setback	10 feet
Minimum lot area	15,000 square feet
Minimum lot width	66 feet
Maximum lot coverage	50%

(2) Single-family dwellings:

Front setback	15 feet
Side setback	7 feet* For lots less than 66-feet wide, the side setbacks on each side shall be 10% of the lot width
Rear setback	10 feet*
Minimum lot area	8,712 square feet
Minimum lot width	66 feet
Maximum lot coverage	25%
*Except waterfront yards - see 154.022(F)(4) waterfront lots	

(3) On sites of five acres or more, where the developer uses the required yard setback area for parking, there shall be minimum building setback from the right-of-way to each street on which the property abuts of at least 35 feet, the front 25 feet of which shall be bermed and landscaped. Where the required yard setback is not used for parking, there shall be minimum building setback from the right-of-way to all streets on which the property abuts of 40 feet, the total of which shall be landscaped. There shall be a minimum building setback from all property lines of 25 feet, and a

minimum building setback from all other adjacent use districts of 35 feet. On sites smaller than the five acres, lesser setbacks shall apply as determined by the Planning Commission; and

(4) A minimum-ten-foot-wide landscaped berm or green belt shall separate all non-residential parking areas from residential uses on adjacent properties.

(E) *Surfacing of parking lots and pedestrian walks*. All areas provided for use by commercial or industrial vehicles and all pedestrian walks shall be surfaced with bituminous asphalt, concrete or similar materials as approved by the city and properly drained. See § 154.130.

(F) *Refuse containers*. Refuse containers shall be screened. Screening shall consist of vegetation or solid fencing. Containers (including the container site and container lids) shall be properly secured and maintained to prevent unauthorized use, to avoid odors, and to prevent infestation by rodents and vermin. Refuse container screening shall be designed and constructed consistent with the character of surrounding development. See § 154.142 and Chapter 152.

(G) *Ingress and egress*. In all districts, provisions shall be made for safe and efficient ingress and egress to the public streets and highways serving the property without creating undue congestion or interference with normal traffic flow. Pursuant to the above requirement, the city may require an applicant to provide a traffic impact analysis demonstrating compliance with the above standard if the city determines that a proposed project has a reasonable potential of resulting in congestion and/or an unsafe traffic situation. The traffic impact analysis shall be performed by a qualified Traffic Engineer.

(Ord. 02-02, passed 2-11-2002; Am. Ord. 090427-2, passed 4-27-2009; Am. Ord. 090824-1, passed 8-24-2009; Am. Ord. 091109-1, passed 11-9-2009; Am. Ord. 100726-1, passed 7-26-2010; Am. Ord. 111212-1, passed 12-12-2011; Am. Ord. 140714-1, passed 7-14-2014; Am. Ord. 170911-1, passed 9-11-2017)

§ 154.038 RESERVED.

§ 154.039 C-2 WATER STREET EAST DISTRICT (WSE).

(A) *Generally.* The Water Street East District is designed to preserve the residential flavor of the area while promoting commercial land use and development. The district is designed for an intermediate intensity and density of structures and land use. Commercial development is desired in this district. The district will also promote visual access to the Kalamazoo River and Lake.

(B) *Permitted uses:*

(1) Essential public services;

(2) Retail stores;

(3) Domestic business repairs;

(4) Personal service establishment;

(5) Art gallery;

(6) Dwelling, single-family detached;

(7) Second- and third-floor apartments;

(8) Short-term rental unit on second and third floors; and,

(9) Home occupations.

(C) *Special uses.* Special land uses are subject to review and approval by the Planning Commission in accordance with §§ 154.060 through 154.068 and §§ 154.080 through 154.092:

(1) Hotel/inn;

(2) Motel/motor court;

(3) Motion picture facilities;

(4) Amusement and recreation services;

(5) Recreational transportation rental facilities;

(6) Parking facilities;

(7) Restaurant;

(8) Domestic business repairs;

(9) Business, professional offices; and

(10) Bed and breakfast establishment.

(D) *Dimension and area regulations:*

(1) Permitted uses (except as noted) and special uses: 4. Amusement and recreation services and 5. Recreational transportation rental facilities.

Front setback	0 feet
Side setbacks	10 feet
Rear setback	10 feet
Minimum lot area	4,356 square feet
Maximum lot coverage	65%

(2) Special uses: 1. Hotel/inn, 2. Motel/motor court, 3. Theater, and 8. Dwelling unit, single-family detached.

Front setback	0 feet
Side setbacks	10 feet
Rear setback	10 feet
Minimum lot area	8,712 square feet
Minimum lot width	66 feet
Maximum lot coverage	65%
*Front setback shall be 10 feet for single- family dwellings.	

(Ord. 050711, passed - -; Am. Ord. passed 6-24-1996; Am. Ord. 02-02, passed 2-11-2002; Am. Ord. 090824-1, passed 8-24-2009; Am. Ord. 101122-1, passed 11-22-2010; Am. Ord. 111212-1, passed 12-12-2011; Am. Ord. 140714-1, passed 7-14-2014; Am. Ord. 150427-1, passed 4-27-2015; Am. Ord. 200622-1; 6-22-2020; Am. Ord. 201109-D, passed 11-9-2020)

§ 154.040 C-1 WATER STREET NORTH DISTRICT (WSN).

(A) *Generally.* Water Street North District is designed to promote high intensity commercial uses that complement its waterfront setting. This district will promote visual access to the Kalamazoo River

and Lake to coordinate with the commercial uses of the district. The purpose of the district is to promote a more intense commercial use and encourage development of similar businesses and land uses in the district.

(B) *Permitted uses:*

(1) Dwelling, single-family detached;

(2) Dwelling unit, two-family;

(3) Essential public services;

(4) Retail stores;

(5) Personal service establishments;

(6) Art gallery;

(7) Marinas/commercial boats;

(8) Second- and third-floor apartments;

(9) Charter fishing/tours;

(10) Home occupations; and

(11) Short-term rental unit.

(C) *Special land uses.* Special land uses are subject to review and approval by the Planning Commission in accordance with §§ 154.060 through 154.068 and §§ 154.080 through 154.092:

(1) Bed and breakfasts;

(2) Hotel/inn;

(3) Motel/motor court;

(4) Restaurants;

(5) Home businesses;

(6) Domestic business repairs;

(7) Recreational transportation rental facilities; and

(8) Parking facilities.

(D) *Dimension and area regulations:*

(1) Permitted non-residential uses and special uses: 4. Restaurants and 6. Recreational transportation rental facilities.

Front setback	0 feet
Side setbacks	0 feet*
Rear setback	0 feet*
Minimum lot	4,560 square feet
Minimum lot width	66 feet
Maximum lot coverage	100%*

* Subject to Fire Code Regulations

(2) Single-family dwellings, two-family dwellings, and special use: 5. Home businesses.

Front setback	15 feet
Side setbacks	5 feet
Rear setback	10 feet
Minimum lot area	6,600 square feet
Minimum lot width	66 feet
Maximum lot coverage	50%

(3) Special uses: 1. Bed and breakfast, 2. Hotel/inn, and 3. Motel/motor court.

Front setback	0 feet
Side setback	0 feet*
Rear setback	0 feet*
Minimum lot area	8,712 square feet
Minimum lot width	66 feet
Maximum lot coverage	50%
* Subject to Fire Code Regulations	

(Ord. 050711, passed - -; Am. Ord. passed 6-24-1996; Am. Ord. 02-02, passed 2-11-2002; Am. Ord. 090824-1, passed 8-24-2009; Am. Ord. 101122-1, passed 11-22-2010; Am. Ord. 111212-1, passed 12-12-2011; Am. Ord. 140714-1, passed 7-14-2014; Am. Ord. 150427-1, passed 4-27-2015; Am. Ord. 201109-D, passed 11-9-2020)

§ 154.041 C-2 WATER STREET SOUTH DISTRICT (WSS).

(A) *Generally.* This district will provide an area for waterfront retail and commercial land use. The Water Street South District will provide for a less intense commercial use than the City Center District and promote visual access to the Kalamazoo River. The intent of the district is to coordinate the aspects of a Central Business District with that of waterfront property and blend commercial uses that complement and enhance the waterfront.

(B) *Permitted uses:*

(1) Essential public services;

(2) Retail stores;

(3) Bed and breakfasts;

(4) Personal service establishments;

(5) Art gallery;

(6) Parks;

(7) Dwelling, single-family detached;

(8) Second- and third-floor apartments;

(9) Home occupations; and

(10) Short-term rental unit on second or third floors.

(C) *Special land uses.* Special land uses are subject to review and approval by the Planning Commission in accordance with §§ 154.060 through 154.068 and §§ 154.080 through 154.092:

(1) Hotel/inn;

(2) Motel/motor court;

(3) Motion picture facilities;

(4) Marina commercial/private;

(5) Community center;

(6) Club and fraternal organization;

(7) Amusement and recreational services;

(8) Recreational transportation rental facilities;

(9) Amusement arcades;

(10) Parking facilities; and

(11) Restaurants.

(D) *Dimension and area regulations:*

(1) Permitted uses and special uses: 5. Community center, 6. Club and fraternal organization, 7. Amusement and recreational services, and 8. Recreational transportation rental facilities.

Front setback	0 feet
Side setback	10 feet
Rear setback	15 feet
Minimum lot area	6,600 square feet
Minimum lot width	66 feet of street frontage
Maximum lot depth	100 feet
Maximum lot coverage	45%

(2) Special uses: 1. Hotel/inn, 2. Motel/motor court, 3. Motion picture facility, and 4. Marina commercial/private:

Front setback	0 feet
Side setback	10 feet
Rear setback	15 feet
Minimum lot area	13,200 square feet

Minimum lot width	132 feet
Minimum lot depth	100 feet
Maximum lot coverage	45%

(Ord. 050711, passed - Am. -; Ord. passed 6-24-1996; Am. Ord. 02-02, passed 2-11-2002; Am. Ord. 090824-1, passed 8-24-2009; Am. Ord. 100510-1, passed 5-10-2010; Am. Ord. 101122-1, passed 11-22-2010; Am. Ord. 111212-1, passed 12-12-2011; Am. Ord. 140714-1, passed 7-14-2014; Am. Ord. 150427-1, passed 4-27-2015; Am. Ord. 200622-1; 6-22-2020; Am. Ord. 201109-D, passed 11-9-2020)

§ 154.042 R-3 MULTI-FAMILY RESIDENTIAL DISTRICT (MR).

(A) *Generally*.

(1) This district will provide an area for multi-family residential structures. All parcels in this district will have direct access to either Blue Star Highway or the northern 2,000 feet of Maple Street or the section of North Street between Maple and Blue Star.

(2) The intent is to recognize the legitimate existence of (and need for) apartment buildings and duplex developments, but, to limit the uses to a portion of the city where adequate highway access, fire protection and public utilities are readily available and to prevent the creation of land use conflicts and nuisances in existing single-family districts.

(B) *Permitted uses*:

(1) Dwelling, single-family detached;

(2) Dwelling, two-family;

(3) Essential public services;

(4) Home occupations; and

(5) Short-term rental unit.

(C) *Special land uses*. The following uses are subject to review and approval by the Planning Commission according to the provisions of §§ 154.060 through 154.068 and §§ 154.080 through 154.092.

(1) Dwelling, Multiple Family (more than two attached) including multiple principal structures as an exception to § 154.022(C)(5);

(2) Bed and breakfasts (in detached single-family dwellings only);

(3) Home businesses (in detached single-family and two-family dwellings only); and

(4) Rented accessory dwelling units in accordance with §154.092(J).

(D) *Dimension and area regulations for permitted uses:*

Front setback	50 feet
Side setback	10 feet
Rear setback	10 feet
Minimum lot width	80 feet
Minimum lot area	15,000 square feet
Maximum lot coverage	25%

(Ord. 040726, passed - - ; Am. Ord. 090824-1, passed 8-24-2009; Am. Ord. 100726-1, passed 7-26-2010; Am. Ord. 140714-1, passed 7-14-2014)

§ 154.043 ZONING MAP.

(A) The areas and boundaries of such districts noted in this subchapter are hereby established to scale as shown on a map entitled zoning map of the city, and referred to herein as the ***ZONING MAP*** . The zoning map, together with everything shown thereon, is hereby adopted by reference and declared to be a part of this chapter.

(B) Regardless of the existence of copies of the zoning map which may be made or published, the official zoning map shall be located at the City Hall and shall be the final authority as to the current zoning status in the city. No amendment to this chapter which involves a change of a mapped zoning district, shall become effective until such change and entry has been made on the official zoning map. The official zoning map shall be identified by the signature of the Mayor, and attested to by the City Clerk.

(Ord. passed 6-24-1996; Am. Ord. 02-02, passed 2-11-2002; Am. Ord. 140714-1, passed 7-14-2014)

§ 154.044 INTERPRETATION OF DISTRICT BOUNDARIES.

When uncertainty exists as to the boundaries of districts as shown on the zoning map, the following rules shall apply:

(A) Boundaries indicated as approximately following the centerlines of streets, highways or alleys shall be construed to follow such centerlines;

(B) Boundaries indicated as approximately following platted lot lines shall be construed to follow the lot lines;

(C) Boundaries indicated as approximately following city boundaries shall be construed to follow city boundaries;

(D) Boundaries indicated as watercourses shall be construed to follow the centerline of the watercourses and in the event of changing watercourses shall be construed as following the changing watercourses;

(E) Boundaries indicated as approximately following property lines or section lines or other lines of a survey shall be construed to follow the property lines as of the effective date of Ord. 80-133;

(F) Boundaries indicated as parallel to or extensions of features indicated in divisions (A) through (E) of this section shall be so construed. Distances not specifically indicated on the zoning map shall be determined by the scale of the map; and

(G) Where physical or cultural features existing on the ground are at variance with those shown in the zoning map, or in other circumstances not covered by divisions (A) through (F) of this section, the Zoning Administrator shall interpret the district boundaries. Upon appeal, the Zoning Board of Appeals reserves the right to amend the interpretation of the Zoning Administrator.

(Ord. passed 6-24-1996; Am. Ord. 02-02, passed 2-11-2002)

§ 154.045 AREA NOT INCLUDED WITHIN A CITY DISTRICT.

(A) In every case where property has not been specifically included within a district, including all cases in which property becomes a part of the city subsequent to the effective date of this chapter, the

property shall be included within a zone district within one year from the official date of discovery that it was not so included or from the date of annexation.

(B) In the interim, the land shall be treated as land zoned Conservation and Recreation District.

(Ord. passed 6-24-1996; Am. Ord. 02-02, passed 2-11-2002)

§ 154.046 PERMITTED ACCESSORY STRUCTURES AND USES IN ALL RESIDENTIAL DISTRICTS.

(A) Carports, garages or other buildings not used as a dwelling and customarily incidental to the principal use of the premises.

(B) Accessory uses customarily incidental to the principal use of the premises.

(C) State licensed residential facilities, pursuant to M.C.L.A. § 125.3206.

(Ord. passed 6-24-1996; Am. Ord. 02-02, passed 2-11-2002)

§ 154.047 CONDOMINIUM SUBDIVISIONS.

(A) All condominium units, including single-family detached units, shall comply with the applicable site development standards contained in the dimension and area regulations for each district.

(B) The condominium subdivision shall comply with the provisions in division (C) of this section pertaining to potable water supply and waste disposal facilities and to the provisions of § 154.130.

(C) The condominium subdivision shall provide for dedication of easements to the appropriate public agencies for the purposes of construction, operation, maintenance, inspection, repair, alteration, replacement and/or removal of pipelines, conduits, mains and other installations of a similar character for the purpose of providing public utility services, including conveyance of sewage, potable water and storm water runoff across, through and under the property subject to the easement, and excavation and refilling of ditches and trenches necessary for the location of the installations.

(D) In addition to the materials required by §§ 154.080 through 154.092, the special land use permit application for a condominium subdivision shall include a condominium subdivision plan containing the following information:

(1) A project description which describes the nature and intent of the proposed subdivision;

(2) A survey plan of the condominium subdivision;

(3) A site plan showing the location, size, shape, area and width of all condominium units;

(4) If applicable, a utility plan showing all sanitary sewer and water lines and easements granted to the city for installation, repair and maintenance of all utilities;

(5) Identification of any portions of the condominium subdivision within or abutting a floodplain;

(6) A street construction, paving and maintenance plan for all private streets within the proposed condominium subdivision;

(7) A storm drainage and stormwater management plan, including all conduits, swales, drains, detention basins, and other facilities;

(8) A description of the common elements of the condominium subdivision as will be contained in the master deed; and

(9) Proposed use and occupancy restrictions as will be contained in the master deed.

(E) All provisions of the condominium subdivision plan which are approved by the Planning Commission shall be incorporated, as approved, in the master deed for the condominium subdivision. Any proposed changes to the approved condominium subdivision plan shall be subject to review and approval by the Planning Commission as a major amendment to a special land use permit, subject to the procedures of §§ 154.080 through 154.092.

(F) All condominium projects which consist in whole or in part of condominium units which are building sites shall be marked with monuments or property irons as provided below.

(1) Monuments shall be located in the ground and made according to division (F)(2) below, but it is not intended or required that monuments be placed within the traveled portion of a street to mark angles in the boundary of the subdivision if the angle points can be readily reestablished by reference to monuments along the sidelines of the streets.

(2) All property irons shall be made of solid iron or steel bars at least 36 inches long and 1/2-inch in diameter. A monument is a property iron completely encased in concrete four inches in diameter.

(3) Monuments shall be located in the ground at all angles in the boundaries of the subdivision; at the intersection lines of streets with the boundaries of the subdivision and at the intersection of alleys with the boundaries of the subdivision; at all points of curvature, points of tangency, points of compound curvature, points of reverse curvature and angle points in the side lines of streets and alleys; and at all angles of an intermediate traverse line.

(4) If the required location of a monument is in an inaccessible place, or where the locating of a monument would be clearly impractical, it is sufficient to place a reference monument nearby and the precise location thereof be clearly indicated on the subdivision and referenced to the true point.

(5) If a point required to be monumented is on a bedrock outcropping, a steel rod, at least 1/2-inch in diameter shall be drilled and grouted into solid rock to a depth of at least eight inches.

(6) All required monuments shall be placed flush with the finished grade where practical.

(7) All lot corners shall be identified or staked in the field by iron or steel bars or iron pipes at least 18 inches long and 1/2-inch in diameter or other approved markers.

(8) The City Council may waive the placing of any of the required monuments and markers for a reasonable time, not to exceed one year, on the condition that the proprietor deposits with the City Clerk cash or a certified check, or irrevocable bank letter of credit running to the municipality, whichever the proprietor selects, in an amount determined by the City Council. The cash, certified check or irrevocable bank letter of credit shall be refunded to the proprietor upon receipt of a certificate by a surveyor that the monuments and markers have been placed as required within the time specified.

(G) The design and construction of all streets, sidewalks, water systems, sanitary systems, storm sewer systems, surface water retention and detention systems, fire protection/suppression systems, and other such infrastructure shall meet or exceed city standards.

(H) The City Council requires a copy of the maintenance agreement for common lands or common open space.

(Ord. passed 6-24-1996; Am. Ord. 02-02, passed 2-11-2002)

Statutory reference:

Condominium Act, see M.C.L.A. §§ 559.101 et seq.

§ 154.048 HISTORIC DISTRICT OVERLAY ZONE.

(A) *Generally*. The Historic District Overlay Zone (HDOZ) is designed to recognize the city's officially designated historic areas. The HDOZ represents a supplementary series of developmental requirements which are in addition to the regulations of the zone district(s) underlying the HDOZ.

(B) *Permitted uses*. Uses classified as such by the underlying zone district.

(C) *Special land use*. Uses classified as such by the underlying zone district.

(D) *Dimension and area regulations*. Except as noted under division (E) below, dimension and area regulations shall be as required by the underlying zone district.

(E) *Special provisions*. The requirements of Chapter 152, of the city code of ordinances, shall apply to all lands, buildings and structures within the HDOZ. In the event of conflict between the regulations of the Zoning Code and Chapter 152, the more stringent requirements shall apply unless there is historic precedent regarding the location of a structure, in which case the Historic District Commission may permit the reconstruction of a structure within a required setback if other zoning regulations can still be met.

(Ord. 02-02, passed 2-11-2002; Am. Ord. 140714-1, passed 7-14-2014)

§ 154.049 SERVICE OF ALCOHOLIC BEVERAGES.

The Planning Commission shall conduct a Special Land Use and Site Plan Review public hearing for any establishment seeking a license for the sale or consumption of beer, wine, or alcoholic beverages on-premises that is not located in the C-1 City Center Commercial District (CC), the C-4 Resort District, the C-2 Water Street East District (WSE), the C-1 Water Street North District (WSN), or the C-2 Water Street South District (WSS). Notice of the public hearing shall be served in the manner required by the Zoning Enabling Act, Act 110 of 2006 as amended. Following its determination as to whether the proposed special land use and accompanying site plan meet the criteria of the City Code, the Planning Commission shall recommend to the City Council approval, approval with conditions or denial. A recommendation for approval may be conditioned upon the execution of a development agreement between the applicant and the city. The City Council shall thereafter determine whether to deny, approve, or approve with conditions the special land use and site plan review.

(Ord. 140908-1, passed 9-8-2014; Am. Ord. 180529-2, passed 5-29-2018)

SITE PLAN REVIEW

§ 154.060 PURPOSE AND SCOPE.

(A) It is the purpose of this subchapter to require formal site plan review approval for certain buildings, structures and uses that can be expected to have a significant impact on natural resources, traffic patterns, adjacent parcels and the character of future development. The regulations contained in this subchapter are intended to promote safe and convenient traffic movement, both within a site and in relation to an access street, harmonious relationships with adjacent sites, and conservation of natural amenities and resources.

(B) Uses subject to formal site plan review. Formal site plan review by the Planning Commission shall be required for the following:

(1) Residential subdivisions;

(2) Condominium subdivisions;

(3) All new non-residential principal structures;

(4) All expansions to existing nonresidential principal structures; and

(5) All PUD developments (see also § 154.110).

(6) Except as provided herein, multi-family residential developments.

(C) All uses and structures not subject to formal site plan review shall be subject to administrative review by the Zoning Administrator for conformance with the zoning ordinance.

(D) The Zoning Administrator may require a formal site plan review for any other use or activity not required to go through the formal site plan review process based on unique circumstances involving the use or structure in question and identified as part of the record.

(E) Planned unit developments, developments of sites greater than two acres in area and developments to occur in phases are subject to formal site plan review and approval by the City Council. (Ord. passed 6-24-1996; Am. Ord. 02-02, passed 2-11-2002; Am. Ord. passed 9-8-2003; Am. Ord. 091123-1, passed 11-23-2009; Am. Ord. 170626-2, passed 6-26-2017)

Statutory reference:

Site plans, see M.C.L.A. § 125.3501

§ 154.061 APPLICATIONS.

(A) The applicant shall submit payment of a non-refundable fee in accordance with the city's schedule of fees as adopted from time to time. Additional administrative fees for professional services may be applied, refer to § 154.175.

(B) At a minimum the application form for all site plan reviews shall include the following information:

(1) The applicant's name and address in full;

(2) The applicant's telephone number and email address;

(3) Survey showing property corners, existing structures, and proposed construction.

(C) Additional information for formal site plan review shall require some or all of the following information unless waived by the Zoning Administrator:

(1) Water courses and water bodies, including human-made surface drainage ways;

(2) Existing public right-of-way, pavements and/or private easements;

(3) Existing and proposed uses, buildings, structures and parking areas;

(4) Zoning classification of abutting properties;

(5) Location, screening, dimensions and heights of proposed buildings and structures, such as trash receptacles, utility pads and the like, including accessory buildings and uses, and the intended uses thereof. Rooftop or outdoor appurtenances should also be indicated, including proposed methods of screening the equipment, where appropriate;

(6) Location and dimensions of parking areas, including computations of parking requirements, typical parking space dimensions, including handicapped spaces, and aisle widths;

(7) Proposed water supply and wastewater systems locations and sizes;

(8) Proposed finished grades and site drainage patterns, including necessary drainage structure. Where applicable, indicate the location and elevation of the 100-year floodplain;

(9) Proposed common open spaces and recreational facilities, if applicable;

(10) Proposed landscaping, including quantity, size at planting and botanical and common names of plant materials;

(11) Signs, including type, locations and sizes;

(12) Location and dimensions of all access drives, including driveway dimensions, pavement markings, traffic-control signs or devices, and service drives;

(13) Exterior lighting showing area of illumination and indicating the type of fixture to be used;

(14) Elevations of proposed buildings drawn to an appropriate scale shall include:

(a) Front, side and rear views;

(b) Heights at street level, basement floor level, top of main floor, top of building, and if applicable, height above water level; and

(c) Location, if any, of any views from public places to public places across the property;

(15) Location, height and type of fencing;

(16) Topographic elevations at two feet intervals; and

(17) Written statements relative to the effects on the existing traffic capacity of streets, and the proposed development's impact on schools, existing utilities or natural features.

(Ord. passed 6-24-1996; Am. Ord. 02-02, passed 2-11-2002; Am. Ord. 120326-1, passed 3-26-2012; Am. Ord. 170626-2, passed 6-26-2017)

§ 154.062 STANDARDS FOR ADMINISTRATIVE SITE PLAN REVIEW.

Administrative site plan review shall be conducted by the Zoning Administrator to ensure compliance with the provisions of this chapter 154.

(Ord. passed 6-24-1996; Am. Ord. 02-02, passed 2-11-2002; Am. Ord. 170626-2, passed 6-26-2017)

§ 154.063 STANDARDS FOR FORMAL SITE PLAN APPROVAL.

(A) All elements of the site plan shall be harmoniously and efficiently organized in relation to topography, the size and type of lot, the character of adjoining property and the type and size of the buildings. The site will be developed as not to impede the normal and orderly development or improvement of surrounding property for uses permitted in this chapter.

(B) The landscape shall be preserved in its natural state, insofar as practical, by removing only those areas of vegetation or making those alterations to the topography which are reasonably necessary to develop the site in accordance with the requirements of this chapter.

(C) The site plan shall provide reasonable visual and sound privacy for all dwelling units located therein. Fences, walks, barriers and landscaping shall be used, as appropriate, to accomplish these purposes.

(D) All buildings or groups of buildings shall be arranged so as to permit necessary emergency vehicle access as required by the Fire Department.

(E) There shall be provided a pedestrian circulation system which is separated from the vehicular circulation system. In order to ensure public safety, special pedestrian measures, such as crosswalks, crossing signals and other such facilities may be required in the vicinity of schools, playgrounds, local shopping areas and other uses which generate a considerable amount of pedestrian traffic. All federal, state and local barrier free requirements shall be met.

(F) The arrangement of public or common ways for vehicular and pedestrian circulation shall be connected to existing or planned streets and pedestrian or bicycle pathways in the area. Streets and drives which are part of an existing or planned street pattern serving adjacent development shall be of a width appropriate to the traffic volume they will carry and shall have a dedicated right-of-way equal to that specified in the city's land use plan.

(G) All streets shall be developed in accordance with city specifications, unless developed as a private road.

(H) Appropriate measures shall be taken to ensure that removal of surface waters will not adversely affect neighboring properties or the public storm drainage system. Provisions shall be made to accommodate storm water, prevent erosion and the formation of dust. The use of detention/retention ponds may be required. Surface water on all paved areas shall be collected at intervals so that it will not obstruct the flow of vehicular or pedestrian traffic, create puddles in paved areas or create erosion problems.

(I) All loading and unloading areas and outside storage areas, including areas for the storage of trash, which face or are visible from residential districts or public thoroughfares, shall be screened by an opaque wall or landscaped screen not less than six feet in height. (See §§ 154.142 through 154.144).

(J) Exterior lighting shall be arranged so that it is deflected away from adjacent properties and so that it does not impede the vision of traffic along adjacent streets. Flashing or intermittent lights shall not be permitted.

(K) In approving the site plan, the Planning Commission may recommend that a bond or other financial guarantee of ample sum be furnished by the developer to ensure compliance for such requirements as drives, walks, utilities, parking, landscaping and the like (see § 154.173).

(L) The Planning Commission may require a five year development plan for any remaining undeveloped property if the total parcel is greater than ten acres and a ten year development plan for any remaining undeveloped area of the parcel if the total parcel is greater than 20 acres.

(M) The Planning Commission may require a market feasibility study, prepared by a qualified professional as determined by the city, for any mixed use development or residential development greater than ten acres.

(Ord. passed 6-24-1996; Am. Ord. 02-02, passed 2-11-2002; Am. Ord. 140714-1, passed 7-14-2014; Am. Ord. 170626-2, passed 6-26-2017)

§ 154.064 CONDITIONS OF APPROVAL.

(A) As part of an approval to any site plan, the Planning Commission or City Council, as applicable, may impose additional conditions as in its reasonable judgment may be necessary for protection of the public interest and compliance with chapter 154.

(B) Such conditions shall be related to and ensure that the review standards of § 154.064 are met. Any performance guarantee shall meet the requirements of § 154.173.

(C) Approval of a site plan, including conditions made as part of the approval, is attached to the property described as part of the application and not to the owner of the property.

(D) A record of conditions imposed shall be maintained. The conditions shall remain unchanged unless an amendment to the site plan is approved.

(E) A record of the decision of the Planning Commission, the reason for the decision reached and any conditions attached to the decision shall be kept and made a part of the minutes of the Planning

Commission. A similar record shall also be kept by the City Council in those instances where they have the final review authority.

(F) The Zoning Administrator may make periodic investigations of developments for which site plans have been approved. Non-compliance with the requirements and conditions of the approved site plan shall constitute grounds for the Planning Commission or City Council, whichever had final review authority, to terminate the approval following a public hearing.

(Ord. passed 6-24-1996; Am. Ord. 02-02, passed 2-11-2002; Am. Ord. 170626-2, passed 6-26-2017)

§ 154.065 VALIDITY OF SITE PLANS.

(A) The Planning Commission shall approve, approve with conditions or deny the submitted site plan. Reasons for a denial shall be set forth in writing.

(B) Where City Council approval is required the Planning Commission shall transmit its recommendation to the City Council. The City Council shall thereafter review the site plan and may approve, approve with conditions or deny the submitted site plan. Reasons for denial shall be set forth in writing. The applicant shall be provided with a copy of the resolution of the City Council regarding the site plan.

(C) Approval of a site plan is valid one year. If physical construction of a substantial nature of the improvements included in the approved site plan has not commenced and proceeded meaningfully toward completion the approval shall be null and void.

(D) Upon written application, filed before the termination of the one-year review period, the Planning Commission may authorize one extension of not more than one year. The extension shall only be granted based on evidence from the applicant that the development has a likelihood of commencing construction within the one-year extension.

(Ord. 170626-2, passed 6-26-2017

§ 154.066 AMENDMENTS TO APPROVED SITE PLANS.

(A) Any person who has been granted site plan approval shall notify the Zoning Administrator of any proposed amendment to the approved plan. The Zoning Administrator shall determine whether the proposed amendment constitutes a minor or major amendment.

(B) *Minor changes.* A minor amendment may be approved by the Zoning Administrator if:

(1) The proposed changes will not affect the basis on which initial approval was granted;

(2) The proposed minor changes will not adversely affect the overall planned unit development in light of the intent and purposes of the development as stated in § 154.060; and

(3) The proposed changes will not affect the character or intensity of use, the general configuration of buildings and uses on the site, vehicular or pedestrian circulation, drainage patterns, or the demand for public services.

(C) *Minor changes.* Examples of minor changes include, but are not limited to:

(1) Additions or alterations to the landscape plan or landscape materials;

(2) Alterations to the internal parking layout of an off-street lot provided that the total number of spaces or ingress or egress is not reduced; and

(3) Relocation of a trash receptacle.

(D) *Major changes.*

(1) A major change to an approved site plan includes any change that is not a minor change.

(2) A major change shall comply with the same filing and review procedures of the original approval, including the payment of a fee.

(Ord. passed 6-24-1996; Am. Ord. 02-02, passed 2-11-2002; Am. Ord. 170626-2, passed 6-26-2017)

§ 154.067 PERFORMANCE GUARANTEES.

Performance guarantees may be required by the Planning Commission to insure compliance with site plan conditions pursuant to the requirements of § 154.173.

(Ord. 02-02, passed 2-11-2002; Am. Ord. 170626-2, passed 6-26-2017)

§ 154.068 APPEALS OF FINAL SITE PLANS.

(A) There shall be no right of appeal of a site plan determination to Zoning Board of Appeals.

(B) An appeal of a decision concerning a site plan shall be to the County Circuit Court.

(Ord. passed 6-24-1996; Am. Ord. 02-02, passed 2-11-2002; Am. Ord. 170626-2, passed 6-26-2017)

SPECIAL LAND USES

§ 154.080 PURPOSE.

(A) In order that this chapter be flexible and reasonable, special land uses are provided for and require special land use permits.

(B) Conformance to special land use standards is required, in addition to all other requirements of this chapter. All the uses are hereby declared to possess characteristics of the unique and distinct form that each specific use shall be considered on an individual basis.

(C) The granting of a special land use permit does not negate the requirement for any other required permits.

(Ord. passed 6-24-1996; Am. Ord. 02-02, passed 2-11-2002)

Statutory reference:

Special land uses, see M.C.L.A. §§ 125.3502

§ 154.081 PLANNING COMMISSION DESIGNATED.

(A) The Planning Commission shall hear and permit such special land uses as the Planning Commission is specifically authorized to pass on by the terms of this chapter.

(B) It may grant special land uses with such conditions and safeguards as are appropriate under this chapter, or may deny special land uses when not in harmony with the purpose and intent of this chapter.

(C) Approval shall run with the land and shall not be issued for specified periods, unless the use is clearly temporary or time-related in nature.

(Ord. passed 6-24-1996; Am. Ord. 02-02, passed 2-11-2002)

§ 154.082 STANDARDS.

(A) Before any special land use permit is granted, the Planning Commission shall make findings of fact based upon competent evidence certifying compliance with the specific regulations governing

individual special land uses and, in addition, ensure that the following general standards have been met. Each proposed special land use shall:

(1) In location, size, height and intensity of the principal and/or accessory operations, be compatible with the size, type and kind of buildings, uses and structures in the vicinity and on adjacent property;

(2) Be consistent with and promote the intent and purpose of this chapter;

(3) Be compatible with the natural environment and conserve natural resources and energy;

(4) Be consistent with existing and future capabilities of public services and facilities affected by the proposed use;

(5) Protect the public health, safety and welfare as well as the social and economic well-being of those who will use the land use or activity, residents, businesses and landowners immediately adjacent and the city as a whole;

(6) Not create any hazards arising from storage and use of inflammable fluids;

(7) Not be in conflict with convenient, safe and normal vehicular and pedestrian traffic routes, flows, intersections and general character and intensity of development. In particular:

(a) The property shall be easily accessible to fire and police; and

(b) Not create or add to any hazardous traffic condition.

(8) Be of such a design and impact that the location and height of buildings, the location, nature and height of walls, fences and the nature and extent of landscaping on the site shall not hinder or discourage the appropriate development and use of adjacent land and buildings or impair the value thereof;

(9) That in the nature, location, size and site layout of the use, be a harmonious part of the district in which it is situated taking into account, among other things, prevailing shopping habits, convenience of access by prospective patrons, the physical and economic relationship of one type of use to another and characteristic groupings of uses of the district; and

(10) That in the location, size, intensity and site layout be such that operations will not be objectionable to nearby dwellings, by reason of noise, fumes, pollution, vibration, litter, refuse, glare or flash of lights to an extent which is greater than would be operations of any use permitted by right for that district within which the special land use is proposed to be located.

(B) The Planning Commission shall consult the city land use plan to determine if the proposed special land use is compatible with the future planned use of surrounding property and may limit the permit so as not to conflict with future planned land use. The duration of the permit may be limited only if such use is clearly temporary in nature.

(Ord. passed 6-24-1996; Am. Ord. 02-02, passed 2-11-2002)

§ 154.083 APPLICATION PROCEDURES FOR SPECIAL LAND USE PERMITS.

(A) *Application*. Prior to construction or physical development of a proposed special land use, as specified by this chapter, an application for a required special land use permit must be made to the Zoning Administrator on forms supplied by the city.

(B) *Contents of application*. The contents shall be the same as required for zoning permits in § 154.172. In addition, a site plan meeting the requirements of §§ 154.061*et seq*. shall be submitted.

(C) *Fee*. A fee may be set by the City Council and listed in the city's schedule of fees and shall accompany any plans or application in order to defray the cost of administration and inspection.

(D) *Zoning Administrator review*.

(1) The Zoning Administrator shall begin to collect the application package and review for required content.

(2) He or she shall review the site plan and make advisory comments based on site plan review standards. Review by engineering, planning or other consultants hired by the city may be initiated as needed.

(3) Upon completion of preliminary review and comment, the Zoning Administrator shall forward the entire application with comments to the Planning Commission.

(E) *Planning Commission review*. Planning Commission shall review the application based on:

(1) Compliance with zoning bulk regulations;

(2) Standards for the review of site plans;

(3) Standards for the consideration of special land uses set forth in this subchapter; and

(4) Any other standards in this subchapter related to conditions proposed to be imposed.

(F) *Public hearing required*. Before a special land use permit is approved a public hearing must be held by the Planning Commission with public notice properly given in accordance with § 154.179 and the Michigan Zoning Enabling Act, Public Act 110 of 2006 as amended.

(Ord. passed 6-24-1996; Am. Ord. 02-02, passed 2-11-2002; Am. Ord. 071008-01, passed 10-8-2007)

Statutory reference:

Statutory requirements, see M.C.L.A. § 125.3504

§ 154.084 DECISION FOLLOWING PUBLIC HEARING.

(A) Following the public hearing, the Planning Commission shall issue a written decision on the application for a special land use permit. The Planning Commission may deny, approve or approve with conditions, requests for special land use approval. The decision shall include:

(1) Findings of fact. The Planning Commission shall make findings based on the particular facts of the application and the analysis thereof including reference to conformance or nonconformance with specific standards of this chapter. These findings shall be embodied in a statement of conclusions along with the basis for the decision. Among the findings shall be a conclusion that the granting of special land use approval will or will not adversely affect the public interest, health, safety or welfare of the community;

(2) Approval, approval with conditions or denial; and

(3) A statement of any conditions imposed.

(B) If approved or approved with conditions, a zoning permit shall be issued by the Zoning Administrator with all the conditions specified by the Planning Commission. One copy shall be given to the applicant. If denied, the applicant shall be given a copy of the Planning Commission denial and reasons therefore.

(Ord. 02-02, passed 2-11-2002)

§ 154.085 CONDITIONS.

(A) The Planning Commission may attach conditions to the approval of the special land use which may include conditions necessary to:

(1) Ensure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use and activity;

(2) Protect the natural environment and conserve natural resources and energy;

(3) Insure compatibility with adjacent uses of land; and

(4) Promote the use of land in a socially and economically desirable manner.

(B) Any conditions imposed shall be recorded in the record of the special land use permit. These conditions shall not be changed except upon the mutual consent of the Planning Commission and the landowner.

(Ord. passed 6-24-1996; Am. Ord. 02-02, passed 2-11-2002)

§ 154.086 PERFORMANCE GUARANTEES.

Performance guarantees may be required by the Planning Commission to ensure compliance with special land use conditions pursuant to the requirements of § 154.173.

(Ord. passed 6-24-1996; Am. Ord. 02-02, passed 2-11-2002)

§ 154.087 AMENDMENTS TO SPECIAL LAND USES.

When an application is received to expand or change the use, traffic pattern or similar elements, the application shall be subject to the same procedures followed for an original special land use request. See § 154.066(A) and (B).

(Ord. passed 6-24-1996; Am. Ord. 02-02, passed 2-11-2002)

§ 154.088 LIMITATIONS ON VALIDITY OF PERMIT.

(A) Construction must be initiated under a special land use permit within one year from date of issuance of the permit. Upon receipt of a written request for an extension an extension of up to one year may be granted by the Planning Commission if the Planning Commission feels the nature of the problems preventing project initiation are legitimate, and that the approved site plan adequately represents current conditions on and surrounding the site.

(B) If the project is not initiated within an approved period the special land use is cancelled. Thereafter, the project may proceed only if approved after going through the entire special land use process again, starting with a new application.

(Ord. passed 6-24-1996; Am. Ord. 02-02, passed 2-11-2002)

§ 154.089 NO RIGHT OF APPEAL.

Any other provisions of this chapter notwithstanding, any requirement, decision or determination by the Planning Commission made pursuant to this subchapter shall not be appealable to the Zoning Board of Appeals.

(Ord. passed 6-24-1996; Am. Ord. 02-02, passed 2-11-2002)

§ 154.090 INSPECTION.

At least two site inspections by the Zoning Administrator must be held; one during development or construction and one before uses or structures are occupied. If the development is phased or in stages, then at least one inspection per phase or stage shall be made. The permit holder shall be required to contact the Zoning Administrator and arrange for the final inspection prior to occupancy.

(Ord. passed 6-24-1996; Am. Ord. 02-02, passed 2-11-2002) Penalty, see § 154.999

§ 154.091 TVRO SPECIAL LAND USE PERMIT/ALLOWABLE ZONES.

All installations of satellite antennae over three feet in diameter shall be considered extraordinary structures and may only be installed upon obtaining a special land use permit in accordance with this subchapter, and a building permit prior to commencing installation.

(Ord. passed 6-24-1996; Am. Ord. 02-02, passed 2-11-2002)

§ 154.092 DESIGN STANDARDS FOR SELECTED SPECIAL LAND USES.

Recognizing that some land uses have characteristics of such unique and distinct form that they may negatively impact on adjoining parcels. Careful review of the following selected special land uses will be considered in accordance with the procedure and standards in §§ 154.080 through 154.092 and the standards that follow.

(A) *Religious facilities*. Ingress and egress shall meet the requirements of this chapter and any requirements of the City Engineer, the County Road Commission and the Michigan Department of Transportation, and shall be onto the street having the least impact upon residential properties. The primary use of buildings and grounds of a religious facility is for the regular assembly of persons for religious worship or services, together with noncommercial accessory uses.

(B) *Motels/motor courts*. Units shall not be used as apartments for non-transient tenants and shall have an office or lobby.

(1) Each unit shall have a minimum area of 300 square feet and shall have a bath facility with shower or bath, one toilet and sink as a minimum.

(2) There shall be no more than one unit for each 1,000 square feet of site area. Fractions shall be rounded to the nearest whole number.

(3) The following accessory uses may be permitted:

(a) One house or apartment for the use of the manager or caretaker and his or her family;

(b) One restaurant and/or coffee shop or cafeteria providing food and drink; and

(c) Amusements and sports facilities for the exclusive use of guests, including:

1. Swimming pool;
2. Children’s playground;
3. Tennis and other game courts;
4. Game or recreation rooms; and
5. Meeting and/or conference rooms.

(4) A 20-foot landscaped buffer zone shall be provided from street right-of-way lines. A 15-foot vegetated or otherwise stabilized area shall be provided along the waterfront. A five-foot landscaped buffer zone shall be provided along the remaining property lines. Recreation facilities not to include buildings, may be permitted in the buffer zone if the Planning Commission determines that such facilities will not adversely impact traffic flows or surrounding properties and provided that impervious materials, such as asphalt, shall not be permitted in required buffer zones.

(C) *Hotels/inns*. All of the following requirements shall be met:

(1) There shall be open space which shall be in conformance with the district requirements in each zoning district. Screening shall be as required by the general screening requirements of § 154.142. Off-street parking in front yard areas shall not be permitted;

(2) In addition to the rental rooms allowed, a hotel/inn shall have a managers quarters consisting of one or more rooms, and which quarters shall have a minimum total square footage of 300 square feet; provided, however, each of the rooms making up the managers quarters shall be at least the minimum size for the particular room as required in the State Construction Code;

(3) Additions to a structure for the purpose of providing additional rental rooms shall not be allowed except on those parcels of property which adjoin or are contiguous to the Center Commercial Zone District. In addition to other criteria, the Planning Commission shall verify that no addition will result in providing less than 1,900 square feet of lot area for each rental room; and

(4) The following accessory uses may be permitted:

(a) One house or apartment for the use of the manager or caretaker and his or her family;

(b) One restaurant and/or coffee shop or cafeteria providing food and drink;

(c) Amusements and sports facilities for the exclusive use of guests, including:

1. Swimming pool;

2. Children’s playground;

3. Tennis and other game courts; and

4. Game or recreation rooms.

(d) Meeting and/or conference rooms.

(D) *Marinas*.

(1) *Major construction*.

(a) Pier construction shall comply with all appropriate local, state and federal regulations and §§ 154.200 through 154.207.

(b) Site uses may include:

1. Facilities for the berthing, launching, handling or servicing of recreational or commercial boats.

2. Retail businesses which supply products primarily and directly for persons using the facility.

3. Indoor storage in a permanent structure. This area may be used for off-street parking when boats are in the water.

4. Outdoor storage provided that no parking lot shall be occupied by stored boats during the months when boats are normally in the water.

5. Boat fuel stations.

6. Clubs, lounges, restaurants, provided that they meet applicable requirements as if they were being developed separately from a marina.

7. Marine construction and maintenance equipment use and storage.

(c) Minimum site size shall be 17,424 square feet and minimum road frontage 132 feet.

(d) Minimum building and fuel station setbacks shall be 20 feet from the roadway.

(e) Shorelines shall be stabilized with an approved suitable material to prevent erosion.

(f) Parking will be determined based upon the provisions of § 154.130*et seq.*, the combination of uses, and the amount and availability of indoor and outdoor storage.

(g) There shall be no above ground storage of gasoline, fuel oil, or other inflammable liquids or gases.

(2) *Minor construction*.

(a) Pier construction shall comply with all appropriate local, state and federal regulations and §§ 154.200 through 154.207 of this chapter.

(b) Site uses may include:

1. Facilities for the berthing, launching, and handling of recreational boats and commercial boats.

2. Accessory structures for storage, shower and lavatory facilities and refuse containers. Screening of latter from the roadway shall be required pursuant to the requirements of § 154.142.

3. Parking in compliance with § 154.130*et seq*.

4. Recreation facilities such as picnic areas, playgrounds, intended for use by the boating public only.

(c) Maximum site size shall be 17,423 square feet with a maximum 131 feet of road frontage.

(d) Buildings shall be set back at least 20 feet from the roadway and ten feet from property lines.

(e) Shorelines shall be stabilized with an approved suitable material to prevent erosion.

(f) This district shall not include retail or commercial uses other than the berthing of boats.

(E) *Commercial boats*.

(1) Commercial boat operations shall meet the requirements of the business license ordinance which require that all transactions are to occur in a structure. A structure is defined as anything constructed or erected, the use of which requires a location on the ground or attached to something having a permanent location on the ground.

(2) Off-street parking shall be provided based on one space per two crew members or deckhand and one space per two passenger capacity.

(3) Signage shall be controlled by the sign provisions of this chapter.

(4) Restroom facilities shall be provided based on one for each three through 20 people and County Health Department regulations.

(F) *Changes in grade*.

(1) A special land use permit shall be required for all alterations to the original natural grade in excess of two feet at any point. This shall include the use of any fill materials, removal of any materials other than those resulting from basement excavations and rearrangement of material on the described property.

(2) Prior to the removal, importation or rearrangement of material, the applicant shall submit a survey (topographic) showing existing grades and elevations. A second survey shall show all grades

and elevations after the excavation or fill is completed. The final survey shall clearly indicate the direction of storm water movement and the final sources of dispersion or disposal.

(3) All excavation permits shall include the name, address and legal description of the property where the material will be disposed of. All permits for fill shall identify the type of material brought in and its source including owner's name, address and property legal description.

(G) *Dwelling, multi-family (more than two attached) including multiple principal structures as an exception to § 154.022(C)(5).*

(1) *Site requirements.* For multiple family developments with more than two units per structure, the allowed density shall be no greater than one unit for every 6,200 square feet of lot area not to exceed seven units per acre when averaged across the entire lot.

(2) *Special use requirements.*

(a) For all structures:

1. Front setback: 50 feet.
2. Side setback: 50 feet.
3. Rear setback: 50 feet.
4. Outdoor storage of trash or rubbish shall be screened from neighboring uses.

(b) For driveways and parking lots:

1. Front setback: ten feet.
2. Side setback: 20 feet.
3. Rear setback: 20 feet.
4. There shall be a ten feet wide screen in accordance with § 154.144.

(3) *Performance standards.*

(a) All multi-family developments shall have direct access to a major street (per Public Act 51) or an approved paved city street.

(b) Provision shall be made for safe and efficient egress and ingress to public streets and highways which shall be designed to minimize congestion and interference with normal traffic flow. The proposal shall not be calculated to reduce the traffic service level of any street nor to access any street functioning below level of service "C" as calculated by MDOT.

(c) All streets within a development shall be constructed as public streets and maintained with an all-weather road surface.

(d) No dwelling unit shall have its principal access more than 150 feet from either an access drive or a public street, and the required off-street parking area.

(e) The distance between any two residential structures which occupy the same lot shall not be less than 30 feet, if both walls facing each other contain windows or other openings, and not less than 20 feet for all other situations.

(f) All developments shall be located only where adequate public sewer and water facilities already exist.

(g) All storm water drainage shall meet or exceed federal Phase II storm water regulations and shall be so constructed as to cause 0% increase to existing storm water systems unless excess

capacity is available.

(h) Open space shall be provided which is easily accessible and useable. Such open space shall cover at least 10% of the parcel area or 2,000 square feet per dwelling unit, whichever is greater.

(i) All off-street parking shall be adequately lighted during hours of darkness. Such lighting shall be screened from all neighboring uses and streets.

(j) All drives within the development shall have a minimum pavement width of 13 feet for one-way drives, and 24 feet for two-way drives. Internal driveways shall have a minimum width of ten feet.

(k) Only the following accessory land and/or building uses shall be permitted:

1. One office space not greater than 1,000 square feet for conducting the business of the development.

2. Utility areas for laundry facilities and auxiliary storage for tenants.

3. Recreation area such as community buildings, playgrounds, swimming pools and open space for tenants.

(H) *Private recreation camps*.

(1) The following uses may be permitted, as long as they are an integral part of a private recreation camp:

(a) No more than three residences for the use of the manager or caretaker and family;

(b) Conference facilities, including kitchen and dining facilities (but excluding restaurants), meeting rooms, and other related accessory areas, such as outdoor seating and dining;

(c) Indoor and outdoor recreation facilities, including parks, nature trails, ball field, playgrounds, tennis courts, swimming pools and other similar facilities;

(d) Assembly buildings, churches and indoor and outdoor chapels;

(e) Cabins and other transient overnight lodging (except recreational vehicles);

(f) Gardening activities; and

(g) Infirmary; and

(h) Accessory uses and buildings necessary for the above uses.

(2) No trees or other vegetation, except those that are damaged and/or diseased and constitute a public hazard, shall be removed from the required setback area. No grading or changes in topography shall occur except as necessary for entrance roads, required utilities, drainage or safety improvements.

(3) All uses shall be integrated into the design of the project with compatible architectural and site features such as landscaping and signage.

(4) All uses established on the property shall provide parking as required by this chapter.

(5) One sign per major entrance to the camp is permitted. The sign shall be no greater than 48 square feet in total surface area and no higher than eight feet from the average grade of its base, including any berm or supporting structures.

(6) Lighting for parking areas or outdoor activity areas shall be shielded to prevent glare or light from spilling onto any surrounding property.

(l) *Summer resort and park associations*. Expansion of the territorial area of a summer resort and park association and building on vacant sites/lots.

Special procedure. The governing board of the summer resort and park association involved, the Michigan Department of Environmental Quality Land and Water Management Division, and the City of Saugatuck Planning Commission shall agree upon a general development plan for the association involved for any undeveloped site/lots/units/areas or expansion of the geographical area of an existing summer resort and park association. Once final approval is given by the City Council, individual units can be constructed or altered upon application by the summer resort and park association's design review committee and approval of; any required permits from the DEQ; County Health Department or city sewer and water permits; zoning permits by the city's Zoning Administrator; and building permit(s) from the city's Building Inspector. After a Development Plan has been approved by the Planning Commission under this section of the Zoning Ordinance, the resulting site plan shall be administered the same as a conforming subdivision for development of individual units (lots, parcels).

(1) *Allowed uses*. Uses within the association shall only include those uses allowed in the SRP zoning district.

(2) *Seasonal dwellings allowed*. Subject to state law requirements, dwellings may be constructed to a lesser standard provided for in the State Building Code for seasonal use dwellings provided that the association's by-laws limit occupancy to no more than nine months in any calendar year.

(3) *No ZBA authority*. Authority is hereby denied to the Zoning Board of Appeals ("ZBA") TO GRANT ANY VARIANCE FROM ANY PROVISION OF A SUMMER RESORT AND PARK ASSOCIATION SPECIAL Use Permit. (See also § 154.089).

(4) *Maximum density*. The overall density of the development shall not exceed three dwelling units per acre.

(5) *Maximum area coverage*. In any critical dune area, the maximum lot coverage for the entire association shall not exceed 10% for all buildings and structures.

(6) *Maximum share area coverage*. Each member's share area (or shares) corresponds to a lot as platted in establishing the summer resort and park association. All structures constructed for that member's share area shall not exceed 25% of the area of the corresponding lot.

(7) *Plat standards*. All summer resort and park associations established, expanded or in which additional development is proposed, after the date of this chapter shall conform to either the state Land Division Act or the state Condominium Act, which ever is both applicable and more stringent.

(8) *Road standards*. Roads may be built to a lesser standard than might otherwise be required by city ordinance so long as emergency vehicle access is acceptable to and approved by the Fire Chief.

(9) *State permits required*. Approval procedures shall follow the procedures and requirements for approval of planned unit developments in § 154.115 of this chapter but shall include a preliminary review by Michigan Department of Environmental Quality-Land and Water Management Division (or successor) district staff with written comments supplied to the Planning Commission at least three weeks prior to the city's public hearing.

(10) *Environmental impact assessment*. When a summer resort and park association plan is being considered in an area of critical dunes, high risk erosion area, flood hazard area or regulated wetlands, an environmental impact assessment in conformance with M.C.L.A. § 324.35319 shall be filed with the city by the applicant and, if the Planning Commission finds that additional information is considered necessary or helpful in reaching a decision, the Commission may require an environmental impact statement in conformance with M.C.L.A. § 324.35320, as amended.

(11) *Time limit*. After a development plan has been approved, and the infrastructure has been completed, there shall be no time limit for development of individual share areas (lots). If the platted

infrastructure has not been completed for any portion of an approved plat of development within one year of the date of approval, then the approval for those lots or share areas dependent upon that infrastructure shall expire per § 154.088 of this chapter.

(J) *Rental of an accessory dwelling unit.* Unless otherwise specified below, a rental accessory dwelling unit shall conform to all regulations in § 154.022(W) and the following:

(1) A rented accessory dwelling unit shall only be permitted on a parcel that contains an owner occupied detached single-family dwelling unit;

(2) An accessory dwelling unit to be rented is subject to inspection by a city official before occupancy and must meet all applicable health, fire, and safety codes; and

(3) Signage shall be per the regulations for short-term rentals.

(K) *Automotive services.* As defined in § 154.005 of this chapter, automotive services shall meet the following standards:

(1) Vehicles about to be, or in the process of, repair shall be within a fully enclosed building at all times;

(2) The exterior storage of parts, partly dismantled, damaged, or inoperable vehicles shall be prohibited;

(3) Vehicles for sale or rent shall be stored in an enclosed structure or on a fully improved concrete or asphalt surface which meets all applicable setbacks for the district in which it is located;

(4) Any waste materials, parts, or fluids must be stored of and disposed of in conformance with any and all federal, state, county, or local regulations; and

(5) Facilities shall obtain and maintain all applicable federal, state, and local permits and licenses.

(L) *Recreational transportation rental facilities.* As defined in § 154.005 of this chapter, recreational transportation rental facilities shall meet the following standards:

(1) Recreational transportation devices, other than watercraft, shall be stored on private property in a location meeting the required setbacks as set forth in the zoning district in which it is located. Watercraft shall not be stored in the required front and side yard setbacks for the district;

(2) Facilities shall obtain and maintain all applicable federal, state, or local licenses; and

(3) Signage shall be only as permitted in § 154.141.

(M) *Brewery, distillery, and winery.* A brewery, distillery, and winery as defined within § 154.005 shall be subject to the following conditions:

(1) All apparatus or equipment associated with the fermentation or distillation of grain, fruits, or other ingredients shall be completely contained within a fully enclosed principal building;

(2) Applicants shall not store products, ingredients, supplies, or waste outdoors;

(3) Products produced on site shall be sold or consumed on site as part of a retail business or restaurant and not distributed;

(4) Operations shall not produce any noise, odor, or other conditions deemed to be a nuisance;

(5) Applicants shall obtain and maintain all applicable local, state, and federal licenses.

(N) *In-fill dwelling unit projects that exceed a floor area ratio of 0.3:1.*

(1) *Purpose.* This division is intended to promote quality development and eliminate conditions of gross design incompatibility having the potential for adverse long-term impacts on adjacent properties. It is not intended to stifle individuality or compel rigid conformity but, instead, recognizes that great diversity of style, often between homes side by side, is one of the city's traditional neighborhood strengths, and is premised upon a desire to facilitate compatibility.

(2) *Standards.* Notwithstanding the other provisions of this chapter, for dwelling unit in-fill projects that exceed a floor area ratio of 0.3:1, it is essential that residential structures be compatible with the placement, height, scale, and proportion of adjacent residential properties or with the general neighborhood within 200 feet in all directions. Such projects shall comply with the following standards.

(a) *Front yard.* The front yard setback shall be consistent with immediately adjacent residential properties or, when the immediately adjacent properties are non-residential structures, residential structures that exceed the minimum front yard setbacks by two times, vacant lots, or otherwise inadequate for a determination, then the average established setback of the frontage on the same side of the street, between two intersecting streets, shall prevail. Nothing in this division shall be construed to permit any new dwelling unit to be located closer than five feet to the front property line.

(b) *Separation.* Side yard setbacks shall be established by considering the other side yard setbacks in the general neighborhood, but shall not be less than the required side yard setbacks for the zoning district.

(c) *Elevations.* Finished floor elevations, the height of exposed basement walls, and front yard grade elevations shall be substantially similar to those of immediately adjacent dwellings or, when the immediately adjacent properties are non-residential structures, vacant lots, or are otherwise inadequate to make a determination, the elevations shall be determined by the average of elevations in the general neighborhood.

(d) *Size and mass.* Overall height, width, scale, footprint, and general proportions shall be similar to and compatible with the general character of the neighborhood. In determining compatibility, greater weight will be given to the overall height, width, scale, footprint, and general proportions to the immediately adjacent residential properties.

(O) *Restaurants with outdoor seating.* The inclusion of outdoor seating shall be viewed as an expansion of a commercial business and shall meet the following standards:

(1) Tables, chairs, or similar features shall not have display signage or emblems representative of the restaurant;

(2) Outdoor seating area shall be on a fully improved surface of concrete, paver brick, or similar solid material;

(3) If alcohol is served, area shall meet all applicable local, state, and federal regulations; and

(4) Seating and service within the right-of-way shall be classified as a special land use regardless of the zoning district and shall also meet the following standards:

(a) Tables must be removed from the public right-of-way when restaurant is not open;

(b) A five-foot wide, unobstructed space must be maintained on the sidewalk at all times to prevent pedestrian traffic obstruction;

(c) An approved revocable usage license, issued by City Council, must be obtained before any tables, chairs, or similar features can be placed within the right-of-way;

(d) No accessory features, including but not limited to garbage cans, service stations, fencing, or similar features shall be permitted within the public right-of-way;

(e) Seating shall be arranged to not interfere with pedestrian travel or the opening of car doors; and

(f) No outdoor seating within the public right of way shall be permitted between November 1 and April 1.

(P) *Service of alcoholic beverages standards*.

(1) Any new establishment seeking a license for the sale and consumption of beer, wine, or alcoholic beverages on-premises shall require special land use approval and site plan review in accordance with this division.

(2) The applicant shall provide a copy of any licensing materials submitted to the Michigan Liquor Control Commission.

(3) The applicant shall provide a site plan illustrating the proposed location where the alcohol sales would occur, as well as all other locations where on-premises sales presently exist within a one thousand-foot radius of the closest lot lines of the subject site.

(4) The proposed establishment must promote the city's economic development goals and objectives, and must be consistent with the city's master plan and zoning ordinance.

(5) Given the character, location, development trends and other aspects of the area in which the proposed use or change in use is requested, the applicant shall demonstrate that the use will: rejuvenate an underutilized property or an identifiable area within the city; provide a unique business model, service, product, or function; add to the diversity of the to the city or to an identifiable area within the city; or, that the addition of the use or proposed change in use will be otherwise a benefit or asset to the city or identifiable area.

(6) The applicant must demonstrate that the use or change in use as constructed and operated is compatible with the area in which it will be located, and will not have appreciable negative secondary effects on the area, such as:

(a) Vehicular and pedestrian traffic, particularly during late night or early morning hours that might disturb area residents;

(b) Noise, odors, or lights that emanate beyond the site's boundaries onto property in the area on which there are residential dwellings;

(c) Excessive numbers of persons gathering outside the establishment; or

(d) Peak hours of use that add to congestion or other negative effects in the neighborhood.

(Ord. passed 6-24-1996; Am. Ord. 040726, passed - -; Am. Ord. 040927, passed - -; Am. Ord. 02-02, passed 2-11-2002; Am. Ord. 060710-1, passed 7-10-2006; Am. Ord. 070108-1, passed 1-8-2007; Am. Ord. 080324-3, passed 3-24-2008; Am. Ord. 100726-1, passed 7-26-2010; Am. Ord. 101122-1, passed 11-22-2010; Am. Ord. 110214-1, passed 12-14-2011; Am. Ord. 121008-1, passed 10-8-2012; Am. Ord. 140908-1, passed 9-8-2014; Am. Ord. 150309-2, passed 3-9-2015; Am. Ord. 180529-1, passed 5-29- 2018; Am. Ord. 180813-1, passed 8-13-2018) Penalty, see § 154.999

PLANNED UNIT DEVELOPMENT

§ 154.110 INTENT AND PURPOSE.

(A) The provisions of this subchapter provide requirements and standards for the submission, review and approval of applications for planned unit developments (PUD).

(B) The PUD regulations are designed to accomplish the objectives of this chapter through a land development project review process based on the application of site planning criteria to achieve

integration of the proposed land development project with the characteristics of the project area.

(C) The permanent preservation of open space, natural areas and the existing small town rural character of Saugatuck are major objectives of these PUD regulations.

(D) To those ends, these PUD regulations are intended to permit flexibility in the regulation of land development, encourage innovation in land use and variety in design, layout and type of structures constructed; achieve economy and efficiency in the use of land, natural resources, energy and the provision of public services and utilities; encourage provision of useful open space; and to provide adequate housing, employment and shopping opportunities particularly suited to the needs of the residents of the city. Further, it is the purpose of the planned unit development regulations to promote the intent and purpose of this chapter, and to ensure that the land use or activity authorized shall be compatible with adjacent uses of land, the natural environment, and the capacities of public services and facilities affected by the land use.

(E) The provisions of this subchapter are not intended as a device for ignoring or circumventing this chapter or the planning upon which it has been based.

(Ord. 02-02, passed 2-11-2002)

§ 154.111 PUD IS AN OVERLAY ZONE.

The purposes, procedures and standards of this subchapter are intended to guide the applicant in the preparation of preliminary and final site plans for a PUD, consistent with the purposes stated in § 154.110. These standards shall be used as the basis for the evaluation of the site plans by the Planning Commission and City Council and shall be considered in reviewing any application for a PUD. Approval of a PUD may proceed only when an application and site plan therefore are determined to be in compliance with the regulations of this subchapter and those of §§ 154.060 through 154.068. A district zoned PUD is an overlay zone. The underlying zone shall establish permitted uses, density and the minimum lot size for consideration as a PUD. All condominium projects and condominium subdivisions shall be permitted only if the PUD requirements of this subchapter are met.

(Ord. 02-02, passed 2-11-2002)

§ 154.112 ELIGIBILITY CRITERIA.

To be eligible for planned unit development approval, the applicant must demonstrate that the following criteria will be met.

(A) *Recognizable and substantial benefit*. The planned unit development shall result in a recognizable and substantial benefit to the ultimate users of the project and to the community. This benefit must otherwise be unfeasible or unlikely to be achieved taking into consideration the reasonable foreseeable detriments of the proposed development and uses(s); including, without limitation:

(1) The long-term protection and/or preservation of natural resources and natural features and/or historical and/or architectural features of a significant quantity and/or quality in need of protection or preservation on a local, state and/or national basis; and

(2) Reducing to a significant extent the non-conformity of a non-conforming use or structure, i.e., modification of a non-conforming use or structure so that, to a significant extent, it is rendered more conforming, or less offensive, to the zoning district in which it is situated.

(B) *Minimum area and density*. The minimum land area necessary to be considered for a PUD shall not be less than the land areas as specified for a lot in the underlying zoning district in which the lot is presently located. The density of dwelling units shall not exceed that permitted within the underlying district. Density may be shifted throughout the site and dwellings may be clustered on lots

smaller than those permitted in the underlying zone if doing so better achieves the open space preservation objectives of this subchapter.

(C) *Availability and capacity of public services*. The proposed planned unit development shall not exceed the capacity of existing and available public services, including but not necessarily limited to, police and fire protection services, and educational services, unless the project proposal contains an acceptable plan for providing necessary services or evidence that such services will be available by the time the planned unit development is completed.

(D) *Compatibility with the land use plan*. The proposed development shall not have an adverse impact on the Comprehensive Plan of the city.

(E) *Compatibility with the planned unit development intent*. The proposed developments shall be consistent with the intent and intent of these regulations, as stated in § 154.110.

(F) *Economic impact*. The proposed developments shall not impede the continued use or development of surrounding properties for uses that are permitted in the district in which they are located.

(G) *Unified control of property*. The proposed development shall be under single ownership or control such that there is a single person or entity having responsibility for completing the project in conformity with the planned unit development regulations. This provision shall not prohibit a transfer of ownership or control, provided that notice of the transfer is given immediately to the Zoning Administrator.

(H) *Dedication of utilities and roads*. Roads within the PUD development not associated with access to individual commercial or residential units shall be dedicated to the city. Likewise, utility easements shall be conveyed to the city. Utility easements and roads in PUD developments approved prior to the enactment of this chapter may remain in private ownership.

(Ord. 02-02, passed 2-11-2002)

§ 154.113 PROJECT DESIGN STANDARDS.

In considering any application for approval of a planned unit development proposal filed according to the procedures of § 154.115 and application and data requirements of § 154.114, the Planning Commission and City Council shall make their determinations on the basis of standards set forth for site plan review, the eligibility criteria of § 154.112, as well as the following standards and requirements.

(A) *Minimum lot area.* Planned unit developments may be approved only on contiguous properties containing a minimum of three acres under single ownership.

(B) *Compatibility with adjacent uses*. The proposed planned unit development shall set forth specifications with respect to height, setbacks, density, parking, circulation, landscaping, views and other design and layout features which exhibit due regard for the relationship of the development to surrounding properties and the uses thereon. In determining whether this requirement has been met, consideration shall be given to the following:

(1) The bulk, placement and materials of construction of proposed structures;

(2) The location and screening of vehicular circulation and parking areas in relation to surrounding development;

(3) The location and screening of outdoor storage, outdoor activity or work areas, and mechanical equipment in relation to surrounding development;

(4) The hours of operation of the proposed uses; and

(5) The provision of landscaping and other site amenities.

(C) *Permitted uses*. Any land use authorized in the underlying district may be included in a planned unit development as a principal or accessory use, provided that public health, safety and welfare are not impaired.

(D) *Application base regulations*. Unless waived or modified in accordance with division (E) below, the yard and lot coverage, parking, loading, landscaping, lighting and other standards for the underlying district(s) shall be applicable for uses proposed as a part of a planned unit development. Mixed uses shall comply with the regulations applicable for each individual use, as outlined above, except that if regulations are inconsistent with each other, the regulations applicable to the most restrictive use shall apply. However, a special use that is part of a PUD shall not be separately processed as a special use, instead, it shall be processed as part of the PUD application.

(E) *Regulatory flexibility*. To encourage flexibility and creativity consistent with the planned unit development concept, departures from the regulations in division (D), above, may be permitted, subject to review and approval by the Planning Commission and City Council. For example, such departures may include but are not limited to modifications to: lot dimensional standards; floor area standards; setback requirements; parking, loading and landscaping requirements; and similar requirements. These modifications may be permitted only if they will result in a higher quality of development or a better design or layout than would be possible without the modifications.

(F) *Permitted mix of uses*. Where the existing underlying zoning district is residential, nonresidential uses shall be permitted as part of a planned unit development which also contains a residential component, provided that the applicant demonstrates that the residential uses will be predominant and the non-residential use will not create a nuisance for abutting property. The Planning Commission shall determine predominance of use after taking into account the following criteria as they apply to each of the proposed uses: extent to which it serves residents in the PUD compared to others who travel to the site, amount of traffic generated; hours of operation or use; noise, odors and overall impact on adjoining uses; land area allocated to each use; and, building area allocated to each use. Where residential development is the principal use and a commercial component of the PUD is predominantly designed to serve persons other than those who reside in the PUD, it shall not be permitted.

(G) *Open space requirements*. Open space shall at least equal that which would be provided under the maximum lot coverage requirements of the underlying district. Open space shall be in large contiguous units that are easily accessible and usable. Small discontinuous areas of open space are contrary to the intent of this section, although it may be necessary to permit up to 20% of the total open space area in small discontinuous areas on a given parcel in order to achieve quality design and/or function of the balance of the PUD. Any land without a structure within the boundaries of the site may be included as required open space, except for land in the floodplain, subject to an easement, submerged lands and land contained in public or private street right-of-way. The required open space shall be set aside by the developer through an irrevocable conveyance, such as a deed restriction or covenant that runs with the land, assuring that the open space will be developed according to the site plan and never change to another use unless the PUD plan is properly amended according to the requirements of § 154.117. The conveyance shall:

(1) Ensure the open space is under single ownership or control, such that there is a single person or entity having proprietary responsibility for the open space. The applicant shall provide sufficient documentation of ownership or control in the form of agreements, contracts, covenants, master deeds and/or deed restrictions that indicate that open space will be held as proposed in perpetuity;

(2) Guarantee to the satisfaction of the City Council that all open space portions of the development will be maintained in the manner approved. Documents shall be presented to the satisfaction of the city attorney that bind all successors and future owners in fee title to maintenance commitments made as a part of the approval of the open space; and

(3) Provide for maintenance to be undertaken by the city in the event that the dedicated open space is inadequately maintained, or is determined by the city to be a public nuisance, with the assessment of costs upon the property owners within the PUD.

(H) *Frontage and access*. Planned unit developments shall front onto a street with adequate capacity to safely accommodate the traffic of the development without unreasonably congesting the street. Road improvements contiguous to the site of the PUD that would improve traffic safety and reduce congestion may be required as a condition of a development approval. Access and egress openings from the development onto a public or private street shall be limited to one per 200 feet. The nearest edge of any entrance or exit drive shall be located no closer than 100 feet from any street or road intersection (measured from the nearest intersection right-of-way line). All requirements of §§ 154.060 through 154.068 shall also apply to planned unit developments.

(I) *Utilities; privacy for dwelling units*. The design of a planned unit development, including electric, telephone and cable television lines, shall be placed underground, wherever feasible or required by the city.

(J) *Privacy for dwelling units*. The design of a planned unit development shall provide visual and sound privacy for all dwelling units within and surrounding the development. Fences, walks and landscaping shall be used in the site design to protect the privacy of dwelling units.

(K) *Emergency access*. The configuration of buildings, driveways and other improvements shall permit convenient and direct emergency vehicle access.

(L) *Pedestrian and vehicular circulation*. A pedestrian circulation system shall be provided that is isolated as completely as possible from the vehicular circulation system. The layout of vehicular and pedestrian circulation routes shall respect the pattern of existing or planned streets, sidewalks and bicycle pathways in the vicinity of the site.

(M) *Minimum spacing*. Minimum spacing between detached buildings shall not be less than 20 feet measured from the nearest point of the foundation. In no case shall spacing be less than required under the Building Code.

(N) *Building length*. No multiple-family building shall exceed 120 feet in length along any one elevation of the building measured between its two furthest points.

(O) *Sensitive natural features*. All sensitive natural features such as drainage ways and streams, wetlands, lands within the 100-year floodplains, and stream or river banks (which by virtue of soils and slope may create highly erodible hazards to the public health and safety) shall remain unencumbered by any principal or accessory buildings and structures.

(P) *Natural vegetation strip along streams*. Drainage ways and streams shall be protected by a 25 foot natural vegetation strip or public easement measured from the centerline of the drainage ways or streams and measured from the ordinary high water mark for other surface water bodies.

(Q) *Buffer zone along property lines*. Natural vegetation, planted or landscaped buffer areas of 25 feet width are required wherever feasible along all exterior boundaries of the property to be developed as a PUD.

(R) *Parking areas*. The parking area shall be designed so as to maximize and encourage the use of landscape breaks and/or buffers to minimize the unbroken expanses of surfaced area. However, landscaped areas in parking lots shall be large enough to support thriving vegetation and shall be preferred over many small landscape islands.

(S) *Common property*.

(1) Common property in the PUD is a parcel or parcels of land, a privately owned road, or roads, together with the improvements thereon, the use and enjoyment of which are shared by the owners

and occupants of the individual building sites or condominiums within the PUD. When common property exists, the ownership of the common property shall be private.

(2) When privately owned, arrangements must be made for the improvements, operation and maintenance of the common property and facilities, including private streets, drives, service parking and recreational facilities (such as a club house or tennis courts).

(3) The applicant shall guarantee to the satisfaction of the city attorney that all common property portions of the development will be maintained in perpetuity and in the manner approved. Documents shall be presented that bind all successors and future owners in fee title to commitments made as a part of the approval of the common property.

(4) This provision shall not prohibit a transfer of ownership or control, provided notice of the transfer is provided to the city and the land use continues as approved.

(T) *Easements across common property*. When common property exists in private ownership, the owners shall grant easements, over, under and through the property to the city as are required for public purposes.

(Ord. 040726, passed - -; Am. Ord. 02-02, passed 2-11-2002; Am. Ord. 130812-1, passed 8-12-2013)

§ 154.114 APPLICATION AND DATA REQUIREMENTS.

Application for planned unit development approval shall include all data requirements for site plan review as specified in §§ 154.060 through 154.068. Twelve copies shall be submitted. In considering any application for approval of a planned unit development proposal, the Planning Commission and City Council shall make their determinations on the basis of standards set forth for site plan review, as well the following standards and requirements. In addition, the application shall include the following:

(A) *An overall plan for the planned unit development*. The overall plan shall graphically represent the development concept using maps and illustrations to indicate each type of use, square footage or acreage allocated to each use, approximate locations of each principal structure and use in the development, setbacks and typical layouts and elevations for each type of use. The overall plan shall clearly delineate each type of residential use; office, commercial and other nonresidential use; each type of open space; community facilities and public areas; and other types of land use;

(B) *Map and written explanation*. A map and written explanation of the relationship of the proposed planned unit development to the city's Comprehensive Plan;

(C) *Conformance with the planned unit development concept*. The overall design and all uses proposed in connection with a planned unit development shall be consistent with and promote the intent of the planned unit development concept described in § 154.110, as well as with the specific project design standards set forth herein;

(D) *Compatibility with adjacent uses*. The proposed planned unit development shall set forth specifications with respect to height, setbacks, density, parking, circulation, landscaping, views and other design and layout features which exhibit due regard for the relationship of the development to the surrounding properties and uses thereon. In determining whether this requirement has been met, consideration shall be given to the following:

(1) The bulk, placement and materials of construction of proposed structures;

(2) The location and screening of vehicular circulation and parking areas in relation to the surrounding development;

(3) The location and screening of outdoor storage, outdoor activity or work areas, and mechanical equipment in relation to surrounding development;

(4) The hours of operation of the proposed uses; and

(5) The provision of landscaping and other site amenities.

(E) *Public services*. The proposed planned unit development shall not exceed the capacity of existing and available public services, including but not necessarily limited to utilities, public roads, police and fire protection services and educational services, unless the project proposal contains an acceptable plan for providing necessary services or evidence that such services will be available by the time the planned unit development is completed;

(F) *Impact of traffic*. The planned unit development shall be designed to minimize the impact of traffic generated by the proposed development on surrounding areas;

(G) *Accommodations for pedestrian traffic*. The planned unit development shall be designed with a sidewalk network to accommodate safe pedestrian circulation throughout and along the perimeter of the site, without interference from vehicular traffic;

(H) *Compliance with applicable regulations*. The proposed planned unit development shall be in compliance with all applicable federal, state and local laws and ordinances;

(I) *Legal documentation of single ownership or control*. The documentation shall be in the form of agreements, contracts, covenants and deed restriction which indicate that the development can be completed as shown on the plans, and further, that all portions of the development that are not to be maintained at public expense will continue to be operated and maintained by the developers, their successors, or other authorized entity;

(J) *Schedule*. A specific schedule of the intended development and construction details, including the phasing or timing of all proposed improvements; and

(K) *Draft*. A draft of ownership and governance documents. These documents shall include the following:

(1) Deeds of ownership;

(2) Warranties guaranteeing ownership conveyed and described in the deeds;

(3) A list of covenants, conditions and restrictions that are conditions of ownership upon the purchasers and owners in the planned unit development; and

(4) Association bylaws (for example, condominium or homeowner’s association bylaws) which describe how the association is organized; the duties of the association to operate, manage and maintain common elements of the planned unit development; and, the duties of individual shareholders to manage and maintain their own units.

(Ord. 02-02, passed 2-11-2002)

§ 154.115 PROCEDURES AND REQUIREMENTS.

(A) *Amendment required*. The approval of a planned unit development application shall require an amendment to this chapter to revise the zoning map and designate the subject property as "Planned Unit Development Overlay Zone" or "PUD Overlay Zone". Approval granted under this section, including rezoning, if applicable, and all aspects of the final site plan and conditions imposed on it, shall constitute an inseparable part of the PUD approval.

(B) *Review procedure*.

(1) *General*. Planned unit development applications shall be submitted in accordance with the following procedures and requirements, which provide for detailed review of planned unit development proposals by the Planning Commission, followed by review and final approval by the City Council:

(2) *Pre-application conference*.

(a) Prior to the submission of an application for planned unit development approval, the applicant shall meet with the Chairperson of the Planning Commission, the Mayor, and the City Manager, together with such consultants as either the city or the applicant deem appropriate. The City Manager shall invite officials from other departments of the city, or agencies serving the city who might have an interest in the proposed development, or who might assist the city in the review process. The purpose of the meeting is to inform city officials of the concept of the proposed development and to provide the potential applicant with information regarding land development policies, procedures, standards and requirements of the city in terms of the proposed development. Statements made in the course of a pre-application conference shall not be legally binding commitments.

(b) At the pre-application conference (or conferences), the applicant shall submit a general sketch plan of the proposed planned unit development, accompanied by other maps and by written statements sufficient to convey the following information:

1. A legal description of the property in question;

2. A recent map of the site, reflecting area size and boundary line dimensions;

3. The total number of acres and square feet in the project;

4. Existing and proposed land uses and their approximate locations;

5. A statement of the approximate number of residential units, the approximate number and type of nonresidential units, and the approximate number of acres and square feet to be occupied by each type of use;

6. The approximate net residential density and expected final population of the proposed PUD;

7. The number of acres and square feet to be preserved as open or recreational space, and the general location of any such proposed open space or public use areas;

8. Existing floodplains, bodies of water and other unbuildable areas, and all known natural resources and natural features to be preserved;

9. Circulation patterns and emergency vehicle access, including pedestrian walkways and arterial, collector or local streets;

10. An explanation of the character of the PUD, the manner in which it has been planned to take advantage of the PUD regulations, the manner in which it reflects the purpose of planned unit developments as stated in § 154.110, and its conformance to the city’s Comprehensive Plan. The applicant shall detail the modification of the underlined zone to be sought;

11. A statement of ownership or option to purchase of all lands within the proposed PUD;

12. A general indication of the expected schedule of development, including phases of development, if any; and

13. Any other maps plans, site data or information that the applicant wishes to submit to explain the proposed development.

(c) After completion of the pre-application review, an applicant who wishes to proceed shall submit an application for PUD approval and a site plan conforming to the requirements of §§ 154.060 through 154.068.

(C) *Applicant eligibility*. The application shall be submitted by the owner of an interest in land for which planned unit development approval is sought, or by the owner’s designated agent. The applicant or a designated representative should be present at all scheduled review meetings or consideration of the proposal may be tabled.

(D) *Application forms and documentation*. The application for planned unit development shall be made on the forms provided by the Zoning Administrator and shall conform with the submittal requirements of § 154.114. An application which does not meet submittal requirements shall be considered incomplete and shall not be formally reviewed.

(E) *Site plan preparation*. The site plan shall be prepared in the manner specified in §§ 154.060 through 154.068. A site plan which does not meet submittal requirements shall be considered incomplete and shall not be formally reviewed

(F) *Submission of a completed plan*. The planned unit development application materials, required fees, and sufficient copies of the completed site plan shall be submitted to the Zoning Administrator. Once the site plan and all required materials are established as being complete, sufficient copies shall be provided for distribution to each member of the Planning Commission and City Council.

(G) *Zoning Administrator*. After all application materials have been received and review fees paid, the City Clerk shall initiate the following.

(1) *Acceptance for processing*. The application shall be placed on the agenda of an upcoming Planning Commission meeting and a public hearing shall be scheduled.

(2) *Public hearing*. The public hearing shall be scheduled in the same manner as required for special uses in §§ 154.080 through 154.092, the public hearing and notice required by this division shall be regarded as fulfilling the public hearing and notice requirements for amendment of this chapter.

(H) *Planning Commission review*. The Planning Commission shall conduct a public hearing on a PUD request. The planned unit development proposal and site plan shall be reviewed by the Planning Commission in relation to applicable standards and regulations and for consistency with the intent and intent of the planned unit development concept. In formulating a decision, the Planning Commission shall consider the public hearing findings, any special reports as well as the recommended actions of the Zoning Administrator, city consultants and other reviewing agencies.

(1) *Plan revision*. If the Planning Commission determines that revisions are necessary to bring the planned unit development proposal into compliance with applicable standards and regulations, the applicants shall be given the opportunity to submit a revised site plan.

(2) *Submission of revised plans*. Following submission of a revised plan, the planned unit development proposal shall be placed on the agenda of the next scheduled meeting of the Planning Commission for further review and possible action.

(I) *Planning Commission determination*. The Planning Commission shall make a recommendation to the City Council, based on the requirements and standards of this chapter. The Planning Commission shall recommend approval; approval with conditions; or, denial as follows.

(1) *Approval*. Upon determination by the Planning Commission that the final site plan for planned unit developments is in compliance with the standards and requirements of this chapter and other applicable ordinance and laws, the Planning Commission shall recommend approval.

(2) *Approval with conditions*. The Planning Commission may recommend that the City Council impose reasonable conditions with the approval of a planned unit development proposal, to the extent authorized by law, for the following purposes.

(a) To insure that public services and facilities affected by the proposed development will be capable of accommodating increased public service loads caused by the development;

(b) To protect the natural environment and conserve natural resources and energy;

(c) To insure compatibility with adjacent uses of land;

(d) To promote the use of land in a socially and economically desirable manner;

(e) To protect the public health, safety and welfare of the individuals in the development and those immediately adjacent, and the community as a whole;

(f) To achieve the intent and purpose of this chapter; and

(g) In the event that the planned unit development is approved subject to conditions, such conditions shall become a part of the record of approval, and shall be modified only as provided in § 154.117.

(3) *Denial*. Upon determination by the Planning Commission that a planned unit development proposal does not comply with the standards and regulations set forth in this chapter, or otherwise would be injurious to the public health, safety, welfare and orderly development of the city, the Planning Commission shall recommend denial.

(4) *Preparation of report*. The Planning Commission shall prepare and transmit a report to the City Council stating its conclusions and recommendations, the basis for its recommendation, and any recommended conditions relating to an affirmative decision.

(5) *Submission of plans for City Council review*. After the Planning Commission makes its recommendations, the applicant shall make any required revisions and submit sufficient copies of the revised site plan and supporting materials for City Council review.

(6) *Public hearing*. Upon receipt of the recommendations of the Planning Commission on the proposed planned unit development plan and application, the City Council shall schedule a public hearing, in accordance with § 154.115 above.

(7) *City Council determination*. The City Council shall make a determination based on review of the site plan and recommendation of the Planning Commission and the reports and recommendation from the Zoning Administrator, city consultants and other reviewing agencies. Following completion of its review, the City Council shall approve, approve with conditions, or deny a planned unit development proposal in accordance with the guidelines described previously in § 154.113.

(8) *Recording of Planning Commission and City Council action*. Each action token with respect to a planned unit development shall be duly recorded in the minutes of the Planning Commission and/or City Council, as appropriate. The grounds for the action taken shall also be recorded in the minutes.

(9) *Effect of approval*. Approval of a planned unit development proposal shall constitute an amendment to the zoning map if the property is not already zoned PUD. All improvements and use of the site shall be in conformity with the approved planned unit development and any conditions imposed. Notice of the adoption of a PUD amendment shall be published in accordance with the requirements set forth in §§ 154.110 through 154.118. The applicant shall record an affidavit with the Register of Deeds containing the legal description of the entire project, specifying the date of approval, and declaring that all future improvements will be carried out in accordance with the approved planned unit development unless an amendment pursuant to § 154.117 is adopted by the City Council upon request by the applicant or his or her successors. If a PUD involves a platted subdivision or master deed for a condominium project, whichever is applicable shall be filed as required by those statues before construction may begin.

(10) *Zoning Board of Appeals; authority*. The Zoning Board of Appeals shall not have the authority to consider an appeal of a decision by the City Council or Planning Commission concerning a planned unit development proposal.

(11) *Application for a building permit*. Prior to issuance of a building permit, the applicant shall submit proof of the following:

(a) Final approval of the site plan and planned unit development application;

(b) Final approval of the engineering plans;

(c) Acquisition of all other applicable city, county or state permits; and

(d) Receipt of filing of the plat or master deed from the appropriate state agency whichever is applicable.

(12) *Expiration of planned unit development approval*. Construction must be initiated under a planned unit development approval within one year from date of issuance of a zoning permit therefore. Upon receipt of a written request for an extension, an extension of up to one year may be granted by the Planning Commission if the Planning Commission feels the nature of the problems preventing project initiation are legitimate, and that the approved site plan adequately represents current conditions on and surrounding the site. If the project is not initiated within 24 months of the original approval the PUD is cancelled. Thereafter, the project may proceed only if approved after going through the entire planned unit development process again, starting with a new application. In the event that an approved planned unit development site plan becomes null and void, the city shall initiate proceedings to amend the zoning classification of the site.

(13) *Performance guarantee*. The Planning Commission or City Council may require that a performance guarantee meeting the requirements of § 154.067 be deposited with the City to ensure faithful completion of any improvements associated with or conditions required by planned unit development approval.

(14) *Fees in escrow for professional reviews*. For any application for site plan approval, a special land use permit, planned unit development, variance, or other use or activity requiring a permit under this chapter, either the Zoning Administrator or the Planning Commission may require the deposit of fees to be held in escrow in the name of the applicant. An escrow fee may be required for any project with more than ten dwelling units, or more than 10,000 square feet of enclosed space, or which requires more than 20 parking spaces. An escrow fee may be required for any other project which may, in the discretion of the Zoning Administrator or Planning Commission create an identifiable and potentially negative impact on public infrastructure or services, or on adjacent properties and because of which, profession input is desired before a decision to approve, deny or approve with conditions is made.

(Ord. 02-02, passed 2-11-2002)

§ 154.116 PHASING AND COMMENCEMENT OF CONSTRUCTION.

(A) *Integrity of each phase*.

(1) Where a project is proposed for construction in phases, the project shall be so designed that each phase, when completed, shall be capable of standing on its own in terms of the presence of services, facilities and open space, and shall contain the necessary components to ensure protection of natural resources and the health, safety and welfare of the users of the planned unit development and residents of the community.

(2) Each phase of a PUD project requires submittal of a site plan and review under the procedures and requirements of this subchapter. However, a larger area could be rezoned PUD than the phase for which development approval is sought. If done, site plan review must still follow the two phase, two hearing process established in this subchapter.

(B) *Rate of completion of residential and nonresidential components*.

(1) *Purpose*. The purpose of the following provision is to ensure that planned unit developments are constructed in an orderly manner and, further, to ensure that the planned unit development approach is not used as a means of circumventing restrictions on the location or quantity of certain types of land use.

(2) *General standards*. In developments which include residential and non-residential components, the phasing plan shall provide for completion of a least 35% of all proposed residential units concurrent with the first phase of any non residential construction; completion of at least 75% of all proposed residential construction, concurrent with the second phase of non-residential construction; and completion of 100% of all residential construction prior to the third phase of non-residential construction. For purposes of carrying out this provision, the percentage shall be reasonable approximations as determined by the Planning Commission and Zoning Administrator, based on the floor area and land area allocated to each use.

(3) *Modification to general standards*. The percentages may be modified should the Planning Commission and City Council determine that the applicant presented adequate assurance that the residential component or components of the project will be completed within the specified time period.

(4) *Completion of each phase*. Each phase of the project shall be commenced within 12 months of the schedule set forth on the approved plans. If construction is not commenced within the required time period, approval of the plan shall become null and void, subject to the provision in § 154.115.

(Ord. 02-02, passed 2-11-2002)

§ 154.117 REVISION TO APPROVED PLANS.

(A) *General revision*. An approved planned unit development proposal and site plan may be revised in accordance with the procedures set forth for approval of a new proposal in § 154.114.

(B) *Minor changes*. Notwithstanding division (A) above, minor changes may be permitted by the Planning Commission after following site plan review amendment procedures outlined in §§ 154.060 through 154.068, and subject to the Planning Commission finding that:

(1) The proposed changes will not affect the basis on which initial approval was granted;

(2) The proposed minor changes will not adversely affect the overall planned unit development in light of the intent and purposes of the development as stated in § 154.110; and

(3) The proposed changes will not affect the character or intensity of use, the general configuration of buildings and uses on the site, vehicular or pedestrian circulation, drainage patterns, or the demand for public services.

(C) *Minor changes*. Examples of minor changes include, but are not limited to:

(1) Additions or alterations to the landscape plan or landscape materials;

(2) Alterations to the internal parking layout of an off-street lot provided that the total number of spaces or ingress or egress is not reduced; and

(3) Relocation of a trash receptacle.

(D) *Dedication of utilities and roads.* Roads within the PUD development containing commercial or multifamily residential apartments, not associated with access to individual commercial or residential units, shall be dedicated to the city. Likewise, utility easements shall be conveyed to the city. Utility easements and roads in PUD developments approved prior to the enactment of this chapter and PUD developments only containing single family residential dwellings may remain in private ownership.

(Ord. 02-02, passed 2-11-2002; Am. Ord. 140714-1, passed 7-14-2014)

§ 154.118 REQUIRED IMPROVEMENTS PRIOR TO ISSUANCE OF CERTIFICATE OF OCCUPANCY.

The Planning Commission is hereby empowered to stipulate that all improvements required of an approved PUD be constructed and completed prior to issuing a certificate of occupancy. In the event

that the improvements are partially completed to the point that occupancy would not impair the health, safety and general welfare of residents, but are not fully completed, the Planning Commission may, upon the recommendation of the Building Inspector, approve a certificate of occupancy so long as the developer deposits a performance bond with the City Clerk/Treasurer in an amount equal to the cost of the improvements yet to be made, the improvements to be completed with six months of the date of the issuance of the certificate of occupancy. In the event the provision herein are not complied with, the bond shall be forfeited and shall be used by the city to construct the required improvements yet to be made, and/or for the enforcement of this chapter.

(Ord. 02-02, passed 2-11-2002)

OFF-STREET PARKING

§ 154.130 GENERAL OFF-STREET PARKING REGULATIONS.

Off-street parking shall be provided and maintained by each property or business owner for all buildings and uses as required by § 154.135.

(A) *Multiple uses*. When a single parcel of land or a building contains more than one use or activity that requires parking spaces, each use shall be considered separately in calculating the number of parking spaces required.

(B) *Changes in use*. Whenever a use is changed or a new use is created for existing buildings or floor area, additional parking spaces shall be provided and maintained in the proper ratio to the increased floor area or capacity.

(C) *Increases in floor area*. Whenever the floor area or capacity is increased in an existing building, either by structural alteration, or by new construction, additional parking spaces shall be provided and maintained in the proper ratio to the increased floor area or capacity.

(D) *Decreases in floor area*. Whenever the floor area or capacity is decreased in an existing building for any use or activity the requirement for off-street parking spaces shall also decrease in relation to the decreased floor area or capacity.

(E) *New construction*. Construction of a new commercial building shall require the provision of parking to comply with the requirements of this chapter.

(F) *Existing parking spaces*. Existing parking spaces provided on or off-premises shall be assigned to existing uses and may not be assigned to newly created floor space or uses unless sufficient parking spaces are provided on or off site to meet the requirements of existing floor space and/or uses.

(G) *Requirements for service/delivery vehicles*. Minimum off-street parking space for service/delivery vehicles shall be one space for every such vehicle operated by the establishment.

(Ord. 02-02, passed 2-11-2002)

§ 154.131 EXCEPTION TO OFF-STREET PARKING REQUIREMENTS.

(A) Except as otherwise required in this section, the following zoning districts shall be exempt from any parking requirements:

(1) C-1 City Center Commercial;

(2) C-2 Water Street Commercial;

(3) C- 2 Water Street East;

(4) C-1 Water Street North; and

(5) C-2 Water Street South.

(B) If the Planning Commission determines that off-street parking is required as part of a site plan, special land use approval, planned unit development approval, or any new structure containing four or more dwelling units, then additional off-street parking requirements may be required.

(Ord. 120326-1, passed 3-26-2012)

§ 154.132 OFF PREMISES PARKING.

(A) If approved by the Zoning Administrator, required parking may be located within a reasonable distance of the premises it serves and/or may be consolidated into a large parking area serving other buildings and uses; provided that the property is located in the same district.

(B) The off-street parking shall be maintained and regulated as if it were located on the premises it is designed to serve.

(C) The Zoning Administrator may require a plat, deed or agreement, or any other proof necessary to show that the required parking, if located off the premises, is controlled by and available to the property owner in perpetuity.

(D) An agreement between the city and the owner of the off-premises parking area which meets the satisfaction of the City Attorney shall be drafted and recorded of the expense of the property owner. It shall prohibit any change of the property used for off-premises parking without first receiving approval of the Zoning Administrator. In no case shall the amount of off-premises parking be reduced without the consent of the city as an amendment to this agreement.

(Ord. 02-02, passed 2-11-2002)

§ 154.133 JOINT USE OF PARKING FACILITIES.

The joint use of parking facilities by two or more contiguous uses not separated by a street, private road or alley, may be granted by the Planning Commission whenever the use is practical and satisfactory to each of the uses intended to be served, and when all requirements for location, design and construction are met.

(A) *Computing capacities*. In computing capacities of any joint use, the total space requirement is the sum of the individual requirements that will occur at the same time of day. If space requirements for individual uses occur at distinctly different times, the total of the off-street parking facilities required for joint or collective use may be reduced below the sum of the individual space requirements.

(B) *Record of agreement*. A copy of an agreement between joint users shall be filed with the city. This agreement shall include a guarantee for continued use of the parking facility by each party.

(C) *Notice of change required*. Whenever a business is engaged in the sharing of a parking facility based on differing hours of use, and the hours of use change, the business owner must notify the city of the change in hours. The Zoning Administrator shall review the change in hours of use and make a

determination whether the joint use shall continue. The Zoning Administrator may also forward the notice of change to the Planning Commission for review.

(Ord. 02-02, passed 2-11-2002)

§ 154.134 SITE DEVELOPMENT REQUIREMENTS.

All off-street parking areas shall be designed, constructed and maintained in accordance with the following standards and requirements.

(A) *Marking and designation*. Parking areas shall be so designed and marked as to provide for the orderly and safe movement and storage of vehicles.

(B) *Size*. All parking spaces shall be at least nine feet wide and 20 feet in length.

(C) *Surface*. Off-street parking shall be surfaced with asphalt, concrete, paving blocks, gravel or other stable, durable material on a properly engineered base and shall not result in storm water runoff onto adjoining properties or streets.

(D) *Access*. All off-street parking areas shall have vehicular access to a street or alley.

(E) *Access points*. Access points (driveways) located on a street, shall be as follows:

(1) Any vehicular access point shall not exceed 25 feet in width;

(2) All vehicular access points excluding single-family residential shall be located at least 150 feet or two-thirds the distance of the lot frontage, whichever is less, from the intersection of any right-of way lines of streets and at least 15 feet from all side and rear property lines;

(3) There shall be a minimum distance of 30 feet between any two access points serving the property, but no more than two access points shall be provided. The Planning Commission, after review, may permit additional access points when such access points are justified and necessary due to the length of the street frontage serving the premises and that the additional access points will substantially reduce traffic hazards or congestion on adjacent streets serving the property; and

(4) Private roads designed to provide vehicular access to non-residential buildings or uses shall not pass through a residential zoning district.

(F) *Site maneuverability*. Each parking space, within an off-street parking area, shall be provided with adequate access by means of maneuvering lanes. Backing directly onto a street right-of-way shall be prohibited. The width of required maneuvering lanes may vary depending upon the proposed parking pattern as follows:

(1) For right angle parking patterns 75 to 90 degrees, the maneuvering lane width shall be a minimum of 22 feet; and

(2) For parking patterns 54 to 74 degrees, the maneuvering lane width shall be a minimum of 18 feet.

(a) For parking patterns 30 to 53 degrees, the maneuvering lane width shall be a minimum of 15 feet.

(b) All maneuvering lane widths of less than 20 feet shall permit only 1-way traffic movement.

(G) *Screening*.

(1) All off-street parking shall have a properly maintained landscape separation strip at least five feet in width along all property lines and streets on which the off-street parking is located.

(2) Vehicular wheel stops or barriers shall be installed to prevent vehicles from driving onto the landscaped area. See § 154.142 Screening.

(Ord. 02-02, passed 2-11-2002)

§ 154.135 MINIMUM OFF-STREET PARKING REQUIREMENTS.

Minimum Automobile Off-Street Parking Requirements		
Types of Buildings and Uses	***Minimum Number of Parking Spaces Required per Indicated Unit***	***Unit of Measure***
Minimum Automobile Off-Street Parking Requirements		
Types of Buildings and Uses	***Minimum Number of Parking Spaces Required per Indicated Unit***	***Unit of Measure***
Floating homes	2	Per floating home
Dwellings	2.0	Per dwelling unit
Retail store	1.0	Per 100 square feet of usable floor area
Research, development and testing laboratories	0.4	Per 100 square feet of usable floor area
Motion picture theaters Or	0.3 1.0	Per person based on maximum capacity Per 50 square feet of usable floor and/or land area devoted to assembly of recreation use on the premises
Motel/motor court or hotel/inn And	1.0 1.0	Per sleeping unit Per resident manager
Bed and breakfast	1.0	Per 3 sleeping units or fraction thereof
Automotive dealer establishments	1.5	Per person regularly employed on the premises
Gasoline service stations	1.5	Per person regularly employed on the premises
Automobile and truck repair establishments	0.5	Per 100 square feet of usable floor area devoted to retail selling of merchandise, goods and products
Sales and service establishments	0.5	Per 100 square feet of usable floor area devoted to retail selling of merchandise, goods and products
Marina Plus	1 .0 1 .0	Per 4 transient boat slips Per 1 seasonal boat slip

Veterinarian and animal hospital service establishments	1.8	Per person regularly employed on the premises
Plus	3.0	Per veterinarian
Manufacturing Wholesale and storage establishments	0.7	Per person regularly employed on the premises, based on largest single employment shift
Educational facilities	0.6	Per student enrolled on the premises
Cultural facilities	0.3	Per 100 square feet of usable floor area
Or	1.0	Per 100 square feet of floor and/or land area devoted to assembly of visitor use on the premises
Commercial boat	1.0	Per 5-passenger capacity
Religious facilities	0.3	Per seat, based on maximum capacity of auditorium or principal place of assembly
Mortuaries, funeral homes	1.0	Per 50 square feet of usable floor area devoted to slumber rooms, parlors or individual mortuary rooms
Plus	0.3	Per seat, based on maximum capacity of funeral service chamber or chapel
Private recreation camp	1.0	Per 3 beds
Plus	0.3	Per 100 square feet of usable floor area for buildings devoted to visitor assembly
Or	1.0	Per 100 square feet of floor and/or land area devoted to visitor assembly
For uses not listed, the Planning Commission shall determine the appropriate number of parking spaces required.		

(Ord. passed 6-24-1996; Am. Ord. 02-02, passed 2-11-2002; Am. Ord. 060710-1, passed 7-10-2006; Am. Ord. 120326-1, passed 3-26-2012; Am. Ord. 160711-1, passed 7-11-2016; Am. Ord. 210726-A, passed 7-26-2020) Penalty, see § 154.999

SIGNS, SCREENING AND FENCES

§ 154.140 SIGN DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

BANNER. A flexible sign directly mounted to a building, or a support on a building, or between two poles made of natural or synthetic material that is used to call attention to a business, product,

service, or activity, not including flags as defined in this section.

BULLETIN or ***MENU BOARDS.*** Printed or handwritten messages that announce an event held on the premises or sample restaurant menus attached to a bulletin board in a weatherproof enclosure.

CONSTRUCTION SIGN. A sign which identifies the owners, financiers, contractors, engineers, architects, tenants, or other parties responsible for a project under construction.

DIRECTIONAL SIGN. A sign for private traffic direction which directs traffic movement onto or within a property.

FEATHER FLAG SIGN, WINDFEATHER SIGN. A flexible sign made of natural or synthetic material typically fastened on one long side to a flexible or non-flexible pole mounted on the ground, intended to move with the wind to call attention to a business, product, service or activity, not including flags as defined in this section.

FLAG. A piece of fabric of distinctive design that is used as a sign, symbol, or emblem hung from a pole, a bracket, or attached to the side of a building.

GARAGE SALE SIGN. A sign used to advertise a private sale of personal household possessions and not for the use of any commercial venture.

HOME ADDRESS SIGN. A sign with a numerical address of the property.

HOME BUSINESS/HOME OCCUPATION SIGN. A sign which advertises or identifies a business that is located in a private residence.

INFORMATIONAL SIGN. Signs that carry information and have no commercial message such as *telephone* or *loading only* or one that lists business hours.

MURAL. A work of art applied to or made integral with a wall surface.

NEON SIGNS.

(1) ***EXTERIOR NEON SIGN.*** A freestanding or attached sign displayed on the exterior of a building.

(2) ***INTERIOR NEON SIGN.*** A neon sign displayed within four feet of a window and intended to be viewed from the outside.

OFF-PREMISE SIGN. A sign which directs attention to a business or service offered or existing elsewhere than upon the same lot where the sign is displayed. The above shall include an outdoor advertising sign (billboard) on which space is leased or rented by the owner to others for the purpose of conveying a commercial or non-commercial message.

PENNANT. Any lightweight plastic, fabric, or other material, suspended from a rope, wire, or string, usually in series, designed to move in the wind.

PERMANENT SIGN. Any sign constructed of durable materials, secured on a structure or property, and intended to exist for the duration of time that the use or occupant is located on the premises.

POLITICAL/ELECTION SIGN. A temporary sign used in connection with an official city, school district, county, state, or federal election or referendum.

PORTABLE SIGNS. Any sign designed to be moved easily and not permanently attached to the ground or other permanent structure, including but not limited to: flashing A-frames, searchlights, beacons, balloons, umbrellas, trailers, wheeled or non-wheeled carts, or signs inside, on, or against parked vehicles.

OPINION SIGN.A sign displaying a noncommercial message that is political, religious, or personal in nature.

REAL ESTATE SIGN. A sign advertising the real estate upon which the sign is located as being for sale or lease.

RENTAL SIGN. A sign advertising the rental of a dwelling for long or short-term occupancy.

SANDWICH BOARD SIGN. A temporary free standing sign constructed in such a manner as to form an “A” or a tent-like shape, hinged or not hinged at the top, each angular face held at an appropriate distance by a supporting member.

SIGN. Any words, lettering, parts of letters, figures, numerals, phrases, sentences, emblems, devices, designs, trademarks, logos or pictures, or combination thereof, intended to be used to attract attention to or convey information about a person, place, business, firm, profession, or association.

SIGN AREA. The smallest area within a three or four sided polygon or circle enclosing the display surface of the sign including all letters, characters, and delineations that differentiate it from the background against which it is placed. ***SIGN AREA*** shall not include the structural supports for free standing signs. Where a sign has two faces, placed back to back, and are of equal size, the area of the two faces shall be considered as one face. If the two back-to-back faces are of unequal size, the larger of the two sign faces shall be counted as the sign area.

SIGN, ATTACHED. A permanent sign which is either painted or attached to the exterior wall of a building, including lettering on a canopy/awning, a sign hanging under a canopy/awning, or on the exterior of a window.

(1) ***CANOPY/AWNING SIGN.*** A fabric canopy or awning with all or any part used as a sign.

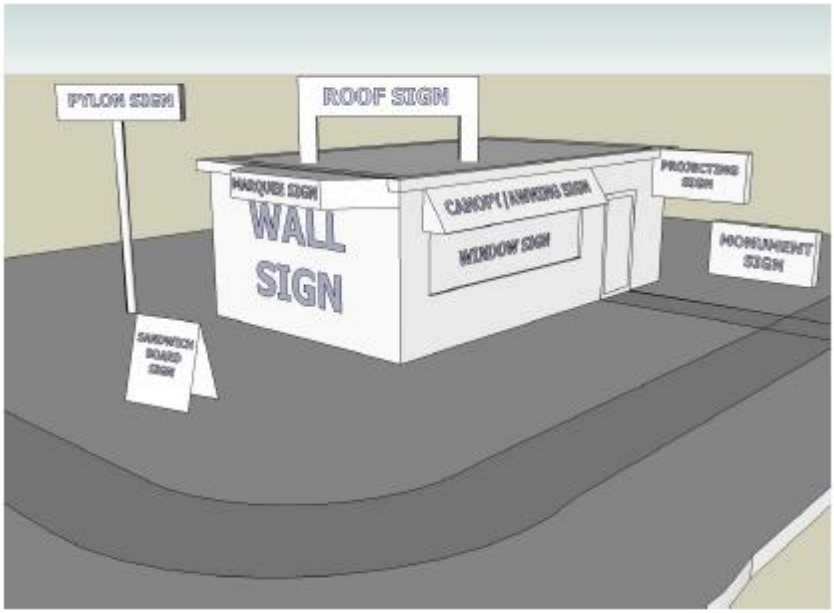
(2) ***PROJECTING SIGN.*** A double-faced sign attached at an angle or perpendicular to the wall of a building.

(3) ***ROOF SIGN.*** Any sign erected and constructed wholly on or over the roof of a building, supported by the roof structure.

(4) ***WALL SIGN.*** Any sign that is attached parallel to the wall or painted on the wall of a building.

(5) ***WINDOW SIGN.*** A sign painted on, or attached directly to, the exterior surface of a glass window or door.

(6) ***MARQUEE SIGN.*** A changeable message sign either freestanding or attached to a building. Also known as a ***MESSAGE BOARD***.



SIGN, FREESTANDING. A permanent sign which is not attached to a building or any other structure and is set permanently in the ground with posts or base.

(1) ***PYLON SIGN.*** A freestanding sign affixed permanently in the ground and supported by a single or double post(s).

(2) ***MONUMENT SIGN.*** A freestanding sign affixed directly to a masonry or other base without a support post.

TEMPORARY SIGN. Any sign that is not constructed or intended for long term use or is not permanently attached to a building, window, or structure, including but not limited to banners, pennants, feather flag signs, windfeather signs, real estate signs, garage sale signs, directional signs for special events, or signs to advertise short term sales.

(Ord. 050711, passed - -; Am. Ord. 02-02, passed 2-11-2002; Am. Ord. 090824-1, passed 8-24-2009; Am. Ord. 101122-1, passed 11-22-2010; Am. Ord. 160808-2, passed 8-8-2016)

§ 154.141 SIGN REQUIREMENTS.

(A) *Statement of purpose*. The purpose of this chapter is to regulate permanent signs in a manner which will permit the identification and/or advertizing of a business, product, or event while maintaining the protection of the city's appearance and the general welfare of the public.

(B) *Regulation of sign requirements*. All permanent signs shall be subject to the following regulations to be enforced by the Zoning Administrator, unless otherwise provided in this chapter (see § 154.022(K)(5), § 154.022(L)(4), and Chapter 152). Unless otherwise permitted within this section, no signage shall be displayed within the city. of Saugatuck.

(C) *Sign permit procedure*. All proposed permanent signs shall be subject to prior approval by the Zoning Administrator. All applications for approval of proposed signs shall indicate size, type, materials, structural supporting devices, and type of illumination (if any). A scale drawing of the proposed sign shall be provided with all applications. If the application is made by the building tenant, the same must have written permission for the proposed sign from the building owner. Sign approval shall be valid for a period of one year. If the approved sign is not installed within that period, a new application must be submitted.

(D) *Signs- freestanding.* Non-residential uses are permitted to have one freestanding sign per frontage. Said sign shall meet the following requirements:

(1) Total area of all freestanding signs for each lot shall not exceed 0.25 square feet per linear foot of property frontage on a public or private road up to 32 square feet;

(2) Freestanding signs shall not exceed 12 feet in height from the grade of the sidewalk to the upper most point of the sign. If no sidewalk is present, then the measurement shall be taken to the grade of the nearest public or private road;

(3) Freestanding signs shall be located at least five feet from any property line;

(4) Freestanding signs shall be located at least 25 feet from any other freestanding sign;

(5) Freestanding signs shall be placed in a manor as to not create a traffic vision obstruction; and

(6) Directional freestanding signs, on private property for the direction of traffic, shall not exceed two square feet in size per sign, and shall be approved as part of an overall site plan by the Planning Commission.

(E) *Attached signs*. Each non-residential use is permitted to have up to two wall signs per building frontage. Attached signs as defined in this chapter shall meet the following requirements:

(1) The total area of all attached signage associated with a non-residential use shall not exceed 0.75 square feet per linear foot of building frontage. The maximum area of any sign visible from more than one street shall not exceed 0.75 square feet per linear foot of the largest building frontage and shall count as the signage for that frontage. If the building contains more than one business, then the frontage shall be limited to the building frontage of the tenant space facing a public street or primary entrance;

(2) Projecting and canopy signs shall be located such that there is a clear area of no less than seven feet below the lowest part of the sign and the sidewalk or ground surface below the sign and shall not project more than four feet from the building face to which it is attached;

(3) No attached sign shall be permitted to extend above the roofline of the building to which it is attached;

(4) No projecting or canopy sign shall be within ten feet of another projecting or canopy sign; and

(5) Building names which do not contain a commercial message, as determined by the Zoning Administrator, and have been engraved into stone or brick as part of the building facade shall not be included in the calculation of signage or number of signs permitted.

(F) *Sign illumination*. The illumination of permanent signs shall be subject to the following regulations:

(1) All externally lit signs shall be designed so that the light source shall not be visible from the public right-of-way;

(2) All internally lit signs shall be designed such that the source of the lighting is not visible from the public right-of-way; and

(3) No sign shall contain lights which flash, change color or intensity.

(G) *Exempt signs.* The following permanent signs are exempt from requiring a permit or historic district approval if they meet the following regulations:

(1) Signs on docks: Signs on docks shall be permitted subject to the following regulations:

(a) Primary signage meant to identify a business or service from a waterway shall be limited in size to six square feet in area; and

(b) Signage on a boat dock with the main business located in a nearby building shall be limited to one sign with a maximum area of 1.5 square feet oriented vertically, and attached only to a piling at the entrance to the dock.

(2) Residential signs: Buildings that do not contain any commercial use shall be permitted to have an attached sign up to two square feet listing the name of the structure, the occupants, street address, or other non-commercial message.

(3) Signs erected by government agencies and necessary for the identification, operation, or protection of public services, incidental to the legal process, or necessary for public welfare.

(4) Flags: Official national, state, local, provincial, or other government entity flags, and official public or private educational institution, fraternal organization, society, or similar organization flags, no larger than 24 square feet in size shall be permitted. Flags displaying commercial emblems, commercial messages, business or organization names, or “Open” or similar message shall be regulated as attached signs.

(H) *Historic district.* Permanent signs located within the historic district shall require approval from the Historic District Commission before installation.

(I) *Temporary signs.* Temporary signs shall be regulated by § 150.30.

(J) *Compliance with building codes*. All signs shall comply with the building and electrical codes of the city. Underground wiring shall be required for all illuminated signs, or signs requiring electrical connections which are not attached to a building.

(K) *Existing non-conforming signs*. The intent of this section is to permit the continuance of a lawful use of any sign existing at the time of the effective date of this section, although the sign or supporting structure may not conform with the provisions of this section. Further, it is the intent that non-conforming signs and structures be gradually eliminated upon their natural deterioration.

(1) Every permanent legally existing sign which does not conform to the height, size, area, or location requirements of this subchapter as of the date of the adoption of this section, is hereby deemed to be non-conforming.

(2) Alteration, erection, replacement, or enlargement of signs. No person, firm, corporation, partnership, or other legal entity shall alter, replace, or enlarge the faces, supports, or other parts of existing non-conforming signs except in accordance with this section. Non-conforming signs, however, may be repaired, repainted, or otherwise maintained.

(3) Accidental destruction.

(a) If a non-conforming sign is destroyed, it may be replaced, provided that it is not enlarged in size or dimension. If the sign is located in the public right-of-way, the sign may not be replaced without the approval of the Zoning Board of Appeals for a sign permit.

(b) For the purpose of this section, a non-conforming sign is destroyed if damaged to an extent that the cost of repairing it to its former state or replacing it with an equivalent sign equals or exceeds the value of the damaged sign prior to the damage.

(4) A non-conforming sign may be diminished in size or dimension, or the copy of the sign amended or changed without jeopardizing the privilege of non-conforming use.

(L) *Permanent signs in the public right-of-way or in city parks.*

(1) All existing non-conforming signs, supports, and structures located in the public right-of- way may continue to occupy the right-of-way until such time that they are accidentally destroyed, removed, or become non-functional. These signs shall not be replaced without approval of the Planning Commission for a sign permit, the City Council for a revocable license, and the Historic District Commission if located in the Historic District.

(2) Any new permanent signs within the public right-of-way shall obtain City Council approval prior to erection. Signs shall not create a traffic vision obstruction, pedestrian traffic obstruction, or prevent the general accepted use of the public right-of-way.

(Ord. passed 6-24-1996; Am. Ord. passed 4-27-1998; Am. Ord. 050711, passed - -; Am. Ord. 02-02, passed 2-11-2002; Am. Ord. 090824-1, passed 8-24-2009; Am. Ord. 101122-1, passed 11-22-2010) Penalty, see § 154.999

§ 154.142 SCREENING.

(A) *Intent*. The intent of this section is to promote the public's health, safety and general welfare by minimizing noise, air and visual pollution; to improve the appearance of off-street parking and other vehicular use areas; and require buffering between incompatible land uses.

(B) *Application*. These requirements shall apply to all uses for which site plan review is required under §§ 154.060 through 154.068 and any other use so specified in this chapter.

(C) *Landscape plan required*. A landscape plan shall be required to be submitted as part of a site plan review (see §§ 154.060 through 154.068) showing landscaping, greenbelt buffer zone(s), and/or screening consistent with the requirements set forth herein. The landscape plan shall include but not be limited to:

(1) Location, spacing, size and descriptions for each plant type proposed for use within the required landscape area;

(2) Minimum scale: one inch equals ten feet;

(3) Existing and proposed contours on-site and where requested by the Zoning Administrator, 150 feet beyond the site at intervals not to exceed two feet;

(4) Typical straight cross-section including slope, height and width of berms and type of ground cover, or height and type of construction of wall or fence, including footings;

(5) Significant construction details to resolve specific site conditions, such as tree wells to preserve existing trees or culverts to maintain natural drainage patterns;

(6) Planting and staking details in either text or drawing form to ensure proper installation and establishment of proposed plant materials;

(7) Identification of existing trees and vegetative cover to be preserved;

(8) Identification of grass and other ground cover and method of planting; and

(9) Identification of landscape maintenance program including statement that all diseased, damaged or dead materials shall be replaced in accordance with standards of this chapter.

(D) *Screening between land uses*. Upon any project for which a site plan is required, or whenever a nonresidential use or multiple family dwelling abuts a residentially zoned or used property, screening shall be constructed along all adjoining boundaries with residentially zoned or used property. The Planning Commission may waive some or all of these provisions for a planned unit development where the waiving of the provisions will strengthen the planned unit development concept. The required screening may be accomplished by the following methods:

(1) A buffer zone at least ten feet in width consisting of living plant materials so as to maintain a minimum opacity of at least 80%. Opacity shall be measured by observation of any two square yard area of landscape screen between one foot above the finished grade and the top or highest point of the screen. The plantings must meet this standard based on reasonably anticipated growth over a period of three years. In the event that after a period of three years, the screening has not achieved an opacity of 80%, the property owner may be required to install additional plant material.

(2) An earthen berm constructed with slopes not to exceed 1:3 and planted with grass, ground cover or other living plant material to prevent soil erosion. Berms shall be constructed with a rounded surface with a 2-foot minimum width at the highest point of the berm and extending the length of the berm.

(3) A solid wall or fence meeting the requirements of this section at least five feet but not greater than six feet in height measured on the side of the proposed wall having the higher grade within five feet horizontally. When the distance between structures or adjoining lots is less than twice the minimum setback, or where there is a need to provide a greater noise or dust barrier or to screen more intense development, a solid wall or fence may be required at the discretion of the Planning Commission.

(4) A combination of an earthen berm and a solid wall which meet the requirements of this section.

(E) *Screening adjacent to a street or highway*. Upon any project for which a site plan review is required, a greenbelt buffer strip with the minimum width determined by half the front yard setback its zoning classification shall be located between the abutting right-of-way of a public street or state highway.

(1) The buffer strip shall be landscaped with a minimum of one tree not less than 12 feet in height or a minimum caliper of two and one-half inches (whichever is greater at the time of planting), for each 30 lineal feet, or major portion thereof, of frontage abutting the right-of-way. The remainder of the greenbelt shall be landscaped in grass, ground cover, shrubs and/or other natural living landscape material.

(2) Access ways from a public right of way through required landscape strips shall be permitted, but the access ways shall not be subtracted from the lineal dimension used to determine the minimum number of trees required unless the calculations would result in a violation of the spacing requirement set forth in this section.

(F) *Additional screening requirements*. Where a commercial or industrial zone or use abuts a residential zone or use, all support equipment including but not limited to air conditioning and heating equipment, gas meters and exhaust fans located outside of a building shall be screened from the view of abutting streets and surrounding properties. If the building is located in the Historic District, the proposed screening must be approved by the Historic District.

(1) *Roof mounted equipment*. Roof mounted equipment shall be screened from the view of abutting streets and surrounding properties by an architectural feature such as a parapet wall, roof or other structure that is compatible with the building. If the building is located within the Historic District, the proposed screening must be approved by the Historic District Commission.

(2) *Equipment at finished grade*. When located on the ground adjacent to a building, mechanical equipment shall be screened from the view of the street or surrounding properties by a solid wall, fencing or landscaping.

(3) *Outdoor storage*. In all commercial or industrial districts, outdoor storage areas shall be screened by a solid wall, fence or landscaping.

(4) *Public utility substations*. Public utility substations shall be screened on all sides by a solid wall, fence or landscaping.

(5) *Loading areas*. Loading areas shall be screened whenever abutting a different zone or a residential property consistent with the requirements of this section.

(6) *Trash storage areas*. All areas used for the storage of trash or rubbish including dumpsters and other commercial containers shall be screened on all sides by a solid screen no less than six feet in height. Gates shall have a working latch and remain closed when not in use. All such enclosures shall be maintained in good working order with properly functioning gates and hardware.

(7) *Privacy screen*. Structures in a Residential Zone shall not exceed six feet in height above the surface of the deck, patio or pool or other area to be screened. These structures shall not require a fence permit.

(G) *Parking lot landscaping*. Separate landscaped areas shall be required either within or at the perimeter of parking lots. There shall be one tree for every eight parking spaces, with minimum landscaped space within a designated parking area of 50 square feet. A minimum distance of three feet shall be established between proposed tree or shrub plantings and the backside of the curb or edge of the pavement.

(H) *Greenbelt buffers*.

(1) A strip of land with a minimum width determined by the front yard setback of its zoning classification shall be located between the abutting right-of-way of a public street, state highway or major thoroughfare, and shall be landscaped with a minimum of one tree not less than 12 feet in height or a minimum caliper of two and one-half inches (whichever is greater at the time of planting) for each 30 lineal feet, or major portion thereof, of frontage abutting the right-of-way. The remainder of the greenbelt shall be landscaped in grass, ground cover, shrubs and/or other natural, living, landscape material.

(2) Access ways from a public right-of-way through required landscape strips shall be permitted, but the access ways shall not be subtracted from the lineal dimension used to determine the minimum number of trees required unless the calculation would result in a violation of the spacing requirement set forth in this section.

(I) *Exceptions to fencing and screening requirements*.

(1) *Buildings abutting lot lines*. Required screening or fencing may be omitted along any lot line where a building wall exists immediately abutting the lot line.

(2) *Location adjustment*. Where property line fencing or screening is required, the location may be adjusted so the fencing may be constructed at or within the setback line, provided the areas between the fence and the lot lines are landscaped, or in naturally vegetated areas, retained in their natural vegetative state at the discretion of the Planning Commission.

(3) *Existing screening*. Any fence, screen, wall or hedge which does not conform to the provisions of this section and which is legally existing at the effective date of this chapter may be continued and maintained, provided there is no physical change other than necessary maintenance and repair in such fence, screen, wall or hedge except as permitted in other sections of this chapter.

(4) *Planning Commission modification*. Any of the requirements of this section may be waived or modified through site plan approval, provided the Planning Commission first makes a written finding that specifically identified characteristics of the site or site vicinity would make required fencing or screening unnecessary or ineffective, or where it would impair vision at a driveway or street intersection.

(5) *Zoning Board of Appeals*. The Zoning Board of Appeals may require or waive any fencing, screening, landscaping or buffering as may be provided for in this section as a condition of a variance or other authorization in whatever manner necessary to achieve an identified public purpose. The

Zoning Board of Appeals shall record the reason for the condition and clearly specify what is required in any approval granted.

(Ord. 02-02, passed 2-11-2002)

§ 154.143 FENCING.

(A) *Intent.* The purpose of this section is to promote the public health, safety and welfare by regulating the manner and location of fence installations in the city while preserving the appearance, character and value of the community and its residential neighborhoods and commercial areas.

(B) *Permit required.* The erection, construction or substantial rebuilding of any fence shall require a fence permit. Substantial rebuilding is reconstruction of more than 50% of the structure, a change in height of the structure or a change from existing material. Painting, cleaning, replacement of like materials or other actions commonly considered as general maintenance shall not be defined as "substantial rebuilding".

(C) *Permit process.* Any person desiring to construct, or cause to be constructed, any fence or screen for which a permit is required as defined in this chapter, shall apply to the Zoning Administrator for a permit. A site plan of the proposed fence or screen shall be submitted with the application and shall:

(1) Be drawn to scale with the scale noted, and the direction north noted;

(2) Include the name, address and phone number of the person who prepared the drawing;

(3) Show the locations and proper dimensions of lot lines and street right of way lines. A legal survey may be requested at the discretion of the Zoning Administrator;

(4) Show the location of the proposed fence or screen in relation to the property lines;

(5) Show the height of the fence throughout; and

(6) The Zoning Administrator shall review the application with respect to compliance with the requirements of this chapter. If all requirements have been met, a permit will be issued.

(D) *General requirements.*

(1) *Materials.* Fences and screens shall be constructed of steel, iron, wood, masonry or other durable materials. Masonry piers may be substituted for wood posts.

(2) *Construction.* Fences and screens shall be constructed and maintained plumb and true with adequate support and in a safe and sightly manner. Posts or piers shall be spaced not more than eight feet on center.

(3) *Maintenance and repair.* The owner of any fence or screen shall remove or repair a fence that is dangerous, dilapidated or otherwise in violation of this code. Fences and screens shall be maintained to retain their original appearance, shape and configuration. Elements of the fence or screen that are missing, damaged, destroyed or repaired shall be replaced and/or repaired to maintain conformity with the original fence.

(4) *Fire/public hazard.* No fence shall be approved which constitutes a fire hazard either of itself or in connection with the existing structures in the vicinity, nor which interferes with access by the Fire Department, or which will constitute a hazard to street traffic or pedestrians.

(E) *Fence location and height regulations.*

(1) There shall be a maximum of one fence permitted along a property line for each property owner. No portion of a fence shall project beyond the owner's property line.

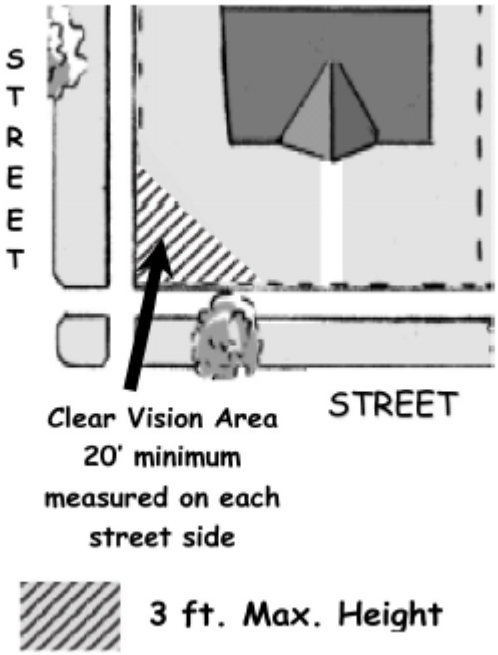
(2) When erecting a new fence next to an existing fence, the maintenance of the area between the fences shall be the responsibility of the person erecting the new fence. Fence panels shall be raised sufficiently above grade to allow for maintenance of the area between the fences.

(3) The decorative side of the fence (the one that reveals to the least extent the support members of the fence) shall be located so that it is facing toward the adjacent properties and toward the street on a corner lot.

(4) Fences located within a rear or side yard shall not exceed six feet in height measured from the surface of the ground, unless as part of an approved site plan, in which case the Planning Commission may approve fences up to ten feet in height.

(5) Fences located within a front yard setback shall not exceed three feet in height measured from the surface of the ground and shall not be located within one foot of the public right-of-way or sidewalk and shall not prevent clear vision of an intersection or a driveway.

(6) For corner lots, fences located within a side yard abutting a side street shall not exceed six feet in height measured from the surface of the ground. All fences in the side yard on a side street shall be located at least one foot from the public right-of-way or sidewalk and shall not prevent clear vision of an intersection or a driveway. Clear vision at an intersection means that no fence higher than three feet measured from the surface of the ground shall be placed within 20 feet of an intersection as illustrated below:



(7) No fence may be located in the public right-of-way, including but not limited to the area between the sidewalk and the street.

(8) For purposes of this division, for a corner lot the widest lot dimension along a street line shall be deemed to be a side yard on a side street.

(F) *Additional fence requirements.*

(1) *Barrier fences.* Fences containing barbed wire, electric charges or sharp materials at the top of the fence are prohibited unless needed to protect the public safety and approved by the Planning Commission.

(2) *Temporary construction fences.* Temporary construction fences and fences for protection around excavations shall comply with all requirements of the State Construction Code. The fences shall not be in place for a period of more than one year without special approval from the Zoning Administrator.

(3) *Hedges.* A hedge used as a fence or screen shall be considered a fence for the purposes of this chapter.

(4) *Masonry walls.* A masonry wall used as a fence or screen shall be considered a fence for the purposes of this chapter. Masonry walls shall be constructed to facilitate maintenance. Drainage patterns shall not be modified so as to endanger adjacent property. The outer face of the wall (those facing adjacent property owners or streets) shall be made of clay, brick, stone, split face or cut concrete block, or other similar decorative material.

(5) *Privacy screening.* See § 154.142.

(6) *Waterfront.* Fences located within 25 feet of the shore of any lake, river or stream shall not be greater than four feet in height and shall be wrought iron, open mesh, chain link, lattice, slatted or similar type fencing provided that a minimum ratio of six parts open space to one part solid material is maintained.

(Ord. 02-02, passed 2-11-2002; Am. Ord. 140714-1, passed 7-14-2014; Am. Ord. 170522-1, passed 5-22-2017; Am. Ord. 201109-B, passed 11-9-2020)

§ 154.144 LANDSCAPING.

(A) *Intent*. The intent of this section is to promote the public's health, safety and welfare by reducing noise and visual pollution; improving the appearance of off-street parking and other vehicular use areas; by requiring buffering between incompatible land uses and regulating the appearance of property abutting public rights of way.

(B) *Application of regulations*.

(1) These requirements shall apply to all uses for which a site plan review is required under §§ 154.060 through 154.068 and any other use specified in this chapter.

(2) No site plan shall be approved unless the site plan shows landscaping, greenbelt buffer zones and/or screening consistent with the requirements set forth herein.

(C) *Site landscaping requirements*. Upon any project for which a site plan review is required, a minimum of 10% of the site area shall be landscaped excluding the road right of way. Areas used for storm drainage purposes such as unfenced drainage courses or retention areas may be included as a portion of the required landscaped area but not to exceed 5% of the site area. This shall be in addition to any buffer zone or parking lot landscaping required by this section.

(1) *Quality of plant materials*. Plant materials shall be of generally acceptable species, free of insects and disease, hearty to the climate and shall conform to the minimum standard of the American Association of Nurserymen.

(2) *Existing trees*. Existing trees labeled "To Remain" on site plans shall be protected during construction by the installation of barriers or fences placed around the drip line of any tree intended to be saved to prevent any vehicle or other construction equipment from being parked or stored within the drip line.

(3) *Trees damaged or removed*. In the event that healthy trees which are used to meet the minimum requirements of this chapter are cut down, destroyed, damaged or excavated at the drip line, as determined by the city, the contractor shall replace them with a tree of minimum size as required in §§ 154.140 through 154.144.

(4) *Installation, maintenance and completion*. All landscaping required by this chapter shall be planted prior to obtaining a certificate of occupancy or a performance bond shall be secured pursuant to § 154.173 for the amount of the cost of the landscaping, to be released only after landscaping is completed to the satisfaction of the city.

(Ord. 02-02, passed 2-11-2002)

BOARD OF APPEALS

§ 154.150 PROVISION FOR ZONING BOARD OF APPEALS.

A Zoning Board of Appeals is hereby authorized in accordance with Public Act 110 of 2006, being M.C.L.A. § 125.3101 *et seq*., as amended, to carry out the responsibilities provided therein, and those delegated herein.

(Ord. passed 6-24-1996; Am. Ord. 02-02, passed 2-11-2002; Am. Ord. 071008-01, passed 10-8-2007)

§ 154.151 MEMBERSHIP.

(A) Membership of the Zoning Board of Appeals shall consist of five members, each to be appointed by the City Council for a term of three years.

(B) Members of the Zoning Board of Appeals are required to be electors residing in the city.

(C) One member of the Zoning Board of Appeals may be a member of the Planning Commission who holds no other municipal office.

(D) Members of the Board of Appeals shall serve at the pleasure of the Council and shall be removable by the City Council for nonfeasance, malfeasance and misfeasance of office upon written charges and after a public hearing.

(Ord. passed 6-24-1996; Am. Ord. 02-02, passed 2-11-2002; Am. Ord. 071008-01, passed 10-8-2007; Am. Ord. 080825-1, passed 8-25-2008)

§ 154.152 ALTERNATE MEMBERS.

(A) The City Council shall appoint not more than two alternate members for the same term as regular members of the Board of Appeals (three years).

(B) An alternate member may be called to sit as a regular member of the Board of Appeals in the absence of a regular member if the regular member is absent from or unable to attend a meeting.

(C) An alternate member may also be called to serve in the place of a regular member for the purpose of reaching a decision in a case in which the regular member has abstained for reasons of conflict of interest.

(D) The alternate member shall have the same voting rights as a regular member of the Board of Appeals.

(E) The Chairperson of the Zoning Board of Appeals shall be responsible to call any alternate member to serve and shall, if practical, call on the members to serve alternately.

(Ord. passed 6-24-1996; Am. Ord. 02-02, passed 2-11-2002; Am. Ord. 071008-01, passed 10-8-2007)

§ 154.153 ORGANIZATION AND PROCEDURES.

(A) *Rules of procedure*. The Zoning Board of Appeals shall adopt its own rules of procedure as may be necessary to conduct its meetings and carry out its functions. The Board shall choose its own chairperson, and, in his or her absence, an acting chairperson.

(B) *Meetings*. Meetings shall be held the second Thursday of each month or as otherwise scheduled. All meetings by the Board shall be open to the public in accordance with the Open Meetings Act, Public Act 267 of 1976, being M.C.L.A. §§ 15.261 *et seq*. The Board may declare any meeting, or part of any meeting, a study meeting to pursue matters of business without comment or interruption from the public in attendance. A quorum (three members) is required. The Board may choose to not hold a meeting if there is a lack of substantial business for the agenda.

(C) *Records*. Minutes shall be recorded of all proceedings which shall contain the evidence received, the findings of fact and data relevant to every case considered, together with the votes of the members and the final disposition of each case. The minutes shall be filed in the city administration office and shall be made available to the general public. The City Clerk shall act as secretary to the Zoning Board of Appeals and all records of the Board's action shall be taken and recorded under the City Clerk's direction.

(D) *Counsel*. An attorney for the city shall act as legal counsel for the Board and shall be present at all meetings upon request by the Board as approved by the Zoning Administrator.

(E) *Hearings*. Within a reasonable amount of time following the filing of an appeal by a party permitted to appeal by law, the Zoning Board of Appeals shall hold a hearing of the appeal. Notice of the hearing shall be given in accordance with § 154.179. Upon the hearing, any party may appear in person, or by agent, or by attorney.

(F) *Decisions*.

(1) The Zoning Board of Appeals shall return a decision on a case within 45 days after a request or appeal has been heard, unless a further time is agreed upon with the parties concerned.

(2) Any decision of the Board shall not become final until the expiration of five days from the date of entry of the order, unless the Board shall find the immediate effect of the order is necessary for the preservation of property or personal rights and shall so certify on the record.

(G) *Vote required*. The concurring vote of a majority of the members of the Board shall be necessary to reverse an order, requirement, decision or determination of the Zoning Administrator or Planning Commission, or to decide in favor of the applicant, a matter upon which they are required to pass under this chapter or to effect a variation in this chapter, provided, however, that a concurring vote of two-thirds of the members of the Board shall be necessary to grant a variance from uses of land permitted in this chapter.

(H) *Report to City Council and Planning Commission*. Each February the Zoning Board of Appeals Chairperson shall report to the City Council and Planning Commission, list all applications and appeals made to it since its last report, and shall summarize its decisions on the applications and appeals.

(I) *Powers and duties*. The Zoning Board of Appeals shall have the power and duties prescribed by law and by this chapter which are more particularly specified as follows.

(1) *Generally*. Upon appeal, the Zoning Board of Appeals may reverse or affirm, wholly, or in part, or may modify the order, requirement, decision or determination, as in its opinion ought to be made in the premise, and to that end shall have all the power of the official from whom the appeal is taken, and may direct the issuance of a permit.

(2) *Interpretation*. Upon appeal from a decision of the Zoning Administrator or Planning Commission, to decide any question involving the interpretation of any provision of this chapter including determination of the exact location of any zoning boundary if there is uncertainty with respect thereto; and

(3) *Variances*. The Zoning Board of Appeals shall be empowered to issue variances under conditions set forth in this chapter.

(J) *Validity of permit*. Any decision of the Zoning Board of Appeals which has resulted in granting a zoning permit, or variance shall be valid for a period of one year, with the Zoning Administrator to have the power to extend the permit for an additional year upon showing of a practical need.

(K) *Right of court review*. Any person aggrieved by a decision of the Zoning Board of Appeals shall have the right to review of same by appeal to the County Circuit Court. Upon appeal, the Circuit Court shall review the record and decision of the Board of Appeals to ensure that the decision:

(1) Complies with the Constitution and laws of the state;

(2) Is based upon proper procedure;

(3) Is supported by competent, material an substantial evidence on the record;

(4) Represents the reasonable exercise of discretion granted by law to the Board of Appeals; and

(L) If the court finds the record of the Board of Appeals inadequate to make the review required, or that additional evidence exists which is material and with good reason was not presented to the Board of Appeals, the court shall order further proceedings before the Board of Appeals on conditions which the court considers proper. The Board of Appeals may modify its findings and decision as a result of the new proceedings, or may affirm its original decision. Any supplementary record and decision shall be filed with the court.

(M) *Authority of court*. As a result of the review required by this section, the court may affirm, reverse, or modify the decision of the Board of Appeals.

(Ord. 02-02, passed 2-11-2002; Am. Ord. 071008-01, passed 10-8-2007; Am. Ord. 141013-1, passed 10-13-2014)

§ 154.154 EFFECT OF APPEALS PROCEEDINGS.

An appeal to the Zoning Board of Appeals stays all proceedings in furtherance of the action appealed from, unless the officer or body from whom the appeal is taken certifies to the Board of Appeals, after the notice of appeal had been filed, that by reason of facts stated in the certificate, a stay would, in the opinion of the officer or body, cause imminent peril to life or property, in which case proceedings shall not be stayed, otherwise than by a restraining order which may be granted by the Board of Appeals or by the circuit court, on application, on notice to the officer or board from whom the appeal is taken and on due cause shown.

(Ord. passed 6-24-1996; Am. Ord. 02-02, passed 2-11-2002)

§ 154.155 STANDARDS FOR VARIANCES.

(A) Where there are practical difficulties or unnecessary hardship in the way of carrying out the strict letter of this chapter, the Board of Appeals may in passing on appeals vary or modify any of the rules or provisions of this chapter relating to the construction, or structural changes in, equipment, or alteration of buildings or structures, or the use of land, buildings or structures, so that the intent of this chapter should be observed, public safety secured, and substantial justice done.

(B) To obtain a dimensional or non-use variance, the owner must show a practical difficulty by demonstrating that all of the following standards are met:

(1) That strict compliance with area, setbacks, frontage, height, bulk or density would unreasonably prevent the owner from using the property for a permitted purpose, or would render conformity unnecessarily burdensome;

(2) That a variance would do substantial justice to the owner as well as to other property owners in the district, or whether a lesser relaxation would give substantial relief and be more consistent with justice to others;

(3) That the plight of the owner is due to unique circumstances of the property and not to general neighborhood conditions; and

(4) That the problem is not self-created or based on personal financial circumstances.

(C) To obtain a use variance, the applicant must show an unnecessary hardship by demonstrating that all of the following standards are met:

(1) That the property in question cannot be used for any of the uses permitted in the district in which it is located;

(2) That the plight of the owner is due to unique circumstances of the property and not to general neighborhood conditions;

(3) That by granting the variance, the essential character of the neighborhood would not be altered; and

(4) That the problem is not self-created or based on personal financial circumstances.

(Ord. passed 6-24-1996; Am. Ord. 02-02, passed 2-11-2002)

§ 154.156 USE AND NON-USE VARIANCE REQUESTS.

The following standards apply to consideration of use and non-use variance requests:

(A) If when applying the standards of § 154.155 of this chapter to a non-use variance request, the Zoning Board of Appeals finds that the requirements of this chapter, as written, can be met or that there is no practical difficulty preventing a reasonable use of the land, then the non-use variance request shall be denied;

(B) If when applying the standards of § 154.155 of this chapter to a use variance request, the Zoning Board of Appeals finds that no hardship exists and there is a reasonable use of the property as zoned without the grant of a use variance, then the use variance request shall be denied; and

(C) If when applying the standards of § 154.155 above to either a use or non-use variance request, the Zoning Board of Appeals finds that the hardship or practical difficulty is not unique, but common to several properties in the area, the finding must be transmitted by the Board of Appeals to the Planning Commission who shall determine whether to initiate an amendment to this Zoning Code. See § 154.153.

(Ord. passed 6-24-1996; Am. Ord. 02-02, passed 2-11-2002)

§ 154.157 APPLICATION PROCEDURES FOR APPEAL.

(A) *Filing of appeal*. When any order, requirement, decision or determination is subsequently appealed to the Zoning Board of Appeals, as provided in this chapter, the appellant shall file a notice of appeal with fee to the Zoning Administrator who shall forward all materials to the Zoning Board of Appeals.

(B) *Zoning Board of Appeals*. Zoning Board of Appeals shall review the appeal and schedule a hearing within a reasonable amount of time of the filing date in accordance with § 154.179. All decisions shall be based upon standards provided in this chapter and according to the authority to clearly interpret the provisions herein. Decisions shall be made within 45 days of the hearing date in accordance with § 154.153 above.

(Ord. passed 6-24-1996; Am. Ord. 02-02, passed 2-11-2002)

ADMINISTRATION AND ENFORCEMENT

§ 154.170 ENFORCEMENT BY ZONING ADMINISTRATOR.

This chapter shall be administered by the Zoning Administrator designated and appointed by the City Council.

(Ord. passed 6-24-1996; Am. Ord. 02-02, passed 2-11-2002)

§ 154.171 DUTIES OF THE ZONING ADMINISTRATOR.

It shall be the responsibility of the Zoning Administrator to enforce the provisions of this chapter and in so doing shall perform the following duties:

(A) *Enforcement.* The Zoning Administrator shall administer and enforce this chapter and shall have the right to enter and inspect periodically all construction sites during the process of the work. He or she shall inspect the construction at least once upon completion of the work to insure compliance with this chapter. A violation of this chapter shall constitute a nuisance per se.

(B) *Binding interpretations.* The Zoning Administrator shall have the authority to render binding interpretations of provisions of this chapter and shall administer the same. An aggrieved party may appeal any interpretation/determination made by the Zoning Administrator in writing to the Zoning Board of Appeals within 21 days of any such determination/interpretation.

(C) *Issue permits.* All applications for zoning permits, special land use permits (including PUD) occupancy permits and variances shall be submitted to the Zoning Administrator, who may issue such permits and certificates of occupancy when all applicable provisions of this chapter have been met and approval has been granted by the proper body or official.

(D) *Revocation of permit.* The Zoning Administrator shall have the authority to revoke any permit issued pursuant to this chapter if the requirements of the permit and the provisions of this chapter are being violated, and in such case shall have the power to issue a stop-work order. An aggrieved party may appeal within 21 days of any such determination/interpretation.

(E) *Assistance of Building Inspector or engineer.* The Zoning Administrator may seek the advice and assistance of the city Building Inspector or such licensed engineer as he or she may designate if he or she feels it necessary to assure compliance with this chapter, and the Building Inspector or licensed engineer shall render such assistance when requested to do so.

(F) *Stop work orders.* Upon notice from the Zoning Administrator that any use being conducted or that any work or construction is being done contrary to the provisions of this chapter, such use or work shall cease immediately. The stop work order shall be in writing and shall be given to the owner of the property involved (as shown on the most recent property tax bill). Any person who shall continue to work on and/or construct a structure, land or building or use it after having been served with a stop work order, except such work as that person is expressly directed by the city to perform to remove a violation, shall be in violation of this chapter.

(G) *Record applications.* The Zoning Administrator shall maintain files of all applications for all the above permits, and for variances and shall keep records of all the permits and variances issued. These shall be filed in the City Administration office and shall be open to the public inspection. Copies shall be furnished at cost upon the request of any person having a proprietary or tenancy interest in the property involved.

(H) *Inspections.* The Zoning Administrator shall be empowered to make inspections of buildings or premises in order to properly carry out the enforcement of this chapter.

(I) *Record nonconforming uses.* The Zoning Administrator shall record all nonconforming uses of land found during inspections existing at the effective date of this chapter for purposes of carrying out the provisions of § 154.174.

(J) *Record of complaints.* The Zoning Administrator shall keep a record of every written and/or identifiable complaint of a violation of any of the provisions of this chapter, and of the action taken consequent to each such complaint, which records shall be public records. The Zoning Administrator is not limited to responding to complaints when it comes to enforcement of this chapter. Anytime there is a violation, the Zoning Administrator shall follow established procedures to provide notice of the violation and get it corrected.

(K) *Occupancy permits.* No structure or use shall be occupied (except for a single-family residence in zones permitting single-family residences), without first receiving an occupancy permit. An occupancy permit shall be issued by the Building Inspector following an inspection that confirms that all requirements of a previously issued zoning permit, if any, or if not, of this chapter have been met.

(L) *Cancellation of zoning permits, special land use permits and variances.*

(1) The Zoning Administrator shall have the power to revoke or cancel any zoning permit in case of failure or neglect to comply with any of the provisions of this chapter, or in case of any false statement or misrepresentation made in the application.

(2) Upon the revocation, all further construction activities and usage shall cease upon the site, other than for the purpose of correcting the violation.

(3) Cancellation of a permit issued for a special land use, planned unit development or variance shall not occur before a hearing by the body which granted the permit.

(4) The Zoning Administrator may issue a stop work order to halt all construction activities and usage pending a decision on cancellation of the permit.

(M) *Collect, retain and return performance bonds.* The City Clerk-Treasurer shall collect and retain all performance bonds, as may be required by the requirements of this chapter.

(N) *Limits on authority.* Under no circumstances is the Zoning Administrator permitted to make changes in this chapter, nor to vary the terms of this chapter while carrying out the duties prescribed herein. It shall be the responsibility of the City Council to assure that the Zoning Administrator enforces the provisions of this chapter.

(Ord. passed 6-24-1996; Am. Ord. 02-02, passed 2-11-2002; Am. Ord. 140714-1, passed 7-14-2014) Penalty, see § 154.999.

§ 154.172 APPLICATION PROCEDURES FOR ZONING PERMITS THAT DO NOT REQUIRE SITE PLAN REVIEW.

(A) Prior to construction or physical development of a proposed new use or structure, or the restoration and structural improvement (other than minor repairs) of on existing use or structure, an application for a required zoning permit must be made to the Zoning Administrator on forms supplied by the city.

(B) The data to be supplied by the applicant which shall constitute the application shall include the following, when applicable:

(1) Names and address of applicant;

(2) Location, shape, area and dimension of the lot, and of the proposed structure or improvement;

(3) Description of proposed use and of the building (dwelling, structure, barn, garage and the like) or improvements;

(4) The proposed number of sleeping rooms, dwelling units, occupants, employees, customers and other users;

(5) The yard, open space and parking space dimensions; and

(6) Proof of ownership of the property.

(C) A fee as may be set by the City Council and listed in the city's schedule of fees shall accompany any plans or application in order to defray the cost of administration and inspection.

(D) The Zoning Administrator shall review the application for required contents and shall require conformance with zoning district regulations unless a variance is obtained from the Board of Appeals, where provided in this chapter.

(E) Upon determining that the applicable conditions have been met, the Zoning Administrator shall approve the application and issue a zoning permit. One copy of the zoning permit shall be returned to the owner or applicant.

(F) If the application for zoning permit is denied by the Zoning Administrator the reason or cause for denial shall be stated in writing.

(G) A zoning permit shall be valid for 12 months. If not acted upon, a new application shall be completed and submitted for review and determination of conformance with this chapter.

(H) At least one site inspection by the Zoning Administrator must be held during development and before the new use or structure is occupied.

(I) Cancellation of permit shall be as provided for in § 154.171(G) of this subchapter.

(Ord. passed 6-24-1996; Am. Ord. 02-02, passed 2-11-2002)

§ 154.173 PERFORMANCE GUARANTEES AND PERFORMANCE BONDING FOR COMPLIANCE.

(A) *Generally*. In authorizing any zoning permit, special land use permit, condominium subdivision, planned unit development or variance, the body or official which administers the respective request, as designated by this chapter, may require that a performance guarantee or bond be furnished to insure compliance with the requirements, specifications and conditions imposed with the grant of the approval, permit or variance; to insure the discontinuance of a temporary use by a stipulated time; and to provide sufficient resources for the city to complete required improvements or conditions in the event the permit holder does not.

(B) *Improvements covered*. Improvements that shall be covered by the performance guarantee or bond include, but are not necessarily limited to streets and other roadways, utilities, fencing, screening, landscaping, common open space improvements, lighting, drainage and sidewalks. The performance guarantee shall meet the following requirements.

(1) *Form*. The performance guarantee shall be in the form of cash, certified check, irrevocable bank letter of credit, surety bond, or similar instrument acceptable to the City Clerk, which names the property owner as the obligor and the city as the obligee.

(2) *Time when required*. The performance guarantee or bond shall be submitted at the time of issuance of the permit authorizing the activity of the project. If appropriate, based on the type of performance guarantee submitted, the city shall deposit the funds in an interest bearing account in a financial institution with which the city regularly conducts business.

(3) *Amount*. The amount of the performance guarantee or bond should be sufficient to cover the estimated cost of the improvements or conditions. Additional guidelines for establishing the amount of a performance guarantee or bond may be prescribed in the schedule of fees. If none are specified or applicable to the particular use or development, the City Council may by resolution establish a guideline which it deems adequate to deal with the particular problem while ensuring the protection of the city and its inhabitants.

(C) *Return of performance guarantee or bond*. The Zoning Administrator, upon the written request of the obligor, shall rebate portions of the performance guarantee, with earned interest, upon determination that the improvements for which the rebate has been requested have been satisfactorily completed. The portion of the performance guarantee to be rebated shall be in the same amount as stated in the itemized cost estimate for the applicable improvement or condition.

(D) *Withholding and partial withholding of performance bond*. When all of the required improvements have been completed, the obligor shall send written notice to the City Clerk of completion of the improvements. Thereupon, the Zoning Administrator shall inspect all of the improvements and shall transmit recommendation to the Planning Commission and City Council indicating either approval, partial approval, or rejection of the improvements or conditions with a statement of the reasons for any rejections. If partial approval is indicated, the cost of the improvement or condition rejected shall be set forth.

(1) The Planning Commission, or on a PUD, the City Council, shall either approve, partially approve or reject the improvements or conditions with the recommendation of the Zoning Administrator's written statement and shall notify the obligor in writing of the action of the Planning Commission or the City Council within 30 days after receipt of the notice from the obligor of the completion of the improvements. Where partial approval is granted, the obliger shall be released from liability pursuant to relevant portions of the performance guarantee or bond, except for that portion adequately sufficient to secure provision of the improvements not yet approved.

(2) Should installation of improvements begin and fail to meet full completion based on the approved site plan, or if the project area is reduced in size and improvements are only partially completed or conditions only partially met, the city may complete the necessary improvements or conditions itself or by contract to an independent developer, and assess all costs of completing the improvements or conditions against the performance guarantee or bond. Any balance remaining would be returned to the applicant.

(E) *Performance bond for razing of building*.

(1) The Zoning Administrator may require a bond prior to the razing or demolition of principal structures and accessory structures having more than 144 square feet of floor area. The bond shall be determined by the City Council.

(2) A bond shall be conditioned on the applicant completing the razing within such reasonable period as shall be prescribed in the permit and complying with such regulations as to health and safety as the Zoning Administrator, Fire Inspector or the City Council may from time to time prescribe, including filling of excavations and proper termination of utility connections.

(F) *Record*. A record of authorized performance guarantees shall be maintained by the Zoning Administrator.

(Ord. passed 6-24-1996; Am. Ord. 02-02, passed 2-11-2002)

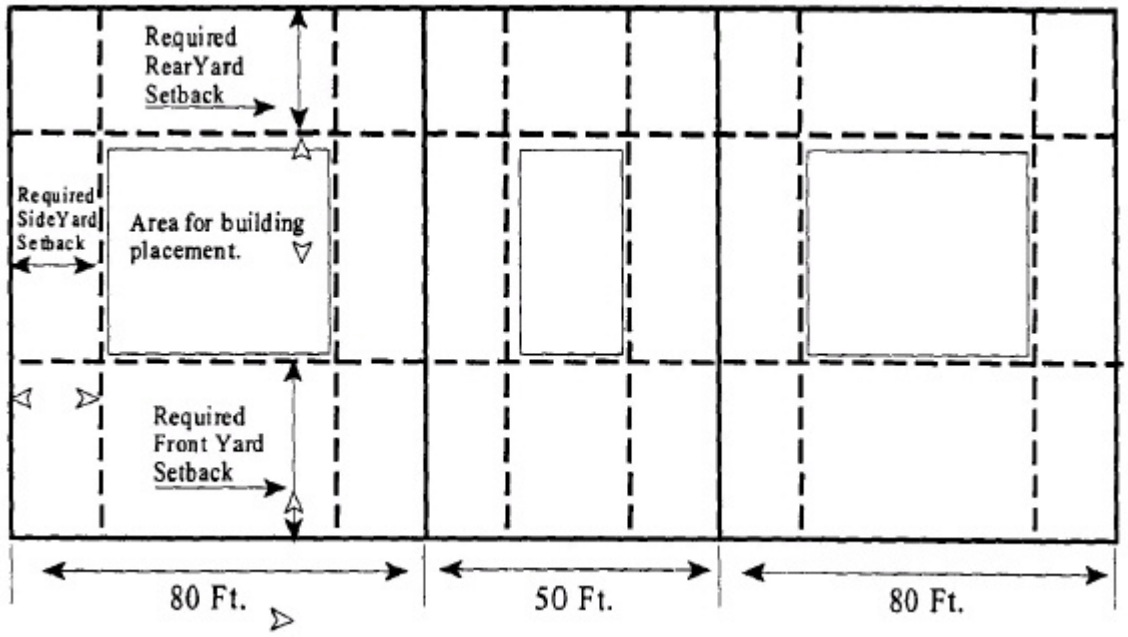
§ 154.174 NONCONFORMING USES, LOTS AND STRUCTURES.

Nonconforming lots, structures and uses, so long as they exist, prevent the full realization of the goals and objectives of the City of Saugatuck Master Plan and the objectives of this chapter. Upon the adoption of this chapter or subsequent amendments, there are lots, structures and uses of land and structures which were lawful prior to the adoption of this chapter, or the relevant amendment thereto, but which are not now in conformance. It is the intent of this chapter to permit these lawful nonconforming lots, structures and uses to continue but, with the exception of nonconforming residential structures, not to encourage their prolonged existence.

(A) *Nonconforming lots*.

(1) *Existing lot of record*. In any zoning district where an existing lot of record fails to meet the requirements for minimum lot area, minimum lot width or both, of the zoning district in which it is located, the lot may be used for the uses in the zoning district, provided that any structures comply with the required front, side, and rear yard setbacks of the zoning district; provided, however, that the foregoing shall not apply to a nonconforming lot abutted by another lot or lots under the same ownership. The zone district requires a minimum lot width of 80 feet. The undersized lot of 50 feet is a legal nonconforming parcel. The lot may be used to accommodate a permitted building provided all setbacks are complied with. A variance is not required.

Example: Nonconforming Lot



(2) *Abutting lots of record under single ownership*. In any zoning district, where two or more abutting lots of record in the same ownership do not, when considered individually, meet the requirements for minimum lot area, lot width, or both, of the zoning district in which the lot is located, prior to development any such lots shall be combined and considered as one lot for the purposes of this chapter. Where abutting lots of record which have been combined fail to meet the requirements for minimum lot area, lot width, or both, of the zoning district in which the combined lot is located, the combined lot may be used for uses allowed in the zoning district, provided that the required front, side and rear yard setbacks of the zoning district are complied with.

(B) *Nonconforming uses of land not involving a building or structure*. The lawful use of any land, not involving a building or structure, existing and lawful on the effective date of this chapter, or amendment thereto, may be continued, even though the use does not conform with the provisions of this chapter, or amendment thereto, subject to the following provisions:

(1) *Enlargement*. A lawful nonconforming use shall not be enlarged, increased or extended to occupy a greater area of land than was occupied on the effective date of this chapter, or amendment thereto;

(2) *Relocation*. A lawful nonconforming use shall not be moved in whole or in part to any other portion of the lot occupied by such use on the effective date of this chapter, or amendment thereto; and

(3) *Cessation*. If the property owner or lessee stipulates that any such nonconforming use of land will be discontinued, or if any such nonconforming use of land ceases or is abandoned for any reason

for a period of one year, any subsequent use of the land shall conform to the requirements of this chapter. The occurrence of one or more of the following conditions shall be deemed to constitute an intent on the part of the property owner or lessee to cease, discontinue and/or abandon the nonconforming use:

(a) Utilities, such as water, gas and electricity to the property have been disconnected;

(b) Signs or other indications of the existence of the nonconforming use have been removed;

(c) Equipment or fixtures necessary for the operation of the nonconforming use have been removed;

(d) The property and/or grounds have not been maintained and/or have fallen into disrepair; and

(e) Other actions which, in the opinion of the Zoning Administrator, evidence an intention on the part of the property owner or lessee to abandon the nonconforming use of the land.

(C) *Nonconforming structures.* Use of structures which are existing and lawful on the effective date of this chapter, or amendment thereto, may be continued, even though the structures do not conform with the provisions of this chapter, or amendment thereto, subject to the following provisions.

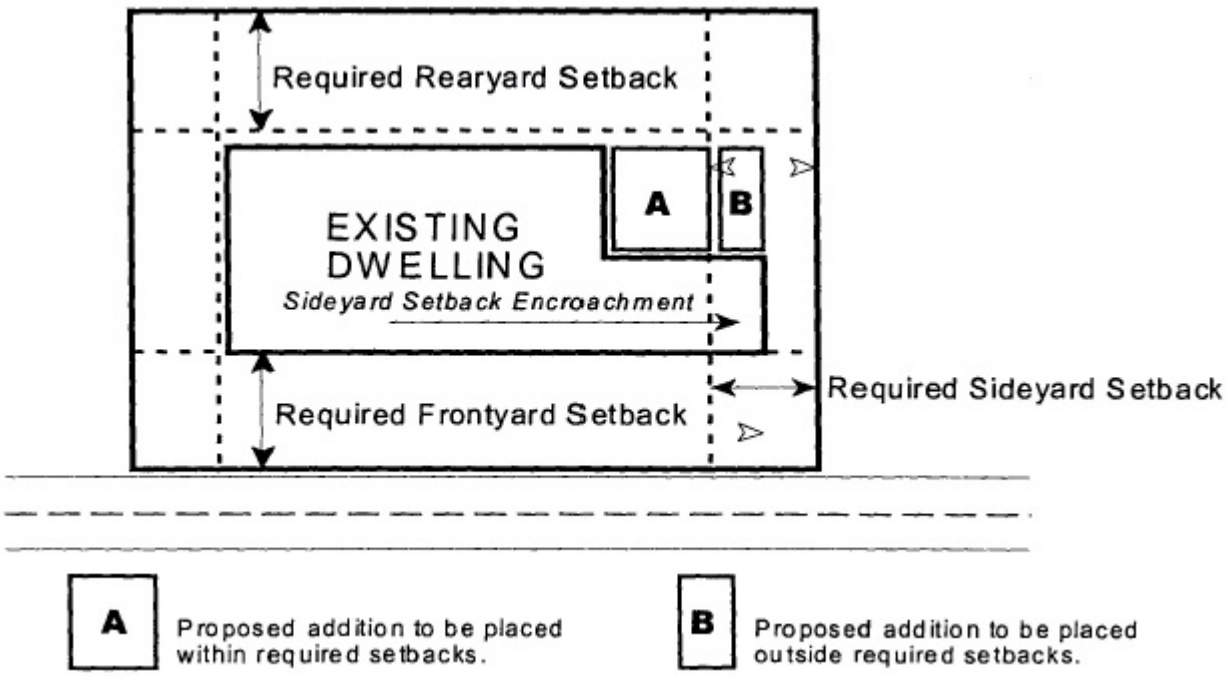
(1) *Enlargement or alteration.*

(a) A lawful nonconforming structure may not be enlarged, expanded or altered in any way which increases its nonconformity with the provisions of this chapter unless otherwise noted within this chapter. The nonconforming structure may be enlarged or altered provided that all such changes are in conformance with all provisions of this chapter at every structural level. All enlargements or alterations shall be subject to review and approval by the Zoning Administrator.

(b) Pursuant to the above, the Zoning Administrator may require the applicant to provide boundary and/or topographic surveys of the existing nonconforming structure and associated site. These surveys shall be sealed by a registered land surveyor registered in the State of Michigan. The topographic survey may be limited to providing dimensional detail on the height of existing structures, unless additional information is required by the Zoning Administrator.

(c) The surveys shall verify that the existing setbacks and height limit of the existing nonconforming structure comply with the setbacks and height standards of the underlying zone district. Further, the survey drawing shall be used to identify the specific area, with dimensions, to be occupied by the expansion or alteration of the nonconforming structure.

Example: Nonconforming Residential Structure



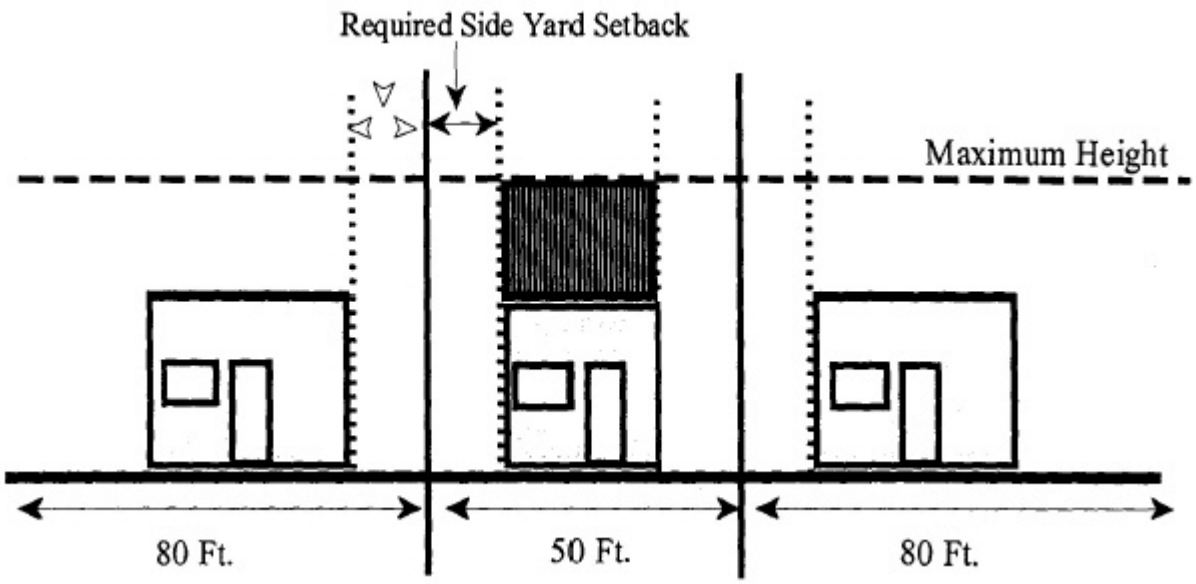
The existing dwelling encroaches on a required side yard setback resulting in a nonconforming situation. Proposed addition "A" may be permitted following a residential site plan review by the Planning Commission. However, a variance from the Zoning Board of Appeals would be required for addition "B".

(2) *Non-use (dimensional) variance.* Such variances may be authorized by the Zoning Board of Appeals for enlargement or alterations of nonconforming structures that increase any nonconformity(ies) under the provisions of §§ 154.150 through 154.157.

(3) *ZBA conditions pursuant to enlargement/alteration.* In authorizing a variance to enlarge or alter a lawful nonconforming structure, the Zoning Board of Appeals may impose conditions necessitated by the request including, but not limited to: additional site landscaping; site buffers; fencing; facade design requirements, building materials and building color changes; additional off-street parking and vehicular circulation modifications; signage; exterior lighting; and related building and site design modifications and conditions.

Example: Structural Alteration on a Nonconforming Lot

The zone district requires a minimum lot width of 80 feet. The undersized lot of 50 feet is a legal nonconforming parcel. The lot may be used to accommodate a permitted building provided all setbacks are complied with. In the following example, the undersized lot meets all building setbacks. The applicant wishes to increase the height of the structure. He or she may do so provided the upper story remains within all setbacks and height limits. A variance is not required.



(4) *Damage and reconstruction.*

(a) *Nonconforming structure.* In the event that any lawful, nonconforming, structure shall be damaged or destroyed by fire, wind, accident, act of God, or other similar means or manner, or threatened by flood, reconstruction, restoration, and/or raising shall be permitted by right, unless such destruction or damage was due to the intentional or reckless act or actions of an owner of the property. A structure to be reconstructed or restored shall be located within the original dimensions at every structural level, and/or within the original gross finished floor area, including decks and patios, with the exception that no portion of the structure shall be reconstructed within, or so as to encroach on, a public right-of-way or public easement. In addition, a structure to be reconstructed, restored, or raised within a designated special flood hazard area shall be located within the original dimensions at every structural level, and/or within the original gross finished floor area, including decks and patios, and shall further conform to the State Construction Code. Any reconstruction shall be subject to compliance with the provisions of this chapter, and any expansion shall be in full conformance with the requirements of the zoning district.

(b) *Building permit required.* Any reconstruction or restoration authorized pursuant to this division shall require the issuance of a building permit within 12 months of the occurrence of the damage.

(c) *Special flood hazard area.* For purposes of this division, threatened by flood shall mean that the structure is located in the special flood hazard area as designated in the current Flood Insurance Rate Map (FIRM) and the lowest floor level is less than one foot above the Base Flood Elevation (BFE) as designated in the FIRM. In addition, a structure that is threatened by flood shall not be raised more than three feet above the BFE.

(5) *Decrease of nonconformity and re-establishment.* If a lawful nonconforming structure is altered or modified so as to eliminate, remove or lessen any or all of its nonconforming characteristics, then those nonconforming characteristics shall not be later re-established or increased.

(D) *Nonconforming use of structure*. The lawful use of any structure existing and lawful on the effective date of this chapter, or amendment thereto, may be continued, even though the use does not conform with the provisions of this chapter, or amendment thereto, subject to the following provisions:

(1) *Extending use within a structure*. Any lawful nonconforming use may be extended throughout any internal parts of a building which were manifestly arranged or designed for such use at the effective date of this chapter, or amendment thereto, but no such use shall be extended to occupy any

portion of a building which was not manifestly arranged or designed for the use at the effective date of this chapter, or amendment thereto, nor shall the use be extended to occupy any land or air space outside the building.

(2) *Alteration of structure possessing a nonconforming use*. No existing structure devoted to a lawful nonconforming use shall be enlarged, extended, constructed, reconstructed, moved or structurally altered except in changing the use of the structure to a use permitted in the zoning district in which it is located.

(3) *Reconstruction of structure occupied by a nonconforming use*. If a structure which conforms with the provisions of this chapter, but which is occupied by a lawful nonconforming use, is damaged by any means or in any manner to the extent that the value of reconstruction or restoration exceeds one-half the value of the structure prior to the damaging occurrence, as determined by the most recent city assessment of the value of the structure, excluding the value of the land, for purposes of taxation, the structure may be reconstructed or restored only if its use conforms with the provisions of this chapter.

(4) *Re-establishment of nonconforming use*. If a lawful nonconforming use of any structure is terminated and replaced by a permitted use, the nonconforming use shall not be later re-established.

(5) *Cessation*. If the property owner or lessee stipulates that a lawful nonconforming use of a structure or structure and land in combination will be discontinued, or if any such nonconforming use of a structure, or structure and land in combination, ceases for any reason for a period of more than 12 months, any subsequent use of the structure shall conform to regulations of the zoning district in which it is located. The occurrence of one or more of the following conditions shall be deemed to evidence an intent on the part of the property owner or lessee to cease, discontinue and/or abandon the nonconforming use:

(a) Utilities, such as water, gas and electricity to the property have been disconnected;

(b) Signs or other indications of the existence of the nonconforming use have been removed;

(c) Equipment or fixtures necessary for the operation of the nonconforming use have been removed;

(d) The property, buildings and/or grounds have not been maintained and/or have fallen into disrepair; and/or

(e) Other actions which, in the opinion of the Zoning Administrator, constitute an intention on the part of the property owner or lessee to abandon the nonconforming use of the structure or structure and land in combination.

(6) *Removal of nonconforming use status after removal or destruction of building*. Where lawful nonconforming use status applies to a structure and land in combination, removal or destruction of the structure shall eliminate the nonconforming use status of the land.

(7) *Change in use (substitution)*.

(a) A lawful nonconforming use of a structure may be changed to another nonconforming use only if functionally similar to the previous non-conforming use. Application for a change in use shall require approval of the Zoning Board of Appeals. The Board may approve the change only if it complies with all of the following standards:

1. The proposed use does not increase the degree of nonconformity existing prior to the change of use. Pursuant to this standard, the proposed use shall not create, or result in, impacts which are considered more objectionable than the use to be replaced. These impacts shall include, but are not limited to, increased traffic, truck deliveries, parking requirements, hours of operation,

noise, vibration, odors, litter, outside storage, pedestrian movement, off-site drainage and other factors.

2. No structural alteration of the existing structure will be required to accommodate the new use, unless the alteration will bring the structure into greater conformity with the underlying zone district standards.

(b) In approving a change in use, the Board may require reasonable conditions in order to decrease the impact on adjoining properties. These conditions may include, but are not limited to, buffers, landscaping, off-street parking, access controls, hours of operation and other such conditions to reduce any negative impact.

(E) *Basic repairs and maintenance*.

(1) *Basic repairs and maintenance*. On any structure devoted in whole or in part to any lawful nonconforming use, work may be done in any period of 12 consecutive months on ordinary repairs, or on repair or replacement of non-bearing walls, fixtures, wiring, mechanical equipment or plumbing to an extent not exceeding 20% of the current replacement value of the structure as based on the records of the City Assessor, provided that the structure is not enlarged, extended, moved or structurally altered unless otherwise provided for by this chapter.

(2) *Safety improvements*. Nothing in this chapter shall be deemed to prevent the strengthening or restoring to a safe condition of any structure or part thereof declared to be unsafe by any official charged with protecting the public health, upon order of the official.

(F) *Structures under construction*. Any structure on which actual construction was lawfully begun prior to the effective date of this chapter, or amendment thereto, but which, under this chapter or amendment thereto, is classified as nonconforming, shall be considered existing and legally nonconforming pursuant to construction purposes and the intended use. Nothing in this chapter shall be deemed to require any change in the plans, construction or use of the structure. Actual construction is hereby defined to include the placing of construction materials in a permanent position and fastened in a permanent manner, except that where demolition or removal of an existing building has been substantially begun preparatory to reconstruction the demolition or removal shall be deemed actual construction.

(G) *Nonconforming special land uses*.

(1) There were uses which were permitted by right under Ord. 80-133 which are not permitted uses under this chapter. Those existing uses which were permitted uses and are listed as special land uses in this chapter shall not be considered nonconforming uses.

(2) Those uses, or parts of uses, which existed as permitted uses under Ord. 80-133 and are listed as special land uses in this chapter, shall be considered to be approved existing special land uses with the configuration shown on a site plan drawn to reflect how the uses existed at the time of adoption of this chapter. Parts of uses which are nonconforming immediately prior to the adoption of this chapter shall continue to be nonconforming under this chapter.

(3) An owner of an approved existing special land use permit may obtain from the Commission a certification of site plan reflecting how the use exists at the time of adoption of this chapter with identification of nonconforming parts, if any. In the case of disputes over facts on what existed at the time of adoption of this chapter, aerial photographs, flown in the city by the county or other aerial photographs, flown to the same or greater standards for mapping as the county’s photos, taken after the county photos but before the adoption of this chapter, shall be given the greatest weight as evidence to establish a certified site plan. For purposes of this section, the above mentioned photos may be accepted as the site plan for the written special use permit.

(4) When a special use owner applies to amend the approved existing special use for expansion or change, a written special use permit shall be prepared for the entire use and parcel. In review of the

special use permit amendment application for expansion or change, the Commission shall only review and act on the expansion or change portion of the special use permit. If the application for amendment of the special use permit is approved, approved with conditions, denied or denied in part, the action shall not change or alter those parts of the special use that are shown on the approved existing special use permit.

(H) *Purchase and condemnation of nonconforming uses and structures*. Subject to the provisions of state law, the city may acquire by purchase, condemnation or other means private property, or an interest in private property, for the removal of nonconforming uses and structures.

(Ord. 02-02, passed 2-11-2002; Am. Ord. passed 9-8-2003; Am. Ord. 091123-1, passed 11-23-2009; Am. Ord. 111212-1, passed 12-12-2011; Am. Ord. 141208-1, passed 12-8-2014; Am. Ord. 201109-C, passed 11-9-2020)

§ 154.175 FEES; ESCROW FOR PROFESSIONAL REVIEWS.

(A) *Filing application*. Upon the filing of an application for a zoning permit, special land use permit, planned unit development, Board of Appeals review, variance or rezoning, an administrative fee, as determined by the City Council, shall accompany the application.

(B) *Publication of fees*. A schedule of fees as established by the City Council shall be maintained at the office of the Zoning Administrator.

(C) *Payment of fees*. Fees shall be paid to the City Clerk prior to the processing of any application required under this chapter.

(D) *Fees in escrow for professional reviews*. For any application for site plan approval, a special land use permit, condominium subdivision, planned unit development, variance, or other use or activity requiring a permit under this chapter, either the Zoning Administrator or the Planning Commission may require the deposit of fees to be held in escrow in the name of the applicant. An escrow fee shall be required for any project with more than ten dwelling units, or more than 10,000 square feet of enclosed space, or which requires more than 20 parking spaces. An escrow fee may be requested for any other project which may, in the discretion of the Zoning Administrator or Planning Commission create an identifiable and potentially negative impact on public infrastructure or services, or on adjacent properties and because of which, professional input is desired before a decision to approve, deny or approve with conditions is made.

(1) The escrow shall be used to pay professional review expenses of engineers, community planners, and any other professionals whose expertise the city values to review the proposed application and/or site plan of on applicant. Professional review will result in a report to the city indicating the extent of conformance or nonconformance with this chapter and to identify any problems which may create a threat to public health, safety or the general welfare. Mitigation measures or alterations to a proposed design may be identified where they would serve to lessen or eliminate identified impacts. The applicant will receive a copy of any professional review contracted by the city and a copy of the statement of expenses for the professional services rendered.

(2) No application for approval for which an escrow fee is requested will be processed until the escrow fee is deposited with the City Clerk. The amount of the escrow fee shall be established based on an estimate of the cost of the services to be rendered by the professionals contacted by the Zoning Administrator. The applicant is entitled to a refund of any unused escrow fees at the time a permit is either issued or denied in response to the applicant’s request.

(3) If actual professional review costs exceed the amount of an escrow, the applicant shall pay the balance due prior to receipt of any zoning or other permit issued by the city in response to the applicant’s request.

(Ord. passed 6-24-1996; Am. Ord. 02-02, passed 2-11-2002) Penalty, see § 154.999

§ 154.176 AMENDMENTS; PROCEDURES.

(A) *City Council may amend*. The regulations and provisions stated in the tables and text of this chapter and the boundaries of zoning districts shown on the zoning map may be amended, supplemented, or changed by the City Council in accordance with Public Act 110 of 2006, being M.C.L.A. §§ 125.3101 *et seq.*, as amended.

(B) *Initiation of amendments*. Proposals for amendments, supplements or changes may be initiated by the City Council on its own motion, by the Planning Commission, or by written request of (or petition of) one or more owners of property to be affected by the proposed amendment.

(C) *Amendment procedure*.

(1) Written request or petition to City Council. Except for those initiated by the Planning Commission or City Council, all written requests by one or more owners for an amendment shall be submitted to the City Council or the Planning Commission directly.

(a) *Referral to Planning Commission/public hearing*. The City Council shall refer every proposed amendment, supplement or change to the Planning Commission for the holding of a required public hearing thereon and for review and recommended action.

(b) *Planning Commission recommendation*. In reviewing an application for the rezoning of land, whether the application be made with or without an offer of conditions, factors that should be considered by the Planning Commission and the City Council include, but are not limited to, the following:

1. Whether the rezoning is consistent with the policies and uses proposed for that area in the city's Master Land Use Plan;

2. Whether all of the uses allowed under the proposed rezoning would be compatible with other zones and uses in the surrounding area;

3. Whether any public services and facilities would be significantly adversely impacted by a development or use allowed under the requested rezoning; and

4. Whether the uses allowed under the proposed rezoning would be equally or better suited to the area than uses allowed under the current zoning of the land.

(2) The Planning Commission may recommend any additions or modifications to the original amendment proposal. The Planning Commission shall transmit a written report with recommendations within a reasonable time frame to the City Council setting forth the reasons why they recommend acceptance, denial or modification of the amendment proposal.

(D) *Action by the City Council*. If the City Council deems any amendments, changes, additions or departures advisable to the proposed text or district boundaries recommended by the Planning Commission, it shall refer the same back to the Planning Commission for a further report thereon within a time specified by the City Council. Before any amendments shall become effective, the City Council may, on its own, conduct a public hearing on the proposed amendment. Thereafter, the City Council may adopt the amendment with or without any changes or may refer the same again to the Planning Commission for further report.

(E) *Public hearing procedure and notification*. For any required public hearing conducted by the Planning Commission or any additional public hearings by the City Council on a proposed amendment to this chapter, the following procedure and notice requirements shall apply:

(1) Notice of the public hearing shall be given by publishing the notice in accordance with § 154.179 and the Michigan Zoning Enabling Act, Public Act 110 of 2006 as amended;

(2) Notice of a proposed zoning change shall also be made in accordance with § 154.179 and the Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended; and

(3) Following adoption of an amendment to this chapter, one notice of adoption shall be published in a newspaper of general circulation in the city within 15 days after adoption. The notice shall include the following information:

(a) A summary of the regulatory effect of the amendment including the geographic area affected, or the text of the amendment;

(b) The effective date of the amendment; and

(c) The place and time where a copy of the amendment may be purchased or inspected.

(F) *Effect of a protest to proposed amendment*. Protests against any proposed zoning ordinance text or map amendment must be filed in accordance with §§ 402 and 403 of the Michigan Zoning Enabling Act, Public Act 110 of 2006, M.C.L.A. §§ 125.3402 through 125.3403 or as amended.

(G) *Re-submittal*. No application for a rezoning which has been denied by the City Council shall be resubmitted for a period of one year from the date of the last denial, except on grounds of newly-discovered evidence or proof of changed conditions found upon inspection by the City Council to be valid.

(H) *Comprehensive review of zoning chapter*. The Planning Commission shall, from time to time at intervals of not more than two years, examine the provisions of this chapter and the location of zoning district boundary lines and shall submit a report to the City Council recommending changes and amendments, if any, which are deemed to be desirable in the interest of public health, safety and general welfare.

(I) *Conditional rezoning*.

(1) *Intent*. It is recognized that there are certain instances where it would be in the best interests of the city, as well as advantageous to property owners seeking a change in zoning boundaries, if certain conditions could be proposed by property owners as part of a request for a rezoning. It is the intent of this section to provide a process consistent with the provisions of § 405 of the Michigan Zoning Enabling Act (M.C.L.A. § 125.3405) by which an owner seeking a rezoning may voluntarily propose conditions regarding the use and/or development of land as part of the rezoning request.

(2) *Application and offer of conditions*.

(a) An owner of land may voluntarily offer in writing conditions relating to the use and/or development of land for which a rezoning is requested. This offer may be made either at the time the application for rezoning is filed or may be made at a later time during the rezoning process.

(b) The required application and process for considering a rezoning request with conditions shall be the same as that for considering rezoning requests made without any offer of conditions, except as modified by the requirements of this section.

(c) The owner’s offer of conditions may not purport to authorize uses or developments not permitted in the requested new zoning district.

(d) The owner’s offer of conditions shall bear a reasonable and rational relationship to the property for which the requested new zoning is requested.

(e) Any use or development proposed as part of an offer of conditions that would require a special land use permit under the terms of this chapter may only be commenced if a special land use permit for the use or development is ultimately granted in accordance with the provisions of this chapter.

(f) Any use or development proposed as part of an offer of conditions that would require a variance under the terms of this chapter may only be commenced if a variance for the use or development is ultimately granted by the Zoning Board of Appeals in accordance with the provisions of this chapter.

(g) Any use or development proposed as part of an offer of conditions that would require site plan approval under the terms of this chapter may only be commenced if site plan approval for such use or development is ultimately granted in accordance with the provisions of this chapter.

(h) The offer of conditions may be amended during the process of rezoning consideration provided that any amended or additional conditions are entered voluntarily by the owner. An owner may withdraw all or part of its offer of conditions any time prior to final rezoning action of the City Council provided that, if the withdrawal occurs subsequent to the Planning Commission's public hearing on the original rezoning request, then the rezoning application shall be referred to the Planning Commission for a new public hearing with appropriate notice and a new recommendation.

(3) *Planning Commission review*. The Planning Commission, after public hearing and consideration of the factors for rezoning set forth in § 154.176(C), may recommend approval, approval with recommended changes or denial of the rezoning; provided, however, that any recommended changes to the offer of conditions are acceptable to and thereafter offered by the owner.

(4) *City Council review*. After receipt of the Planning Commission's recommendation, the City Council shall deliberate upon the requested rezoning and may approve or deny the conditional rezoning request. The City Council’s deliberation shall include, but not be limited to, a consideration of the factors for rezoning set forth in § 154.176,(D) and (H). Should the City Council consider amendments to the proposed conditional rezoning advisable and if such contemplated amendments to the offer of conditions are acceptable to and thereafter offered by the owner, then the City Council shall, in accordance with § 401 of the Michigan Zoning Enabling Act (M.C.L.A. § 125.3401), refer such amendments to the Planning Commission for a report thereon with a time specified by the City Council and proceed thereafter in accordance with the statute to deny or approve the conditional rezoning with or without amendments.

(5) *Approval*.

(a) If the City Council finds the rezoning request and offer of conditions acceptable, the offered conditions shall be incorporated into a formal written statement of conditions acceptable to the owner and conforming in form to the provisions of this section. The statement of conditions shall be incorporated by attachment or otherwise as an inseparable part of the ordinance adopted by the City Council to accomplish the requested rezoning.

(b) Contain a legal description of the land to which it pertains.

(c) Contain a statement acknowledging that the statement of conditions runs with the land and is binding upon successor owners of the land.

(d) Incorporate by attachment or reference any diagram, plans or other documents submitted or approved by the owner that are necessary to illustrate the implementation of the statement of conditions. If any such documents are incorporated by reference, the reference shall specify where the document may be examined.

(e) Contain a statement acknowledging that the statement of conditions or an affidavit or memorandum giving notice thereof may be recorded by the City with the Allegan County Register of Deeds.

(f) Contain the notarized signatures of all of the owners of the subject land preceded by a statement attesting to the fact that they voluntarily offer and consent to the provisions contained within the statement of conditions.

(6) *Zoning map*. Upon the rezoning taking effect, the zoning map shall be amended to reflect the new zoning classification along with a designation that the land was rezoned with a statement of conditions. The City Clerk shall maintain a listing of all lands rezoned with a statement of conditions.

(7) *Approval*. The approved statement of conditions or an affidavit or memorandum giving notice thereof shall be filed by the city with the Allegan County Register of Deeds. The City Council shall have authority to waive this requirement if it determines that, given the nature of the conditions and/or the time frame within which the conditions are to be satisfied, the recording of such a document would be of no material benefit to the city or to any subsequent owner of the land.

(8) *Effect*. Upon the rezoning taking effect, the use of the land so rezoned shall conform thereafter to all of the requirements regulating use and development within the new zoning district as modified by any more restrictive provisions contained in the statement of conditions.

(9) *Compliance with conditions*.

(a) Any person who establishes a development or commences a use upon land that has been rezoned with conditions shall continuously operate and maintain that development or use in compliance with all of the conditions set forth in the statement of conditions. Any failure to comply with a condition contained within the statement of conditions shall constitute a violation of this Zoning Ordinance and be punishable accordingly. Additionally, any such violation shall be deemed a nuisance per se and subject to judicial abatement as provided by law.

(b) No permit or approval shall be granted under this chapter for any use or development that is contrary to an applicable statement of conditions.

(10) *Time period for establishing development or use*. Unless another time period is specified in the ordinance rezoning the subject land, the approved development and/or use of the land pursuant to building and other required permits must be commenced upon the land within 18 months after the rezoning took effect and thereafter proceed diligently to completion. This time limitation may upon written request be extended by the City Council if: it is demonstrated to the City Council's reasonable satisfaction that there is a strong likelihood that the development and/or use will commence within the period of extension and proceed diligently thereafter to completion; and the City Council finds that there has not been a change in circumstances that would render the current zoning with statement of conditions incompatible with other zones and uses in the surrounding area or otherwise inconsistent with sound zoning policy.

(11) *Reversion of zoning*. If approved development and/or use of the rezoned land does not occur within the time frame specified under division (I)(10) above, then the land shall revert to its former zoning classification as set forth in M.C.L.A. § 125.3405. The reversion process shall be initiated by the City Council requesting that the Planning Commission proceed with consideration of rezoning of the land to its former zoning classification. The procedure for considering and making this reversionary rezoning shall thereafter be the same as applies to all other rezoning requests.

(12) *Subsequent rezoning of land*. When land that is rezoned with a statement of conditions is thereafter rezoned to a different zoning classification or to the same zoning classification but with a different or no statement of conditions, whether as a result of a reversion of zoning pursuant to division (I)(11) above or otherwise, the statement of conditions imposed under the former zoning classification shall cease to be in effect. Upon the owner’s written request, the City Clerk shall record with the Allegan County Register of Deeds a notice that the statement of conditions is no longer in effect.

(13) *Amendment of conditions*.

(a) During the time period for commencement of an approved development or use specified pursuant to division (I)(10) above or during any extension thereof granted by the City Council, the City shall not add to or alter the conditions in the statement of conditions.

(b) The statement of conditions may be amended thereafter in the same manner as was prescribed for the original rezoning and statement of conditions.

(14) *City right to rezone*. Nothing in the statement of conditions nor in provisions of this section shall be deemed to prohibit the city form rezoning all or any portion of land that is subject to a statement of conditions to another zoning classification. Any rezoning shall be conducted in compliance with this chapter and the Michigan Zoning Enabling Act (M.C.L.A. §§ 125.3101 *et seq*.)

(15) *Failure to offer conditions*. The city shall not require an owner to offer conditions as a requirement for rezoning. The lack of an offer of conditions shall not affect an owner's rights under this chapter.

(Ord. 02-02, passed 2-11-2002; Am. Ord. 071008-01, passed 10-8-2007)

§ 154.177 VIOLATIONS.

(A) Any person, association, partnership, corporation or legal entity that violates disobeys, omits, neglects or refuses to comply with any provision of this chapter, any permit issue pursuant to this chapter, or any condition attached to a zoning permit, special land use permit, planned unit development permit, Zoning Board of Appeals decision or variance or other lawful directives of the Zoning Administrator shall be guilty of a violation of this chapter. Notice of any violations of this chapter shall be given in writing by the Zoning Administrator and shall be served by certified mail or personal service.

(B) A procedure for processing violations shall be established with the assistance of the City Attorney and retained on file with the City Clerk. The Zoning Administrator shall follow the procedure in pursuing all alleged ordinance violations.

(Ord. passed 6-24-1996; Am. Ord. 02-02, passed 2-11-2002)

Statutory reference:

Violations as a nuisance per se, abatement, see M.C.L.A. § 125.3407

§ 154.178 SEVERABILITY.

The various parts, sections and clauses of this chapter are declared to be severable. If any part, section, or clause is found to be unlawful by a court of competent jurisdiction, the remainder of the Ordinance shall not be affected.

(Ord. 02-02, passed 2-11-2002)

§ 154.179 PUBLIC NOTICE.

All applications for development approval requiring a public hearing shall comply with the Michigan Zoning Enabling Act, Public Act 110 of 2006, being M.C.L.A. §§ 125.3101 - 125.3702 and the other provisions of this section with regard to public notification.

(A) *Responsibility*. When the provisions of this chapter or the Michigan Zoning Enabling Act require that notice be published, the City Clerk shall be responsible for preparing the content of the notice, having it published in a newspaper of general circulation in the city and mailed or delivered as provided in this section and in compliance with the Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended, being M.C.L.A. §§ 125.3101 - 125.3702.

(B) *Notice and publication*.

(1) For all public hearings, notice shall be published and, when required in division (B)(2) below, mailed or delivered not less than 15 days before the date the application will be considered for

approval. If the name of the occupant is not known, the term "occupant" may be used in making notification.

(2) If the action that is subject to a public hearing is a rezoning of less than 11 adjacent properties, a special land use, a planned unit development, a variance request or an appeal of an administrative decision, then, notice shall be sent by mail or personal delivery to owners of property for which an approval is being considered and the applicant, if different than the owner(s) of the property. Notice shall also be sent to all persons to whom real property is assessed within 300 feet of the property and to all occupants of all structures within 300 feet of the property regardless of whether the property or occupant is located in the zoning jurisdiction.

(C) *Content*. All mail, personal and newspaper notices for public hearings shall:

(1) *Describe the nature of the request*. Identify whether the request is for a rezoning, text amendment, special land use, planned unit development, variance, appeal, ordinance interpretation or other purpose;

(2) *Location*. Indicate the property that is the subject of the request. The notice shall include a listing of all existing street addresses within the subject property. Street addresses do not need to be created and listed if no such addresses currently exist within the property. If there are no street addresses, other means of identification may be used. No street addresses must be listed when 11 or more adjacent properties are proposed for rezoning, or when the request is for an ordinance interpretation not involving a specific property; and

(3) *Opportunity for comments*. State where and when the request will be considered. Indicate when and where written comments will be received concerning the request.

(Ord. 02-02, passed 2-11-2002; Am. Ord. 071008-01, passed 10-8-2007)

WATERFRONT CONSTRUCTION

§ 154.200 PURPOSE.

It is the purpose of this chapter is to establish requirements and procedures for the construction, location and use of piers and docks, pilings, bulkheads and mooring buoys in and immediately adjacent to the waters of the Kalamazoo River and Kalamazoo Lake within the city, to regulate dredging and backfill below the ordinary high water mark, and to provide for administration and enforcement of this chapter.

(Ord. 040927, passed - -; Am. Ord. 02-02, passed 2-11-2002; Am. Ord. 080324-3, passed 3-24-2008)

§ 154.201 OBJECTIVES.

The objective of this chapter is to facilitate the minimal disturbance of the natural ecology and as well as the Kalamazoo River and Kalamazoo Lake for recreational purposes, to minimize interference with riparian rights of other property owners, and to promote the public health, safety and general welfare.

(Ord. 040927, passed - -; Am. Ord. 02-02, passed 2-11-2002; Am. Ord. 080324-3, passed 3-24-2008)

§ 154.202 UNSAFE STRUCTURES.

(A) *Use prohibited*. No owner or occupant of premises on which a pier or dock, bulkhead, boat hoist, mooring buoy or other such waterfront structure has deteriorated or fallen into disrepair or has been damaged by fire, ice or other casualty shall permit the use thereof, and the owner or occupant shall either remove the unsafe structure or place it in a safe and sound condition and until removed or placed in a safe and sound condition, shall post a warning notice and block access thereto.

(B) *Removal of structures*. Any dilapidated or dangerous waterfront structure in existence along the waterfront of the city shall constitute a public nuisance and shall be removed or repaired within 30 days after notice of the condition has been given to the owner of the property involved.

(C) *Notice*. If such a dilapidated or dangerous waterfront structure exists, the Zoning Administrator shall send a notice of the condition to the owner of the premises as is disclosed by the last tax roll of the city at such address as is shown thereon, by certified mail. The notice shall require that the dangerous structure be removed or repaired. Any person who fails, refuses or neglects to repair or remove such a dangerous or dilapidated structure within the time limits above provided for shall be guilty of a violation of this code.

(Ord. 040927, passed - -; Am. Ord. 02-02, passed 2-11-2002; Am. Ord. 080324-3, passed 3-24-2008)

§ 154.203 OTHER AGENCY PERMITS.

(A) The issuance of a permit pursuant to this chapter shall not relieve the applicant from obtaining any required permit or approval from the Department of Army Corps of Engineers, the Michigan Department of Environmental Quality or such other federal or state regulatory agency when required by federal or state law.

(B) The obtaining of a permit or approval from the Department of Army Corps of Engineers, Michigan Department of Environmental Quality or such other federal or state agency shall not relieve the applicant from complying fully with this chapter and obtaining a permit pursuant to its provisions.

(Ord. 040927, passed - -; Am. Ord. 02-02, passed 2-11-2002; Am. Ord. 080324-3, passed 3-24-2008)

§ 154.204 LIMITATIONS ON USE.

(A) No watercraft shall be moored to a dock, pier or spring piling in such a manner that would result in an overhang of more than ten feet.

(B) The use of any dock, pier or spring piling for the mooring of any watercraft currently used or generally designed for use as a construction barge shall be permitted in riparian rights areas adjacent to residential properties.

(C) Mooring of a construction barge for periods not exceeding ten days in any calendar year for the sole purpose of dock construction or maintenance at the property where the construction or maintenance is occurring is expressly permitted.

(Ord. 040927, passed - -; Am. Ord. 02-02, passed 2-11-2002; Am. Ord. 080324-3, passed 3-24-2008)

§ 154.205 MAJOR CONSTRUCTION REGULATIONS.

(A) *Permit*. Prior to commencement of any major waterfront construction, a permit shall be obtained from the city in accordance with the procedures contained in this chapter. The city can attach reasonable conditions to the granting of any permit.

(B) *Major construction defined*.

(1) The construction of a bulkhead, dock, pier, boat hoist and/or other structure extending into or located on the waters of the Kalamazoo River or Kalamazoo Lake where the purpose is to rent, lease or otherwise make available to the general public space for the securing or mooring of watercraft for commercial purposes, or in conjunction with a commercial establishment, a condominium or a marina.

(2) Major construction shall also include any pier or dock, whether for commercial or private use, which extends into the waters of the Kalamazoo River or Kalamazoo Lake more than 45 feet as measured from the Ordinary High Water, elevation 581.5 International Great Lakes Datum (IGLD). A major construction permit shall always be required for waterfront construction in connection with the

establishment, use or expansion of a private or commercial marina where permitted under §§ 154.023 through 154.041 of this code.

(C) *Compliance with zoning code*. When major waterfront construction is to be in conjunction with a commercial facility, or commercial or private marina, issuance of a major construction permit shall be conditioned upon full compliance with the applicable provisions of § 154.092(D), and § 154.130 parking for marinas is also required. Compliance with § 154.130 is required.

(D) *Pier or dock construction*.

(1) Piers or docks constructed pursuant to this subchapter shall not extend outboard more than 100 feet from the bulkhead, or at a location on the bottom of the ordinary high water, elevation 581.5 International Great Lakes Datum (IGLD). The only exception to the length restriction is as stated in division (D)(9) below for the Neighborhood Marine district (NHM).

(2) The main pier extending from the shoreline shall have a minimum width of four feet. A main pier may be “L” shaped so long as any finger piers do not exceed the maximum distance from the shore/bulkhead as specified in division (B) above.

(3) Finger piers less than four feet wide extending from the main pier shall not exceed 30 feet in length, and shall have a minimum width of three feet.

(4) Pier or docks shall allow for the flowage of littoral materials and water in such a manner as to preclude detrimental impact in adjacent properties and environment.

(5) All pier or docks shall be located so as not to infringe on the riparian rights of other property owners or recorded water access or use easements.

(6) Pier or dock construction must be substantial and the design and materials must be consistent with established construction standards as required by the State Construction Code.

(7) All piers or docks constructed under a major construction permit shall have the capacity to carry a live load of 100 pounds per square foot and shall have located thereon adequate lighting in areas available for public use in periods of darkness.

(8) No piers or dock shall be placed within the parcel’s required side yard setbacks nor may they be placed within the extension of the required setback into the riparian rights area (one and one-half times the allowed boat length). Boats, boat hoists and spring pilings shall be located within the owners riparian rights area.

(9) Consideration for main pier lengths in excess of 100 feet is permitted in the Neighborhood Marine (NHM) district only. The length may be extended to a maximum of 200 feet from the bulkhead, or at a location on the bottom of ordinary high water, elevation 581.5 . International Great Lakes Datum (IGLD), whichever is less, following a determination by the Planning Commission that all of the following requirements have been met:

(a) The extension into the body of water shall be no greater than existing piers on both sides of the parcel. A line shall be determined by inspection of the site and neighboring piers;

(b) An extension beyond 100 feet is not to be allowed if any limitation to navigation by existing channel will occur;

(c) Respect for riparian rights of neighbors and setbacks are required; and

(d) Parking must be provided in accordance with § 154.130 for any increases in the number of berths or moorings provided.

(E) *Bulkhead construction*. The entire property shoreline shall be protected by an impermeable bulkhead. Bulkhead design and construction shall be consistent with the established construction

standards. Bulkheads shall not be less than one foot higher than the highest water level on record, and the top of the bulkhead shall not be less than six inches higher than the backfill on adjacent terrain.

(1) *Bulkhead location*. Bulkheads shall not be located on a line closer toward the water than the nearest existing structure of a similar nature, or at a location on the bottom of ordinary high water, elevation 581.5 International Great Lakes Datum (IGLD).

(2) *Backfill and dredging.*

(a) Backfill and dredging, if to be performed in connection with major construction, must be specified in requests for all permits as to:

1. Need;

2. Location;

3. Quantity; and

4. Disposition of spoil.

(b) Backfill may be with dredged material, but below the normal high water mark shall not be more than two cubic yards per foot of lineal placement, unless otherwise authorized by the Department of the Army Corps of Engineers' permit.

(F) *Spring piles*. Spring piles shall be considered part of the basic structure and must be located within the overall length requirements for piers or docks as bet forth in this subchapter.

(G) *Wetlands*. No major construction shall be allowed in wetland areas.

(H) *Permit procedures*.

(1) An application for major construction permits shall be filed with the Zoning Administrator.

(2) The application shall be available at the City Clerk's office and shall require the following information:

(a) The applicant's full name, mailing address and telephone number;

(b) The location where proposed construction activity will occur;

(c) The legal description of upland property at the waterfront construction site;

(d) Reason for the proposed waterfront construction, its purpose and intended use;

(e) The name and address of the owner of the upland real property;

(f) A statement as to why construction will not cause pollution, impair or destroy the water, or any natural resources;

(g) A description of any alternatives to the proposed waterfront construction if any have been considered;

(h) The names and addresses of adjacent property owners, and a statement as to whether any objections have been made to the applicant concerning the proposed waterfront construction;

(i) The name, address and telephone number of the applicant's authorized agent, if the application is being handled through an agent, attorney or other representative of the applicant;

(j) The dates the proposed waterfront construction is intended to commence and be completed;

(k) Whether an application to the other appropriate federal or state agency, as required by law, has been made, and the date the application has been submitted;

(l) A statement as to whether the proposed construction has been approved or denied or not acted upon by other state or federal agencies as required by law;

(m) A site plan showing the proposed waterfront construction in appropriate form as set forth in the permit application; and

(n) A statement as to whether the facility is to be leased, rented or made available to the general public, or is to be used in conjunction with any other commercial facility available for use by the general public.

(I) *Filing fees*. A filing fee as determined by the City Council and set forth in the city's schedule of fees for site plan review shall accompany each application.

(J) *Processing of applications*.

(1) Within 15 days from the date of filing the application, the Zoning Administrator shall review the application and forward the same to the Planning Commission with any comments the Zoning Administrator deems appropriate.

(2) Any incomplete application filed with the Zoning Administrator shall be returned to the applicant. However, another filing fee shall not be required upon re-submission of a prior incomplete application.

(K) *Notice of hearing*.

(1) The Zoning Administrator or his or her designated agent shall have published a notice of the date, time and place of the public hearing to consider the application and receive objections or comments, and the notice shall include the name of the applicant, the location of the proposed major construction, and a brief description of the nature of the construction.

(2) The notice shall be published in conformance with Michigan Zoning Enabling Act, as amended.

(L) *Duties of Planning Commission*.

(1) The Planning Commission shall consider the application at a public hearing within 30 days after receipt of the application from the Zoning Administrator, unless further time is agreed upon by the parties concerned. The Planning Commission shall approve, approve with conditions, deny or require modification of proposed major construction.

(2) In reviewing an application, the Planning Commission shall consider the following criteria:

(a) The impact on the ecological aspects of the waters and the adjacent properties located at the waterfront construction site;

(b) The impact the construction would have on the use of the water by recreational boaters and adjacent property owners, and any hazard or interference to navigation the waterfront construction might create;

(c) Compliance with the requirements of this chapter;

(d) Compliance with §§ 154.023 through 154.041; and

(e) Objections by the general public or nearby property owners, submitted in writing or in person at the public hearing.

(M) *Denial of permit*. If the Planning Commission shall deny the application for a permit, they shall state their reasons therefore.

(N) *Modification*. The Planning Commission shall have the right to require modifications of the proposed major construction plan as submitted in the application, and may issue a permit conditioned on the applicant's acceptance of the modifications as determined by the Planning Commission. The Planning Commission may also approve a permit with conditions of approval.

(O) *Assistance of Building Inspector or Engineer*.

(1) Before approval of the application, the Planning Commission may request the opinion of the City Building Inspector or such licensed engineer as it may designate regarding the proposed major construction.

(2) If such an opinion is desired by the Planning Commission, it may delay a decision on the application submitted pursuant to this subchapter for a period of not more than 30 days from the date of public hearing.

(Ord. 040927, passed - -; Am. Ord. 02-02, passed 2-11-2002; Am. Ord. 080324-3, passed 3-24-2008)

§ 154.206 MINOR CONSTRUCTION REGULATIONS.

(A) *Permit*. Prior to the commencement of the minor waterfront construction as hereinafter defined, a permit shall be obtained from the Michigan Department of Environmental Quality or successor agency.

(B) *Minor construction defined*.

(1) Construction of bulkheads, piers or docks, mooring buoys, boat hoists or other structures extending into or located on the waters of the Kalamazoo River or Kalamazoo Lake where the purpose is for the private use of the facility or facilities by the property owner, and not for rent, lease or availability to the general public as a commercial facility or yacht club.

(2) The purpose of this classification is to permit relatively inexpensive construction of any pier or dock, not longer than 45 feet, at any one single-family residential parcel of land. Construction is limited in magnitude to that which might be done for the personal benefit of the owner and immediate family members.

(C) *Pier or dock construction*.

(1) Piers, docks or spring piles constructed pursuant to this subchapter shall not extend outboard more than 45 feet from the bulkhead or shoreline, the length of which shall be measured from the bulkhead, or at a location on the bottom of ordinary high water, elevation 581.5 International Great Lakes Datum (IGLD) whichever is less.

(2) All piers or docks shall be substantially constructed and meet generally accepted construction standards.

(3) Finger piers shall not exceed 30 feet in length.

(D) *Number of piers or docks*. Only one pier or dock shall be allowed for each residential lot or parcel. City-owned property shall be exempt from this provision. The City Council shall determine the appropriate number of docks allowed on city property.

(E) *Bulkheads*. Bulkheads may be in accordance with permits issued by the U.S. Army Corps of Engineers and/or the Michigan Department of Environmental Quality and § 154.205(E)(1).

(F) *Backfill and dredging*. Backfill and dredging in minor construction projects shall be controlled the same as set forth in § 154.205(E)(2).

(G) *Boat hoists*. Boat hoists shall be permitted for seasonal use. A boat hoist may be installed in place of a pier or dock or at the end of a pier or dock, but in such case shall extend not more than 45 feet from the bulkhead or ordinary high water mark, International Great Lakes Datum (IGLD).

(H) *Mooring buoys*. A single mooring buoy may be located directly off the shore or bulkhead; however, it must meet USCG design standards and lighting requirements for buoy and boat. No more than one single mooring buoy shall be permitted per parcel or lot. A lot may have both one dock and one buoy.

(I) *Permit procedure*.

(1) An application for minor waterfront construction permit shall be filed with the Zoning Administrator.

(2) The application shall be available at the City Clerk's office and shall require the following information:

(a) The applicant's full name, mailing address, and telephone number;

(b) The address and property identification number of where proposed construction activity will occur:

(c) Intended use for the proposed waterfront construction;

(d) A statement as to why the construction will not cause pollution, impair or destroy the water, or any natural resources;

(e) The dates the proposed waterfront construction is intended to commence and be completed;

(f) A copy of an approved permit from the applicable federal and state agencies including the Michigan Department of Environmental Quality or the US Army Corp of Engineers. A waterfront construction permit shall not be issued by the city without receipt of these required permits.

(g) A sketch plan showing the proposed waterfront construction in appropriate form as set forth in the permit application.

(3) Upon receipt of a complete application, the Zoning Administrator shall cause notice to be sent to the adjacent property owners of the subject property, by first class mail utilizing tax record information, a letter explaining the general nature of the proposed minor waterfront construction project. The Zoning Administrator shall approve the application if it meets the requirements of this section.

(Ord. 040927, passed - -; Am. Ord. 02-02, passed 2-11-2002; Am. Ord. 080324-3, passed 3-24-2008; Am. Ord. 091109-1, passed 11-9-2009)

§ 154.999 PENALTY.

(A) Any person, firm, corporation, trust, partnership or other legal entity which violates or refuses to comply with any provision of this chapter shall be responsible for a municipal civil infraction and shall be punished by a civil fine in accordance with § 10.21 of this code and shall further be liable for the payment of the costs of prosecution in an amount of not less than $9 and not more than $500.

(B) Each day that a violation continues to exist shall constitute a distinct and separate offense, and shall make the violator liable for the imposition of fines for each day.

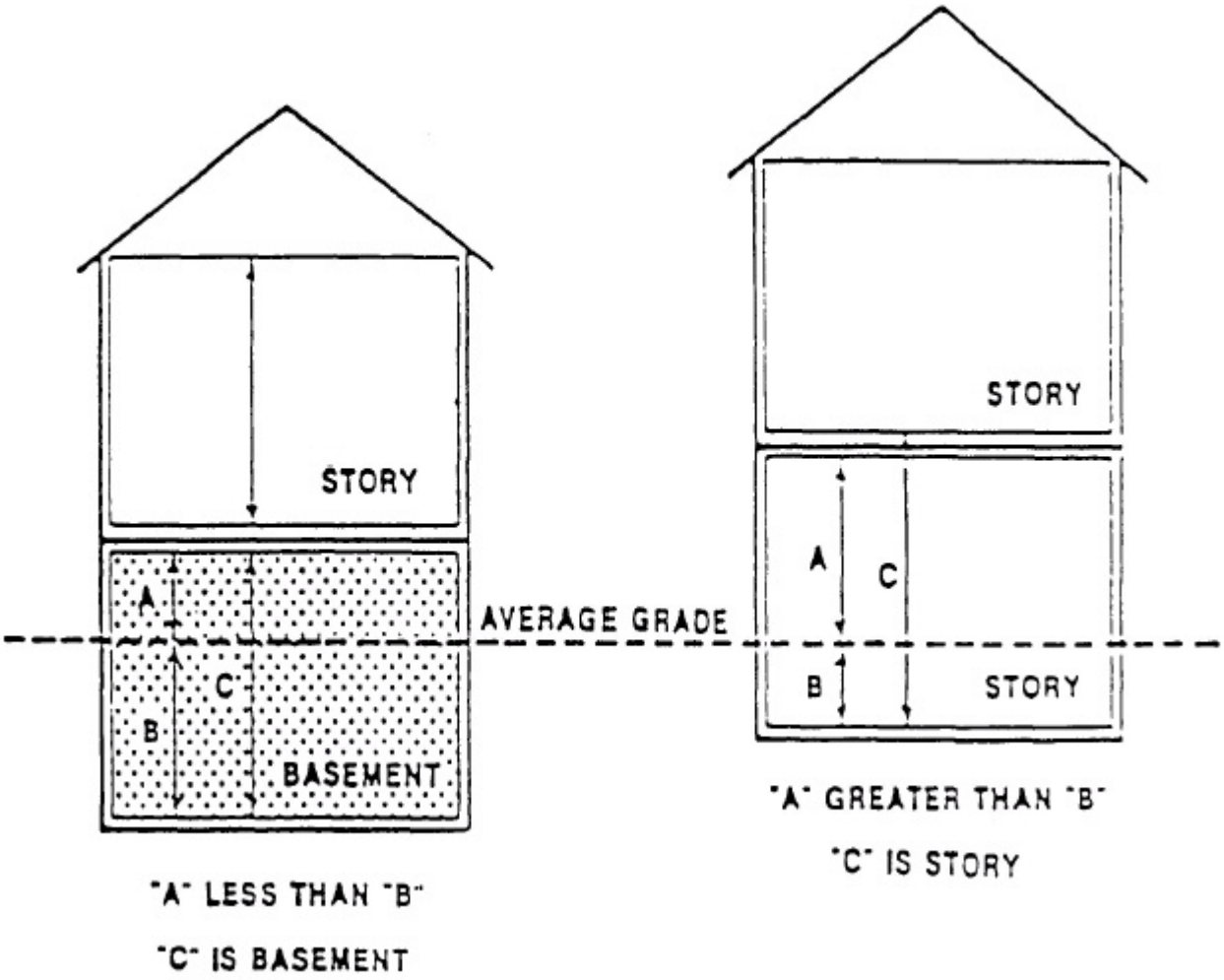
(C) Any violation of the provisions of this chapter shall constitute a nuisance per se and the foregoing penalties shall be in addition to the abatement of the violating condition and injunctive or other relief which may be ordered by the court as prescribed by the laws of the State of Michigan for the abatement of a city ordinance designated as a municipal civil infraction.

(D) Nothing herein shall be construed or interpreted to limit the authority of the city or its officers, bodies or commissions to revoke any approvals previously granted to the extent permitted by law.

(Ord. 040927, passed - -; Am. Ord. 02-02, passed 2-11-2002; Am. Ord. 140714-1, passed 7-14-2014)

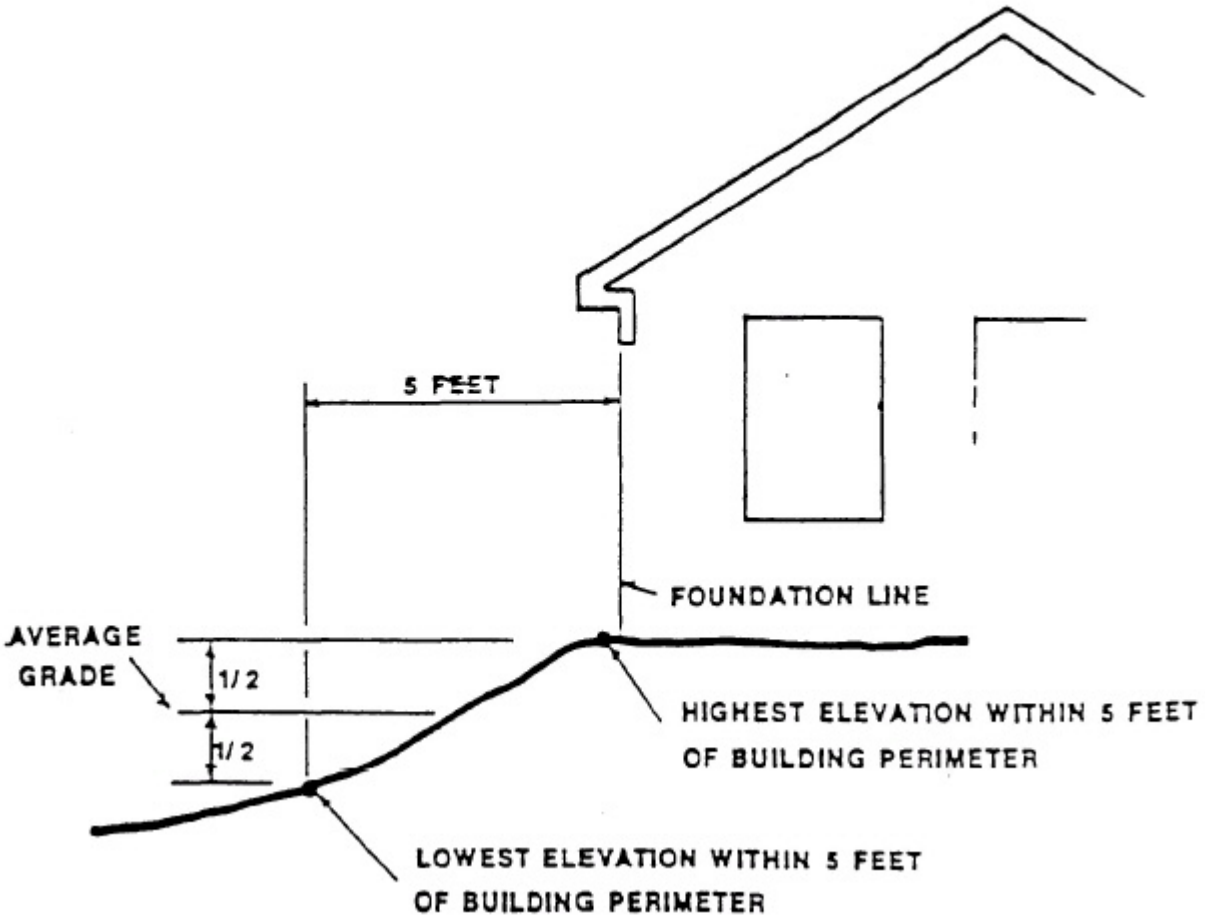
APPENDIX A: FIGURES AND DRAWINGS

Figure 1: Basement and Story



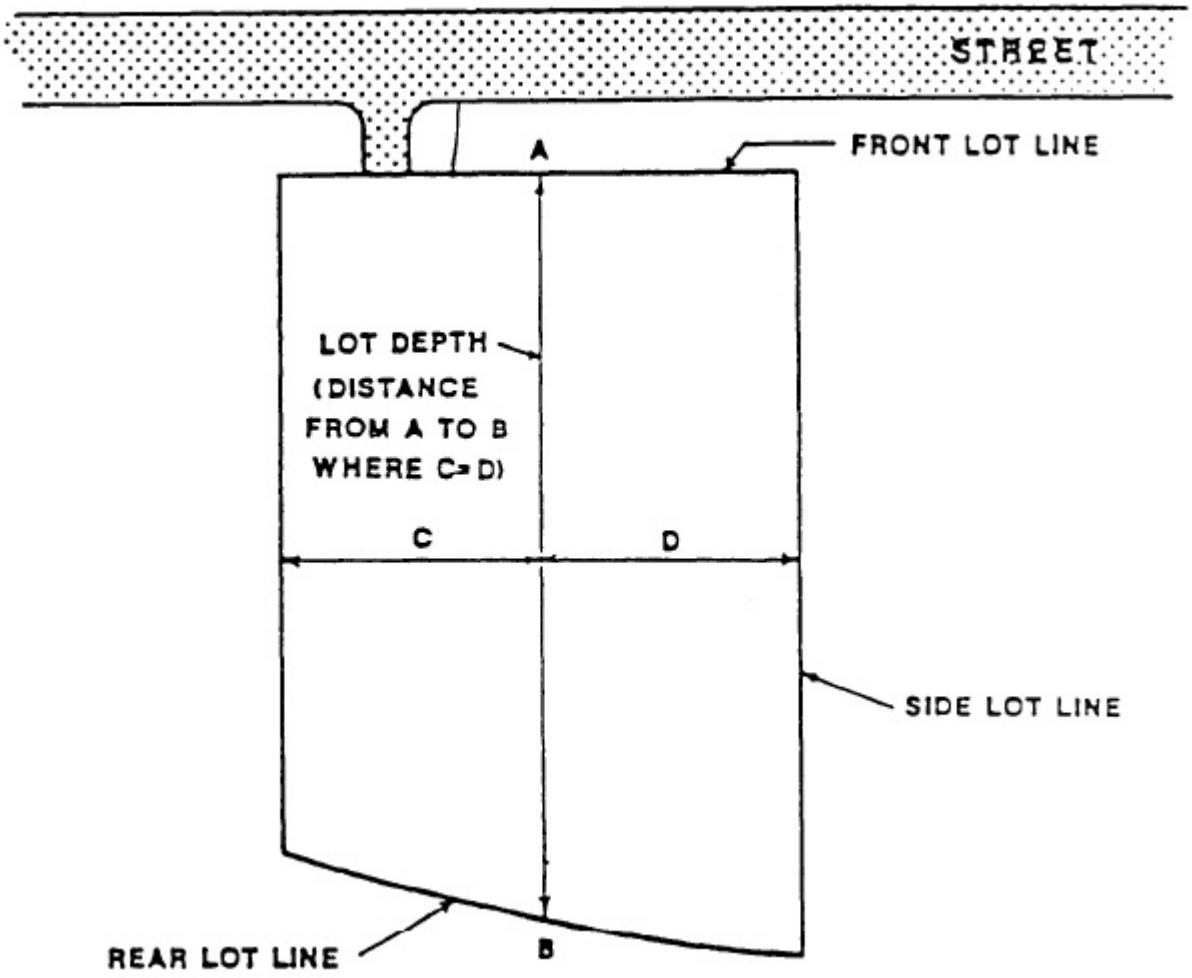
(Ord. 02-02, passed 2-11-2002)

Figure 3: Average Grade



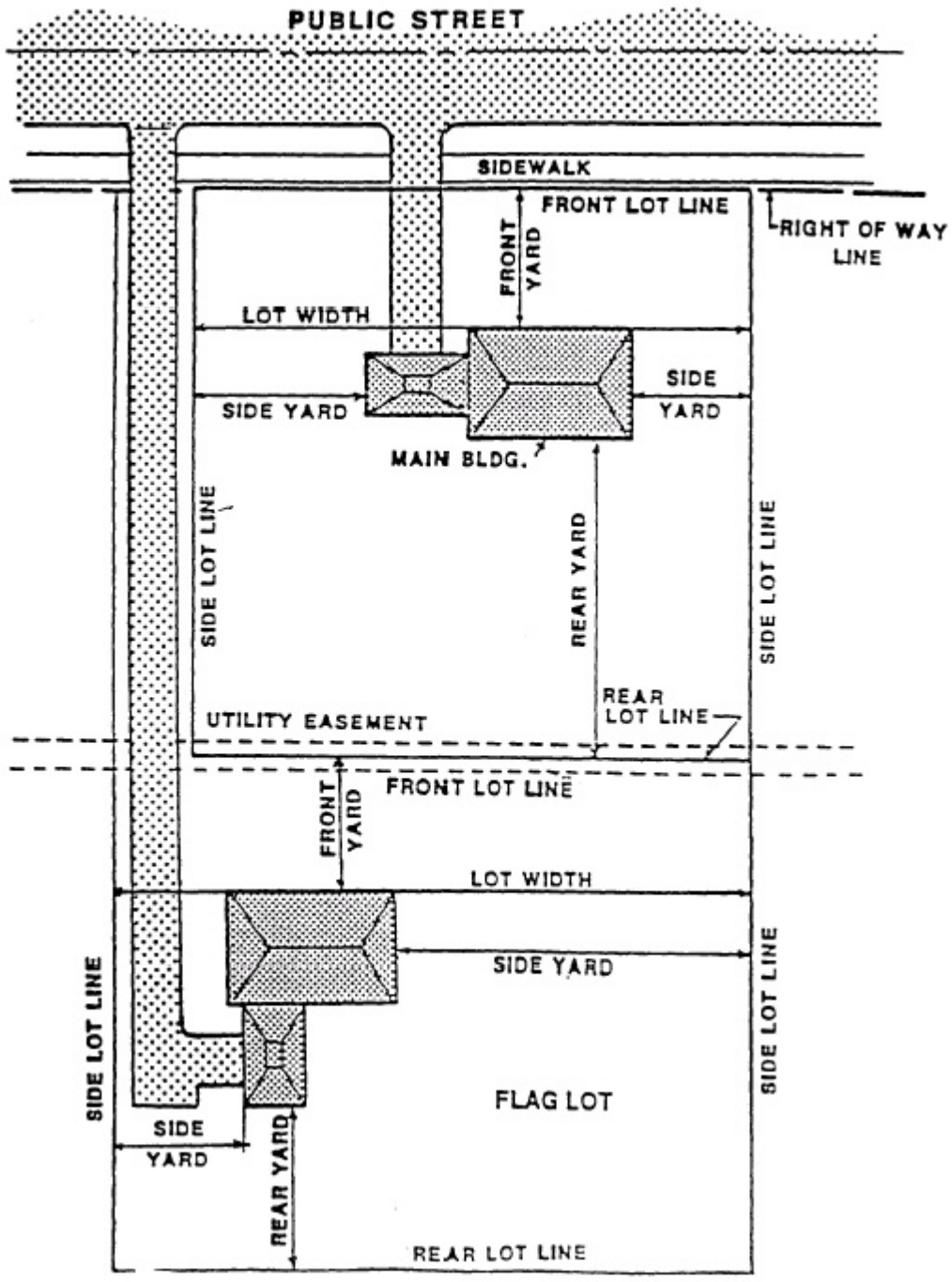
(Ord. 02-02, passed 2-11-2002)

Figure 5: Lot Depth



(Ord. 02-02, passed 2-11-2002)

Figure 7: Lot Lines and Yards



(Ord. 02-02, passed 2-11-2002)

CHAPTER 155: GROUNDWATER PROTECTION

Section

§ 155.01 PURPOSE.

(A) The City of Saugatuck has determined that certain groundwater underlying areas including the city is, or may be in the future, the source of water supplied by the Kalamazoo Lake Sewer and Water Authority. Groundwater aquifers are integrally connected with the surface water, lakes and streams that constitute significant public health, recreational and economic resources of the city and surrounding area. Spills and discharges of hazardous substances threaten the quality of the groundwater supplies and other water related resources, posing potential public health and safety hazards and threatening economic losses.

(B) This chapter is intended to protect existing and potential groundwater supplies, aquifers, and groundwater recharge areas of the sources of water supplied by the Kalamazoo Lake Sewer and Water Authority.

(Ord. 190909-1, passed 9-9-2019)

§ 155.02 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ABANDONED OPERATIONS. Any property that is unoccupied for at least 30 days and to which one or more of the following applies:

(1) Is open to casual entry;

(2) Has one or more windows boarded;

(3) Has utilities disconnected;

(4) Is unsafe for occupancy or the general public, or is a visual blight adversely affecting the general welfare of the area;

(5) Is the subject of indebtedness to the city for more than one year.

ABANDONED OPERATIONS does not include a property that is actively listed by a licensed real estate broker.

AQUIFER. A geological formation, group of formations, or part of a formation capable of storing and yielding a significant amount of groundwater to wells and springs.

CHEMICAL ABSTRACT SERVICE (CAS) NUMBER. This is a unique number for every chemical established by a Columbus, Ohio organization which indexes information published in "Chemical Abstracts" by the American Chemical Society.

HAZARDOUS SUBSTANCE. A chemical or other material that is or may become injurious to the public health, safety, or welfare, or to the environment. The term ***HAZARDOUS SUBSTANCE*** includes, but is not limited to, any of the following which are stored or generated.

(1) Hazardous Substances as defined in the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) of 1980, Public Law 96.510, 94 State. 2767;

(2) Hazardous Waste as defined in Part 111 of the State of Michigan Natural Resources and Environmental Protection Act, 1994 Public Act 451, as amended;

(3) Regulated Substance as defined in Part 213 of the State of Michigan Natural Resources and Environmental Protection Act, 1994 Public Act 451, as amended;

(4) Hazardous Substance as defined in Part 201 of the State of Michigan Natural Resources and Environmental Protection Act, 1994 Public Act 451, as amended;

(5) Used oil;

(6) Radiological materials.

POLLUTION INCIDENT PREVENTION PLAN (PIPP). A PIPP includes a polluting material inventory, a site diagram depicting the locations of the polluting materials, emergency response procedures, and secondary-containment details. Sites are subject to Michigan's Part 5 Rules if they store oils and other polluting materials above established threshold management quantities (TMQs), which are:

(1) Salt in solid form at quantities of five tons (10,000 pounds) or more.

(2) Salt in liquid form at 1,000 gallons or more.

(3) Petroleum products in an AST or container with a capacity of 660 gallons or greater or an aggregate aboveground storage capacity of 1,320 gallons.

(4) All other polluting materials specified in Part 5 that are used, stored, or otherwise managed in a discrete outdoor location, with a total storage quantity of 200 kilograms (kg) (440 pounds) or more.

(5) All other polluting materials specified in Part 5 that are used, stored, or otherwise maintained at a discrete indoor location, with a total storage quantity of 1,000 kg (2,200 pounds) or more.

PROPERLY PLUGGED ABANDONED WELL. A well that has been closed in accordance with regulations and procedures of the Department of Environment Great Lakes and Energy (EGLE) and the local Health Department. A properly plugged abandoned well requires a permit to be brought back into service.

SECONDARY CONTAINMENT. A second tank, catchment pit, pipe, or vessel that limits and contains liquid or chemical leaking or leaching from a primary containment area; monitoring and recovery are required.

SPILL PREVENTION CONTROL AND COUNTERMEASURE (SPCC) PLAN. As detailed in 40 CFR Part 112, sites are subject to the SPCC rules if (1) they store either more than 1,320 gallons of petroleum products aboveground and (2) they present a reasonable risk to a navigable water of the United States property (including via storm water and groundwater). An SPCC Plan details site oil storage, spill potential, and emergency response and notification procedures. The SPCC Plan is required to be certified by a registered Professional Engineer.

STORM WATER POLLUTION PREVENTION PLAN (SWPPP). As detailed in 40 CFR Part 122, sites that are required to have a storm water permit are also required to have SWPPPs that detail hazardous substance exposed to storm water and controls to prevent releases.

UNDERGROUND STORAGE TANK. A tank or combination of tanks, including underground pipes connected to the tank or tanks, which is, was, or may have been used to contain an accumulation of hazardous substances, as defined in Part 211 of the State of Michigan Natural Resources and Environmental Protection Act, 1994 Public Act 451, as amended.

UNPLUGGED ABANDONED WELL. A well which has not been used for one year or more.

WELL. As defined in the Michigan Water Well Construction and Pump Installation Code, Part 127, Act 368 of the Public Acts of 1978, as amended, and rules; or a permanent or temporary opening in the surface of the earth for the purpose of removing water, or testing water quality, or measuring water characteristics, or measuring liquid recharge, or measuring liquid levels, or oil and gas exploration or production, or waste disposal, or dewatering purposes; or geothermal heat exchange purposes, or a production, or waste disposal, or dewatering purposes; or geothermal heat exchange purposes, or a cistern of a depth of four feet or more and with a top width of 12 inches or more.

WELLHEAD PROTECTION AREA (WHPA). The area which has been approved by EGLE in accordance with the State of Michigan Wellhead Protection Program, which represents the surface and subsurface area surrounding a water well or well field, which supplies a public water system, and through which contaminants are reasonably likely to move toward and reach the water well or well field within a ten-year time of travel. Where the line defining the WHPA intersects a parcel, the entire parcel shall be subject to this chapter.

(Ord. 190909-1, passed 9-9-2019)

§ 155.03 APPLICABILITY.

Except as provided in § 155.08 (Exemptions and Waivers), this chapter applies to all zoning permit requests within the WHPA for uses that generate, use or store hazardous substances.

(Ord. 190909-1, passed 9-9-2019)

§ 155.04 PROHIBITIONS WITHIN TEN YEAR TIME-OF-TRAVEL (TOT) WELLHEAD PROTECTION AREA.

For any parcel of land in whole or in part, within a ten-year WHPA, the following activities are prohibited at any location on the parcel:

(A) Operations of a scrap and recycling yard.

(B) Operations of a State of Michigan Type II or Type III solid waste landfill.

(C) Use of oil, waste oil, or similar liquid petroleum-type products for dust suppression.

(D) Excavation, extraction, or mining of sand, gravel, bedrock, or any other type of earth if a permit or site plan review is required.

(E) Unplugged abandoned wells.

(F) Improper use, storage and disposal of hazardous substances.

(G) New wells used for irrigation.

(H) Drilling for natural gas or petroleum, whether for exploration or production.

(Ord. 190909-1, passed 9-9-2019)

§ 155.05 SITE PLAN REVIEW.

Site plan review procedures. Applications for projects subject to this chapter shall include the following information in addition to what is required under Chapter 154.

(A) Existing and proposed land use deed restrictions, if any.

(B) Location and outline of all existing septic tanks and drain fields.

(C) Location of any floor drains in proposed structures on the site. The point of discharge for all drains and pipes shall be specified on the site plan.

(D) Location of existing and proposed public and private drinking water wells, monitoring wells, irrigation wells, test wells, wells used for industrial processes or wells that have no identified use.

(E) Inventory of hazardous substances to be stored, used or generated on-site, including CAS numbers.

(F) Description and drawings showing size and location for any existing or proposed aboveground and underground storage tanks, piping lines and dispensers.

(G) Descriptions of type of operations proposed for the project and drawings showing size, location, and description of any proposed interior or exterior areas of structures for storing, using, loading or unloading of hazardous substances.

(H) Reported delineation of areas on the site which are known or suspected to be contaminated, together with a report on the status of cleanup or closure.

(I) Completion of the EGLE Environmental Permits Checklist.

(Ord. 190909-1, passed 9-9-2019)

§ 155.06 CRITERIA FOR REVIEW

Review provided for in §155.05 will include:

(A) The project and related improvements shall be designed to protect land and water resources from pollution, including pollution of soils, groundwater, rivers, streams, lakes, ponds, and wetlands.

(B) If required by state or federal law, properties using hazardous substances are required to have a Spill Prevention Control and Countermeasure (SPCC) Plan, a Pollution Incident Prevention Plan (PIPP), and/or a Storm Water Pollution Prevention Plan (SWPPP).

(C) Sites that at any time use, store or generate hazardous substances shall be designed to prevent spills and unpermitted discharges to air, surface of the ground, groundwater, lakes, streams, rivers or wetlands.

(D) Hazardous substances stored on the site before, during, or after site construction, shall be stored in a location and manner designed to prevent spills and unpermitted discharges to air, surface of the ground, groundwater, lakes, streams, rivers, or wetlands.

(E) Secondary containment facilities shall be provided for aboveground storage of hazardous substances in accordance with state and federal requirements. Aboveground secondary containment facilities shall be designed and constructed so that the potentially polluting material cannot escape from the unit by gravity through sewers, drains, or other means, directly or indirectly into a sewer system, or to the waters of the state (including groundwater).

(F) Unplugged abandoned wells and cisterns shall be plugged in accordance with regulations and procedures of the Michigan Department of Environmental Quality and the County Health Department.

(G) Completion of the EGLE Environmental Permits Checklist.

(Ord. 190909-1, passed 9-9-2019)

§ 155.07 PROFESSIONAL REVIEW OF PROPOSED DEVELOPMENT.

Fees in escrow for professional reviews: Any application for site plan approval as required under this chapter may require the deposit of fees to be held in escrow in the name of the applicant. An escrow fee shall be required by the Zoning Administrator unless waived by the Zoning Administrator or the City Council. Waiver shall be based on a written conclusion that there is no substantial information or analysis benefit to accrue as a result of the application of this section. An escrow fee may be requested to obtain a professional review of any other project which may, at the discretion of the Zoning Administrator create an identifiable and potentially negative impact on public infrastructure or services, or on adjacent properties and because of which, professional input is desired before a decision to approve, deny or approve with conditions is made.

(A) The escrow shall be used to pay professional review expenses of engineers, community planners, and any other professionals whose expertise the city values to review the proposed application and/or site plan of an applicant. Professional review will result in a report to the city indicating the extent of conformance or nonconformance with this chapter and to identify any problems that may create a threat to public health, safety or the general welfare. Mitigation measures or alterations to a proposed design may be identified where they would serve to lessen or eliminate identified impacts. The applicant will receive a copy of any professional review hired by the city and a copy of the statement of expenses for the professional services rendered.

(B) No application for approval for which an escrow fee is requested will be processed until the escrow fee is deposited with the City Clerk. The amount of the escrow fee shall be established based on an estimate of the cost of the services to be rendered by the professionals contacted by the Building Official. The applicant is entitled to a refund of any unused escrow fees at the time a permit is either issued or denied in response to the applicant's request.

(C) If actual professional review costs exceed the amount of an escrow, the applicant shall pay the balance due prior to receipt of any land use or other permit issued by the city in response to the applicant's request.

(Ord. 190909-1, passed 9-9-2019)

§ 155.08 EXEMPTIONS AND WAIVERS.

(A) A limited exclusion from this chapter is hereby authorized as follows:

(1) The site plan review criteria do not apply to hazardous substances packaged for personal or household use or present in the same form and concentration as a product packaged for use by the general public.

(2) The site plan review requirements do not apply to products held in containers with a volume of less than 40 gallons and packaged for retail use.

(3) The total excluded substances containing hazardous substances may not exceed the lesser of 200 gallons or one thousand 1,000 pounds at any time.

(4) Substances in parked or stopped vehicle in transit, provided that a commercial vehicle is stopped or parked for less than 72 hours.

(5) Substances, such as gasoline or oil, in operable motor vehicles or boats if used solely for the operation of the vehicle, but not the tanker portion of a tank truck.

(6) Pressurized gases in storage tanks.

(B) All parcels outside of the WHPA.

(Ord. 190909-1, passed 9-9-2019)

§ 155.09 ABANDONED OPERATIONS.

This section applies to residences, businesses or other operations. Those who own or control abandoned operations shall do the following:

(A) Within seven days of becoming an abandoned operation, take such steps as necessary to secure the site such that natural elements such as water, wind and ice or vandals and all other persons cannot gain access to the hazardous substances.

(B) Within 30 days of becoming inactive, provide to the City Manager or their designee, a document that identifies the site, the date of inactivity, the hazardous substances that exist on site, and the name, address, and telephone number of both the owner and the person in control of the site.

(C) Within 60 days of becoming inactive, remove all hazardous substances from the site. This does not include those substances used for heating, cooling, and/or electrical lighting.

(Ord. 190909-1, passed 9-9-2019)

§ 155.10 ENFORCEMENT.

(A) Whenever the city determines that a person has violated a provision of § 155.09, the City Manager or their designee shall issue a written Notice of Violation.

(B) The Notice shall be directed to the owner or party in interest of the building in whose name the property appears on the last local tax assessment records of the city.

(C) If abatement of a violation and/or restoration of affected property are required, the Notice shall set forth a deadline by which such remediation or restoration must be completed. Said Notice shall further advise that, should the responsible party fail to remediate or restore within the established deadline, the work may be done by the city, with the expense thereof charged to the property owner and possibly assessed as a lien against the property.

(D) All Notices required by § 155.10 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 the owner or party in interest at the address shown on the tax records, at least ten days before the date of the hearing described in the notice. If any person to whom a Notice is directed is not personally served, in addition to mailing the Notice, a copy thereof shall be posted upon a conspicuous part of the building or structure at least ten days prior to the hearing date.

(Ord. 190909-1, passed 9-9-2019)

§ 155.11 ABATEMENT/REMEDIAL ACTIVITIES.

(A) The city is authorized to take or contract with others to take reasonable and necessary abatement or remedial activities whenever the city determines a violation of this chapter has occurred and that the responsible party cannot or will not correct the violation in a timely manner, or when no known responsible party exists. The responsible party shall reimburse the city for all reasonable expenses thus incurred by the city. A lien may be placed on the property for the reimbursement of all reasonable expenses to the extent permitted by law.

(B) If the city desires the responsible party to reimburse it for reasonable abatement activity expenses, the city shall, within 90 days of the completion of said activities, mail to that person a Notice of Claim outlining the expenses incurred, including reasonable administrative costs, and the amounts thereof. The person billed shall pay said sum in full within 30 days of receipt of the claim. If the person billed desires to object to all or some of the amount sought by the city, said person may file, within the same 30 day period, a written objection so stating. The city shall, within 30 days of its receipt of the objection, provide an opportunity for the objecting party to present facts or arguments supporting said objection. If the city determines that some or the entire amount originally billed is appropriate, the person shall pay said sum within 30 days of receipt of that determination. If the amount due is not paid, the city may cause the charges to become a special assessment against the property and shall constitute a lien on the property.

(Ord. 190909-1, passed 9-9-2019)

§ 155.12 INJUNCTIVE RELIEF.

If a person has violated or continues to violate the provisions of this chapter, the city may petition the appropriate court for injunctive relief restraining the person from activities that would create further violations, or compelling the person to perform necessary abatement or remediation.

(Ord. 190909-1, passed 9-9-2019)

§ 155.13 [RESERVED]

§ 155.14 [RESERVED]

§ 155.15 APPEALS.

(A) *Right of appeal.* Any person has the right to appeal the basis for any charges, permits, orders, or other action developed in accordance with this chapter. Appeals shall be directed to the City Clerk along with any supporting documentation for amendment of the charges in question. The sitting Zoning Board of Appeals is hereby designated to hear appeals regarding any requirements of this chapter. Any additional information that may be required to resolve the appeal, as directed by the City Manager or their designee, shall be obtained by the user at his expense.

(B) *Formal hearing.*

(1) Appeals from orders of the City Manager or their designee may be made within 30 days from the date of any citation, order, charge, fee, surcharge, penalty or other action. The appeal may be taken by any person aggrieved. The appellant shall file a written notice of appeal with the City Clerk and with the Zoning Board of Appeals, specifying the grounds therefor. Prior to a hearing, the City Manager or their designee shall transmit to the Zoning Board of Appeals, a summary report of all previous action taken. The board of appeals may, at its discretion, call upon the City Manager or their designee to explain the action. The final disposition of the appeal shall be in the form of a resolution, either reversing, modifying, or affirming, in whole or in part, the appealed decision or determination.

(2) The Zoning Board of Appeals shall fix a reasonable time for the hearing of the appeal, give notice thereof to property owners within 300 feet of the affected parcel, and decide the appeal within 45 days. Within the limits of its jurisdiction, the Zoning Board of Appeals may reverse or affirm, in

whole or in part, or may make such order, requirements, decisions, or determination as, in its opinion, ought to be made in the case under consideration, and to that end shall have all the powers of the official from whom the appeal is taken using the following standards:

(a) There is a hardship or unnecessary burden in compliance with the chapter;

(b) The applicant proposes alternate methods to protect the groundwater from potential contamination by methods proven or engineered by a professional acceptable to the Board.

(3) The decision of the groundwater protection board of appeals shall be final.

(C) *Charges outstanding during appeal process.* All charges for service, penalties, fees, or surcharges outstanding during any appeal process shall be due and payable to the city. Upon resolution of any appeal, the city shall adjust such amounts accordingly.

(D) *Administrative action.* If an informal or formal hearing is not demanded within the periods specified in this section, the administrative action shall be deemed final. In the event either or both hearings are demanded, the action shall be suspended until a final determination has been made, except for immediate cease and desist orders or any emergency or judicial action.

(E) *Appeals from determinations of groundwater protection board of appeals.* Appeals from the determinations of the groundwater protection board of appeals may be made to the circuit court for the county as provided by law. The appeals shall be governed procedurally by the Administrative Procedures Act of 1969 (M.C.L.A. 24.201 *et seq.*). All findings of fact, if supported by the evidence, made by the board shall be conclusive upon the court.

(Ord. 190909-1, passed 9-9-2019)

§ 155.16 REMEDIES NOT EXCLUSIVE.

The remedies listed in this chapter are not exclusive of any other remedies available under any applicable federal, state, or local law, and it is within the discretion of the city to seek cumulative remedies.

(Ord. 190909-1, passed 9-9-2019)

§ 155.17 CONFLICTING REGULATIONS.

Whenever any provision of this chapter imposes more stringent requirements, regulations, restrictions or limitations than are imposed or required by the provisions of any other law or chapter, then the provisions of this chapter shall govern. Whenever the provisions of any other law or chapter impose more stringent requirements than are imposed or required by this title, then the provision of such chapter shall govern.

(Ord. 190909-1, passed 9-9-2019)

§ 155.99 PENALTY.

Violation of this chapter shall be subject deemed a municipal civil infraction and a responsible party shall be subject to such fines and costs as provided for in § 10.21.

(Ord. 190909-1, passed 9-9-2019)

TABLE OF SPECIAL ORDINANCES

Table

TABLE I: FRANCHISES

Ord. No.	*Date Passed*	*Description*
-	10-8-1979	Granting a cable television franchise to Liberty TV Cable, Inc., for a period of 15 years with an option to renew for an additional 15 years
191209-1	12-9-2019	Granting an electric services franchise to Consumers Energy Company for a period of ten years

TABLE II: KALAMAZOO LAKE

Ord. No.	*Date Passed*	*Description*
-	3-10-1998	Amends the Slow No Wake Zone of Kalamazoo Lake

TABLE III: ZONING

Ord. No.	*Date Passed*	*Description*
-	7-14-2003	Amends the zoning map; the southern boundary of the Park Street South (PSS) Zone District to exclude a parcel and extends the northern boundary of the Neighborhood Marine District
080414-2	4-14-2008	Rezoning 62 real property parcels of land.
130128-1	1-28-2013	Amends the zoning map to designate 720 Park Street as R-1 Peninsula South District (PS)
130513-1	5-13-2013	Amends the zoning map to designate 106 Mason Street as C-1 City Center (CC)

140714-1	7-14-2013	Amends the zoning map to rezone the parcels annexed by the city north of Oval Beach to "Conservation Recreation Camp". These parcel ID numbers are 03-57-004-008-10, 03-57-004-00, 03-57-004-010-00, and 03-004-013-00

PARALLEL REFERENCES

References to Michigan Compiled Laws Annotated

References to Ordinances

REFERENCES TO MICHIGAN COMPILED LAWS ANNOTATED

M.C.L.A. Section	***Code Section***
M.C.L.A. Section	***Code Section***
15.231 - 15.246	115.04, 115.17, 152.04, 152.06
15.261 *et seq.*	154.153
15.261 - 15.275	152.04, 152.06
24.201 et seq.	155.15
24.201 - 24.328	70.04
28.457 *et seq.*	92.01
28.457(3)	92.02
117.1 *et seq.*	70.01, 150.01
117.3	Ch. 150
117.4i(k)	10.99
123.501 *et seq.*	32.17
125.3101 - 125.3702	31.30, 31.36
125.525	150.27
125.538	150.26
125.539	150.25
125.540	150.27
125.541	150.28
125.542	150.29
125.1401 et seq.	32.02, 32.03
125.1415a	32.03, 32.07
125.1501 *et seq.*	150.03

125.1771 - 125.1794	33.02 - 33.05
125.2301 *et seq.*	154.005
125.3101 - 125.3702	151.01
125.3101 *et seq.*	154.001, 154.150, 154.176
125.3101 - 125.3702	154.179
125.3206	154.046
125.3401	154.176
125.3402 - 125.3403	154.176
125.3405	154.176
125.3407	154.177
125.3501	154.060
125.3502	154.080
125.3504	154.083
125.3801 - 125.3885	154.005
141.103	51.110, 52.70
141.121	51.115, 52.77
211.1 et seq.	150.28
211.741 et seq.	32.60, 32.71
211.742	32.61
247.651 - 247.675	115.13
257.1 *et seq.*	70.01
257.1d	92.04
257.86	92.04
257.252a *et seq.*	93.02
257.319	90.05
257.624a(1),(2),(7)	90.07
257.624b(1)	90.06
257.674	74.07
257.675	74.07
257.676b	74.07
280.1 - 280.630	116.04
286.841 et seq.	98.01
287.321	91.09
287.322	91.09
324.11101 et seq.	50.02
324.32301 *et seq.*	154.027
324.35319	154.092
324.35320	154.092
324.5501 *et seq.*	92.26

324.63701 *et seq.*	154.027
324.80132 *et seq.*	73.06
324.80145	73.03
324.80147	73.04
324.80151	73.08
324.80157	73.09
324.80158	73.09
324.80176 *et seq.*	73.02
324.82101 *et seq.*	71.01
324.82119	71.06
333.6107	90.05
333.7101 *et seq.*	134.20
339.2501 *et seq.*	150.25
380.1 *et seq.*	134.37
399.201 - 399.215	152.01, 152.02, 152.04
399.203 - 399.205	152.01
436.33	90.04
436.33a(1)	90.05
436.33b(1),(2),(8)-(13)	90.05
436.33b(3)	90.05
436.33b(4)	90.05
436.50	90.05
436.1101 *et seq.*	90.01, 90.20, 111.25, 130.03
462.109	116.01
484.2102	115.03
484.2251	115.04
484.3101 - 484.3120	115.01, 115.03
559.101 *et seq.*	154.005, 154.047, 153.01
560	153.01
560.101 et seq.	153.01, 154.005
600.8395 *et seq.*	74.01
600.8801 - 600.8835	10.21
722.1 - 722.6	90.05
750.50	91.04
750.50(2)(e)	91.05
750.141	90.03
750.161	131.01
750.167(1)(1)	133.04
750.167(1)(a)	131.01

750.167(1)(c)	130.01
750.167(1)(f)	134.08
750.167(1)(h)	130.02
750.167(1)(j)	133.02
750.169	133.05
750.170	133.05, 133.07
750.215	130.17
750.240	Ch. 92, 130.15
750.243a	92.01
750.271 *et seq.*	132.05
750.302	134.03
750.304	134.01
750.335a	134.09
750.356	132.06
750.383a	132.02
750.479	130.16
750.493d	94.05
750.552	132.03
752.525	133.05
752.543	133.06

REFERENCES TO ORDINANCES

Ord. No.	***Date Passed***	***Code Section***
Ord. No.	***Date Passed***	***Code Section***
–	10-8-1979	T.S.O. I
–	4-27-1987	52.30 - 52.37
–	7-13-1987	52.51 - 52.53
–	10-22-1987	51.115, 52.77
–	10-10-1988	32.01
–	1-9-1989	71.99
–	3-27-1989	71.99
–	6-24-1992	73.03
–	7-26-1993	133.09
–	4-25-1994	110.02, 110.99

–	5-9-1994	113.01 - 113.10, 113.99
–	5-23-1994	51.112, 52.72
–	8-22-1994	52.79, 73.03
–	4-24-1995	51.001 - 51.008, 51.025 - 51.032, 51.050 - 51.067, 51.080 - 51.096, 51.135 - 51.145, 51.999
–	5-22-1995	94.04
–	7-10-1995	112.01 - 112.07, 112.99
–	8-23-1995	51.112, 52.72
–	10-23-1995	51.005, 52.02, 153.01
–	11-27-1995	150.02
–	5-13-1996	74.07
–	6-24-1996	154.001 - 154.006, 154.020 - 154.036, 154.039 - 154.041, 154.043 - 154.047, 154.060 - 154.062, 154.064, 154.066, 154.068, 154.080 - 154.083, 154.085 - 154.092, 154.135, 154.141, 154.150 - 154.152, 154.154 - 154.157, 154.170 - 154.173, 154.175, 154.177
–	9-22-1997	154.036
–	3-10-1998	73.03, T.S.O. II
–	4-27-1998	154.005, 154.141
–	8-9-1999	10.21, 10.22, 50.08, 72.99, 91.99, 93.99, 94.99, 96.99, 110.99, 112.99, 150.06, 151.99, 153.99
–	3-27-2000	152.01 - 152.17, 152.99
02-02	2-11-2002	154.001 - 154.006, 154.020 - 154.027, 154.029 - 154.037, 154.039 - 154.041, 154.043 - 154.048, 154.060 - 154.062, 154.064, 154.066, - 154.068, 154.080 - 154.092, 154.110 - 154.118, 154.130, 154.132 - 154.135, 154.140 - 154.144, 154.150 - 154.157, 154.170 - 154.179, 154.200 - 154.206, 154.999, Ch. 154, Appendix
–	5-13-2002	31.31, 31.32
–	6-24-2002	154.025
–	10-14-2002	154.005
–	12-9-2002	154.023
–	3-10-2003	115.01 - 115.20
–	4-28-2003	152.02
03-01	5-27-2003	70.01 - 70.14
–	7-14-2003	T.S.O. III
–	9-8-2003	154.060, 154.174
–	5-10-2004	92.01, 92.06, 92.07, 154.022

–	5-24-2004	130.01, 130.02, 130.04, 130.15 - 130.18, 131.01, 131.02, 132.01 - 132.06, 133.01 - 133.09, 134.01 - 134.09, 134.20 - 134.22, 134.35 - 134.39, 134.99, 135.01, 135.02
040726	- -	154.042, 154.092, 154.113
040927	- -	154.005, 154.092, 154.200 - 154.206, 154.999
050711	- -	154.024, 154.039 - 154.041, 154.140, 154.141
060123-1	- -	97.01 - 97.09
060327	3-27-2006	32.01
060508-1	5-10-2006	30.06
060710-1	7-10-2006	154.005, 154.027, 154.092, 154.135
061009	10-9-2006	32.36
061023-1	10-23-2006	32.77
061023-2	10-23-2006	94.09
070108-1	1-8-2007	154.028, 154.092
070312-1	3-12-2007	154.029
070611-1	6-11-2007	154.005, 154.022
070827-1	8-27-2007	130.03
071008-1	10-8-2007	154.001, 154.083, 154.150 - 154.153, 154.176, 154.179
080324-1	3-24-2008	152.01 - 152.17, 152.99
080324-2	3-24-2008	30.01
080324-3	3-24-2008	154.005, 154.092, 154.200 - 154.206
080414-1	4-14-2008	154.005, 154.033 - 154.036
080414-2	4-14-2008	T.S.O. III
080825-1	8-25-2008	154.151
080908-1	9-8-2008	150.01
080922-1	9-22-2008	50.01 - 50.13, 50.99
081222-1	12-22-2008	97.01, 97.03, 97.05, 97.08, 97.99
090112-1	1-12-2009	150.01
090413-1	4-27-2009	110.02
090427-1	4-27-2009	32.16 - 32.18
090427-2	4-27-2009	154.037
090713-1	7-13-2009	32.85 - 32.96
090824-1	8-24-2009	154.005, 154.022, 154.024 - 154.026, 154.030 - 154.037, 154.039 - 154.042, 154.140, 154.141
091012-1	10-12-2009	30.20 - 30.25
091109-1	11-9-2009	154.037, 154.206
091123-1	11-23-2009	154.060, 154.174
100412-1	4-12-2010	110.02, 110.06

100510-1	5-10-2010	154.041
100628-1	6-28-2010	154.026
100726-1	7-26-2010	154.005, 154.022, 154.024 - 154.028, 154.030 - 154.037, 154.042, 154.092
100809-1	8-9-2010	70.15
101122-1	11-22-2010	150.03, 154.005, 154.023, 154.024, 154.039 - 154.041, 154.092, 154.140, 154.141
101213-1	12-13-2010	70.08
110214-1	2-14-2011	154.005, 154.024, 154.092
110613-1	6-13-2011	32.02 - 32.11
111212-1	12-12-2011	154.005, 154.022 - 154.024, 154.029, 154.035 - 154.037, 154.039 - 154.041, 154.174
111212-2	12-12-2011	33.01 - 33.09
120236-1	3-26-2012	154.061, 154.131, 154.135
121008-1	10-8-2012	154.005, 154.092
130128-1	1-28-2013	T.S.O. III
130325-1	3-25-2013	70.11
130408-1	4-8-2013	154.005, 154.029
130513-1	5-13-2013	T.S.O. III
130812-1	8-12-2013	154.113
130909-1	9-9-2013	92.01 - 92.11
140714-1	7-14-2014	154.022 - 154.032, 154.034 - 154.037, 154.039 - 154.043, 154.048, 154.064, 154.117, 154.143, 154.171, 154.999, T.S.O. III
140714-2	7-14-2014	110.06
140811-1	8-11-2014	31.30
140908-1	9-8-2014	90.01, 90.45 - 90.48, 154.049, 154.092
141013-1	10-13-2014	154.153
141208-1	12-8-2014	154.174
150126-1	1-26-2015	91.01
150223-1	2-23-2015	150.01
150223-2	2-23-2015	10.21
150309-1	3-9-2015	51.005
150309-2	3-9-2015	154.092
150413-1	4-13-2015	31.30, 31.36
150427-1	4-27-2015	154.039 - 154.041
150427-2	4-27-2015	154.022
160711-1	7-11-2016	154.135
160808-2	8-8-2016	150.30, 154.135, 154.140
160912-1	9-12-2016	92.26

161114-1	11-14-2016	153.01, 154.005, 154.022, 154.025
161128-1	11-28-2016	T.S.O. III
161128-2	11-28-2016	154.022
170213-2	2-13-2017	154.022
170508-1	5-8-2017	74.07
170522-1	5-22-2017	154.005, 154.022, 154.143
170626-2	6-26-2017	154.004, 154.060 - 154.068
170724-1	7-24-2017	150.01
170911-1	9-11-2017	154.025, 154.026, 154.030 - 154.037
170925-1	9-25-2017	31.40 - 31.43
171113-1	11-13-2017	96.56
180312-1	3-12-2018	150.01
180514-1	5-14-2018	70.15
180529-1	5-29-2018	154.005, 154.092
180529-2	5-29-2018	90.46, 154.049
180611-1	6-11-2018	110.06
180625-1	6-25-2018	150.01
180709-1	7-9-2018	90.02
180813-1	8-13-2018	154.005, 154.030, 154.092
181112-1	11-12-2018	154.022
181112-2	11-12-2018	150.30
181226-1	12-26-2018	98.01 - 98.04
181226-2	12-26-2018	154.022
190325-1	3-25-2019	92.02
190826-1	8-26-2019	116.01 - 116.13
190909-1	9-9-2019	155.01 - 155.17, 155.99
191209-1	12-9-2019	T.S.O. I
191209-2	12-9-2019	31.31
200622-1	6-22-2020	154.005, 154.024, 154.039, 154.041
201109-A	11-9-2020	154.035
201109-B	11-9-2020	154.143
201109-C	11-9-2020	154.174
201109-D	11-9-2020	154.005, 154.024, 154.039 - 154.041
201123-A	11-23-2020	31.02
201214-A	12-14-2020	31.02
210524-A	5-24-2021	110.01 - 110.06, 110.99
210726-A	7-26-2021	154.005, 154.032, 154.135
210726-B	7-26-2021	99.01 - 99.07