

CITY OF AUBURN, MICHIGAN

CODE OF ORDINANCES

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ADOPTING ORDINANCE

Ordinance No. 198

AN ORDINANCE ENACTING A CODE OF ORDINANCES FOR THE CITY OF AUBURN, MICHIGAN, REVISING, AMENDING, RESTATING, CODIFYING AND COMPILING CERTAIN EXISTING GENERAL ORDINANCES OF THE POLITICAL SUBDIVISION DEALING WITH SUBJECTS EMBRACED IN SUCH CODE OF ORDINANCES, AND DECLARING AN EMERGENCY.

WHEREAS, the present general and permanent ordinances of the political subdivision are inadequately arranged and classified and are insufficient in form and substance for the complete preservation of the public peace, health, safety and general welfare of the municipality and for the proper conduct of its affairs; and

WHEREAS, the Acts of the Legislature of the State of Michigan empower and authorize the political subdivision to revise, amend, restate, codify and compile any existing ordinances and all new ordinances not heretofore adopted or published and to incorporate such ordinances into one ordinance in book form; and

WHEREAS, the Legislative Authority of the Political Subdivision has authorized a general compilation, revision and codification of the ordinances of the Political Subdivision of a general and permanent nature and publication of such ordinance in book form; and

WHEREAS, it is necessary to provide for the usual daily operation of the municipality and for the immediate preservation of the public peace, health, safety and general welfare of the municipality that this ordinance take effect at an early date.

NOW, THEREFORE, BE IT ORDAINED BY THE LEGISLATIVE AUTHORITY OF THE POLITICAL SUBDIVISION OF THE CITY OF AUBURN, MICHIGAN:

Section 1. The general ordinances of the Political Subdivision as revised, amended, restated, codified, and compiled in book form are hereby adopted as and shall constitute the "Code of Ordinances of the City of Auburn, Michigan."

Section 2. Such Code of Ordinances as adopted in Section 1 shall consist of the following Titles:

Chapter

TITLE I: GENERAL PROVISIONS

10. *General Code Construction; General Penalty*

TITLE III: ADMINISTRATION

30. Officers, Employees and Departments

31. Downtown Development Authority

32. Planning Commission

33. Special Assessments

- 34. Tax and Finance
- 35. Municipal Civil Infractions

TITLE V: PUBLIC WORKS

- 50. Garbage and Rubbish
- 51. City Water Utility
- 52. Sewer Rates
- 53. Sewer Use

TITLE VII: TRAFFIC CODE

- 70. Motor Vehicle Code
- 71. Parking Violations Bureau

TITLE IX: GENERAL REGULATIONS

- 90. Animals
- 91. Inoperable Motor Vehicles
- 92. Fire Prevention and Protection; Open Burning
- 93. Parks and Recreation
- 94. Public Nuisances
- 95. Streets and Sidewalks

TITLE XI: BUSINESS REGULATIONS

- 110. Cable Television
- 111. Peddlers and Solicitors
- 112. Telecommunications Providers

TITLE XIII: GENERAL OFFENSES

- 130. Disorderly Conduct
- 131. Litter
- 132. Fireworks

TITLE XV: LAND USAGE

- 150. General Provisions
- 151. Building Code
- 152. Trailer Coach Parking
- 153. Subdivision Regulations
- 154. Zoning Code

TABLE OF SPECIAL ORDINANCES

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- I. Franchises
- II. Rezoning

PARALLEL REFERENCES

References to Michigan Compiled Laws Annotated

References to 1991 Code

References to Resolutions

References to Ordinances

Section 3. All prior ordinances pertaining to the subjects treated in such Code of Ordinances shall be deemed repealed from and after the effective date of this ordinance except as they are included and reordained in whole or in part in such Code; provided, such repeal shall not affect any offense committed or penalty incurred or any right established prior to the effective date of this ordinance, nor shall

such repeal affect the provisions of ordinances levying taxes, appropriating money, annexing or detaching territory, establishing franchises, or granting special rights to certain persons, authorizing public improvements, authorizing the issuance of bonds or borrowing of money, authorizing the purchase or sale of real or personal property, granting or accepting easements, plat or dedication of land to public use, vacating or setting the boundaries of streets or other public places; nor shall such repeal affect any other ordinance of a temporary or special nature or pertaining to subjects not contained in or covered by the Code.

Section 4. Such Code shall be deemed published as of the day of its adoption and approval by the Legislative Authority and the Clerk of the Political Subdivision is hereby authorized and ordered to file a copy of such Code of Ordinances in the Office of the Clerk.

Section 5. Such Code shall be in full force and effect as provided in Section 6, and such Code shall be presumptive evidence in all courts and places of the ordinance and all provisions, sections, penalties and regulations therein contained and of the date of passage, and that the same is properly signed, attested, recorded, and approved and that any public hearings and notices thereof as required by law have been given.

Section 6. This ordinance is declared to be an emergency measure necessary for the immediate preservation of the peace, health, safety and general welfare of the people of this municipality, and shall take effect at the earliest date provided by law.

Section 7. This ordinance shall become effective immediately after the last required publication following adoption. The above ordinance was adopted at a meeting of the Auburn City Commission on the 21st day of October, 2013, and shall be published in the Bay City Democrat and Legal News on or before the 24th day of October, 2013.

YEAS: Machelski, McNally, Hardy, Williams, Charbonneau, Rezmer

NAYS: _____

ABSENT: Kilbourn

ORDINANCE DECLARED ADOPTED.

Karen Bellor /s/

Karen Bellor, City Clerk

City of Auburn

Bay County, Michigan

TITLE I: GENERAL PROVISIONS

Chapter

10. GENERAL CODE CONSTRUCTION; GENERAL PENALTY

CHAPTER 10: GENERAL CODE CONSTRUCTION; GENERAL PENALTY

Section

- 10.01 Title of code
- 10.02 Interpretation
- 10.03 Application to future ordinances
- 10.04 Captions
- 10.05 Definitions
- 10.06 Rules of interpretation
- 10.07 Severability
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- 10.23 Publication of rules and regulations
- 10.24 Penalty in addition to other relief

- 10.99 General penalty

§ 10.01 TITLE OF CODE.

This codification of ordinances by and for the City of Auburn, Michigan, shall be designated as the “Auburn City Code”, and may be so cited.

§ 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.

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.

§ 10.05 DEFINITIONS.

(A) *General rule.* Words and phrases shall be taken in their plain, 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. The City of Auburn, Michigan.

CITY COMMISSION. The City Commission of Auburn, Michigan.

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

COUNTY. Bay 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 those 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 the municipality, unless the context clearly requires otherwise.

PERSON. Extends to and includes person, persons, firm, corporation, co-partnership, trustee, lessee or receiver. Whenever used in any clause prescribing and imposing a penalty, the terms **PERSON** or **WHOEVER**, as applied to any unincorporated entity, shall mean the partners or members thereof, and, as applied to corporations, the officers or agents thereof.

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

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

SHALL. The act referred to is mandatory.

SIDEWALK. The 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.

SUBCHAPTER. A subsection 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. 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.

(1991 Code, § 1.5)

§ 10.06 RULES OF INTERPRETATION.

The construction of all ordinances of this municipality shall be by the following rules, unless that 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 the 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.

If any provision of this code as now or later amended or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions that can be given effect without the invalid provision or application.

§ 10.08 REFERENCE TO OTHER SECTIONS.

Whenever, in a 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 the 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.

(A) 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 the 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.

(B) 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 or 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 be Sunday, 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 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.

§ 10.14 ORDINANCES UNAFFECTED.

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.

§ 10.15 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 ordinance repealing or modifying it takes effect.

(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.

§ 10.16 ORDINANCES WHICH AMEND OR SUPPLEMENT CODE.

(A) If the legislative body shall desire to amend any existing chapter or section of this code, the chapter or section shall be specifically repealed and a new chapter or section, containing the desired amendment, substituted in its place.

(B) Any ordinance which is proposed to add to the existing code a new chapter or section shall indicate, with reference to the arrangement of this code, the proper number of the chapter or section. In addition to the indication thereof as may appear in the text of the proposed ordinance, a caption or title shall be shown in concise form above the ordinance.

§ 10.17 SECTION HISTORIES; STATUTORY REFERENCES.

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

(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)

(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 for inspection or copying all public records unless otherwise exempted by state law.

Statutory reference:

Inspection of public records, see Public Act 442 of 1976, being M.C.L.A. §§ 15.231et seq.

§ 10.18 RESPONSIBILITY.

Whenever any act or omission to act is a violation of this code, including the amendments thereto, or 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 such violation.

(1991 Code, § 1.4)

§ 10.19 TITLE OF OFFICER TO INCLUDE DEPUTY OR SUBORDINATE.

Whenever, by the provisions of this code, any officer of the city is assigned any duty or empowered to perform any act or duty, the title of said officer shall mean and include such officer or his or her deputy or authorized subordinate.

(1991 Code, § 1.6)

§ 10.20 TENSE.

Except as otherwise specifically provided or indicated by the context, words indicating the present tense shall extend to and include the time of the happening of any act, event or requirement for which provision is made in this code.

(1991 Code, § 1.9)

§ 10.21 SERVICE OF NOTICE.

(A) 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, such notice shall be served:

- (1) By delivering the notice to the owner personally or by leaving the same at his or her residence, office or place of business, with some person of suitable age and discretion;
- (2) By mailing thereof, by regular or certified mail at his or her last known residence or business address;
- (3) By posting said notice in some conspicuous place on the premises of his or her last known residence or business address; or
- (4) By publication of such notice in a newspaper having a general circulation in the city.

(B) All notices shall comply with the Michigan Open Meetings Act (Public Act 267 of 1976, being M.C.L.A. §§ 15.261 through 15.275, as amended) and other applicable state statutes.

(1991 Code, § 1.10)

§ 10.22 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 is given by said officer.

(1991 Code, § 1.11) Penalty, see § 10.99

§ 10.23 PUBLICATION OF RULES AND REGULATIONS.

Except as otherwise provided by this code, all rules and regulations made by the administrative officers which are required to make effective the provisions of this code, shall become effective after the approval thereof by the Commission and the filing of a certified copy thereof in the office of the City Clerk. Copies of all such rules and regulations shall be kept in the office of the City Clerk for public inspection and distribution.

(1991 Code, § 1.12)

§ 10.24 PENALTY IN ADDITION TO OTHER RELIEF.

In the event that the doing of any act or the permitting of a condition to exist is declared to be a nuisance by any section of this code, the doing of such act or the permitting of such condition to exist may be punished as provided in this chapter, in addition to or as on alternate procedure to, injunctive relief in a court of competent jurisdiction, or the abatement of such nuisance by procedures provided and permitted in the city’s Charter.

(1991 Code, § 1.14)

§ 10.99 GENERAL PENALTY.

Unless another penalty is expressly provided by this code for any particular provision or section, every person found responsible for a violation of any provision of this code or any rule or regulation adopted or issued shall be punished in accordance with the Civil Infraction Ordinance set forth in this code. The penalty provided by this section, unless another penalty is expressly provided, shall apply to the amendment of any section of this code whether or not such penalty is re-enacted in the amendatory ordinance.

TITLE III: ADMINISTRATION

Chapter

- 30. OFFICERS, EMPLOYEES AND DEPARTMENTS**
- 31. DOWNTOWN DEVELOPMENT AUTHORITY**
- 32. PLANNING COMMISSION**
- 33. SPECIAL ASSESSMENTS**
- 34. TAX AND FINANCE**
- 35. MUNICIPAL CIVIL INFRACTIONS**

CHAPTER 30: OFFICERS, EMPLOYEES AND DEPARTMENTS

Section

Compensation of Officers

- 30.01 Compensation for elected officials and Board members
- 30.02 Board of Review (Assessments)

Elections

- 30.15 Even-year city elections
- 30.16 Term

Policy and Procedure; City Administrator

- 30.30 Function and duties
- 30.31 Administrative procedure
- 30.32 Purchases and contracts

Police Department

- 30.45 Functions of Department
- 30.46 Department rules
- 30.47 Civilian crossing guards

Fire Department

- 30.60 Generally
- 30.61 Joint Fire Department
- 30.62 Department rules
- 30.63 Enforce fire laws

COMPENSATION OF OFFICERS

§ 30.01 COMPENSATION FOR ELECTED OFFICIALS AND BOARD MEMBERS.

Compensation for elected officials and Board members will be:

(A) Twenty dollars compensation per Commissioner for regular Commission meetings, including all special meetings scheduled in accordance with proper notice and in compliance with state statute, in particular to Open Meetings Act, being M.C.L.A. §§ 15.261 *et seq.*;

(B) Twenty dollars compensation for each meeting attended by a City Commissioner or the Mayor when appointed by the Commission to be a member of or be liaison to the following city committees, boards or intergovernmental associations:

- (1) Finance Committee;
- (2) Personnel Committee;
- (3) Auburn Williams Fire District;
- (4) Auburn Williams Recreation;
- (5) Downtown Development Authority; and
- (6) Planning and Zoning.

(C) In addition to the compensation for Commission meetings and the other meetings set forth above, the annual salary for the position of Mayor is increased from \$100 to \$300 per year; and

(D) (2) In accordance with the City Charter, Article IV, § 22, the increases outlined in this section will take effect when the next term of office for each affected position begins.

(2) The salary of any elective city officer will not be increased after his or her election during any fixed term of office for which he or she was elected.

(1991 Code, § 1.121) (2012 amendment)

§ 30.02 BOARD OF REVIEW (ASSESSMENTS).

The members of the Board of Review (Assessments) shall be compensated at a rate for their services, as established from time to time

by resolution of the City Commission.

(1991 Code, § 1.122)

ELECTIONS

§ 30.15 EVEN-YEAR CITY ELECTIONS.

Pursuant to Public Act 523 of 2012, State of Michigan, being M.C.L.A. § 168.642(a)(4), and city resolution No. 2013-2, beginning with the election of November 2013, a Mayor shall serve a term of office until a successor is elected and qualified in November 2016. Beginning in 2016, a Mayor shall be nominated and elected at the even-year primary and general elections for the city. Beginning with the election of November 2013, three Commissioners shall serve a term of office until successors are elected and qualified in November 2018. Beginning in 2018, these three Commission seats shall be nominated and elected at the even-year primary and general elections for the city. The three Commissioners elected at the November 2011 election shall remain in office until successors are elected and qualified in November 2016. Beginning in 2016, these three Commission seats shall be nominated and elected at the even-year primary and general elections for the city. The foregoing elections shall be governed as provided by the Michigan Election Law, being M.C.L.A. §§ 168.1 through 168.992.

(1991 Code, § 1.31) (Ord. 198, passed 10-21-2013)

§ 30.16 TERM.

The Mayor shall serve for a term of two years and City Commissioners shall serve for a term of four years commencing on the Monday next following their election and continuing until their respective successors are elected and qualify.

(1991 Code, § 1.32)

POLICY AND PROCEDURE; CITY ADMINISTRATOR

§ 30.30 FUNCTION AND DUTIES.

The City Administrator shall have the following functions and duties:

- (A) To enforce all city laws and ordinances;
- (B) To enforce all city contracts and franchises;
- (C) To supervise all public utilities, improvements, works and undertakings, and the finances of the city;
- (D) To appoint and remove all administrative officers and employees in the administrative service of the city except elective officers or officers appointed by the City Commission or Mayor pursuant to the Charter;
- (E) To attend all meetings of the City Commission, and to take part therein, but without vote;
- (F) In accordance with City Charter, state statutes and resolutions of the City Commission, prepare on or before the first regular meeting of each fiscal year an annual itemized budget, and to keep the Commission fully advised as to the financial condition and needs of the city;
- (G) To purchase all supplies, including insurance for the city, and approve all vouchers for the payment of same;
- (H) To recommend to the City Commission, for adoption, such measures as he or she may deem necessary or expedient;
- (I) The Administrator shall be responsible to the City Commission for the efficient administration of all city functions;
- (J) To perform such other duties as the City Commission may direct that naturally pertain to the general management of city affairs, and he or she shall execute and perform all administrative functions of the city that are not imposed by the Charter or any city ordinance upon some other official; and
- (K) To administer, based upon resolution, hiring action or appointment by the City Commission the civil infraction enforcement employee.

(1991 Code, § 1.71) (2012 amendment)

§ 30.31 ADMINISTRATIVE PROCEDURE.

(A) The City Administrator shall establish regulations setting forth the duties of and procedures to be followed in each department and office of the city which come under the Administrator's jurisdiction.

(B) Each officer or director of a department of the city shall, subject to approval by the City Administrator, have supervision of his or her department and shall have the power to prescribe rules and regulations, not inconsistent with the Charter and the regulations and procedures prescribed by the City Administrator.

(1991 Code, § 1.72) (2012 amendment)

§ 30.32 PURCHASES AND CONTRACTS.

- (A) The City Administrator will serve as City Purchasing Agent.

(B) The City Commission may, each year at the time it approves and adopts the city budget, authorize the City Purchasing Agent to make all purchases with a cost of \$0 to \$2,500 without further approval of the Commission.

(C) For purchases between \$2,500 and \$5,000, the City Purchasing Agent must solicit bids, which need not be sealed bids, from three sources.

(D) Any transactions over \$5,000 will use the sealed bid process described below. Such transactions may not be divided into segments, the aggregate of which would be \$3,000 or more.

(E) The City Commission shall have the power to reject any and all bids if deemed by it to be to the advantage of the city. Sealed bids shall be asked for in all transactions involving the expenditure of \$5,000 or more and the transaction evidenced by written contract submitted to and approved by the City Commission; provided, that in cases where it is clearly to the city's advantage to contract without competitive bidding, the City Commission, by affirmative vote and upon recommendation of the City Administrator, may so authorize. Detailed purchasing and contracting procedure shall be established by the City Administrator.

(1991 Code, § 1.73) (2012 amendment)

POLICE DEPARTMENT

§ 30.45 FUNCTIONS OF DEPARTMENT.

If the city operates and maintains a Police Department or any intergovernmental police agency, the police work of the city shall consist of the following functions:

(A) The operation of motor and foot patrol units for routine investigations and the general maintenance of law and order;

(B) The processing of citizens' complaints, the maintaining and supervising of police records, criminal and noncriminal identification, property identification and custody of property;

(C) The investigation of crimes, elimination of illegal liquor traffic and vice, and the preparation of evidence for the prosecution of criminal cases and offenses in violation of this code. The Police Department shall enforce all provisions of this code for which any penalty is provided, as well as all other laws applicable to and in force within the city;

(D) The prevention and control of juvenile delinquency, the removal of crime hazards and the coordination of community agencies interested in crime prevention; and

(E) The control of traffic, traffic education programs, school patrols and coordination of traffic violation prosecutions.

(1991 Code, § 1.81) (2012 amendment)

§ 30.46 DEPARTMENT RULES.

(A) The Chief of Police or City Administrator's designee may prescribe rules for the government of police officers of the city, subject to approval by the City Commission, which shall be entered in a book of Police Department rules and orders, and may be amended or revoked by the Chief of Police upon written notice to the City Commission.

(B) Such rules may establish one or more divisions within the Police Department, each of which divisions may be charged with performing one or more of the functions of the Police Department enumerated in § 30.45.

(C) Any such divisions shall be supervised by an officer of the Police Department, who shall be responsible for the particular functions of the Police Department assigned to the particular division supervised by him or her.

(D) It shall be the duty of all members of the police force to comply with such rules and orders while effective.

(E) Such rules and regulations shall designate the chain of command for the Department so that in the absence or disability of the Chief, the responsibility for the operation of the Department shall immediately and automatically be vested in the next ranking officer or member of the Department present.

(1991 Code, § 1.82)

§ 30.47 CIVILIAN CROSSING GUARDS.

(A) The Chief of Police or City Administrator's designee is hereby authorized to appoint special officers, to be known as civilian crossing guards, in such numbers as he or she may deem necessary, to perform police duties under the direction of and in compliance with such rules and regulations as the Chief of Police shall promulgate.

(B) Such civilian crossing guards shall wear such badges, dress and insignia as the Chief of Police shall direct, and shall be equipped in the manner which he or she deems necessary for the proper discharge of their duties.

(C) The Chief of Police or City Administrator's designee shall promulgate rules relating to the qualifications, appointment and removal of such civilian crossing guards. Such persons shall serve with such compensation as may be provided for by the City Commission.

(D) Civilian crossing guards shall be entitled to all rights and benefits provided under the provisions of Public Act 317 of 1969, being M.C.L.A. § 418.101 through 418.941, and the amendments thereto, the same being known as the Workers' Disability Compensation Law of Michigan.

(E) It shall be unlawful for any civilian crossing guard to exercise his or her authority as such guard, or to wear the uniform or insignia, or to display his or her badge in an attempt to exercise his or her authority, except during the performance of actual authorized police duty.

(F) It shall be unlawful for any civilian crossing guard to knowingly and willfully neglect or refuse to respond for assignment of duty when called under such rules and regulations as promulgated by the Chief of Police or City Administrator's designee.

(G) It shall be unlawful for any person not duly appointed and sworn in as a civilian crossing guard to impersonate such officer, or to wear, carry or display the badge, designated dress or insignia, of such civilian crossing guards.

(H) School crossing guards; failure to obey: a driver of a motor vehicle who fails to stop when a school crossing guard is in a school crossing and is holding a stop sign in an upright position visible to approaching vehicle traffic is guilty of a misdemeanor. In a proceeding for a violation of this section, proof that the particular vehicle described in the citation, complaint or warrant was used in the violation, together with proof that the defendant named in the citation, complaint, warrant or appearance ticket was the registered owner of the vehicle at the time of the violation, constitutes in the evidence a presumption that the registered owner of the vehicle was the driver of the vehicle at the time of the violation.

(I) Pursuant to M.C.L.A. § 764.9c, a civil crossing guard is authorized to issue appearance tickets for a violation of division (H) above.

(1991 Code, § 1.83) Penalty, see § 10.99

FIRE DEPARTMENT

§ 30.60 GENERALLY.

The Fire Department and any intergovernmental fire agency in which the city participates, shall be charged with the prevention and extinguishment of fires, as a protection of life and property against fire, the removal of fire hazards in conjunction with City Commission civil infraction enforcement procedures, the performance of other public services of an emergency nature assigned to it, and the conducting of an educational fire prevention program.

(1991 Code, § 1.91) (2012 amendment)

§ 30.61 JOINT FIRE DEPARTMENT.

The city may join with one or more municipalities to provide joint fire protection.

(1991 Code, § 1.92)

§ 30.62 DEPARTMENT RULES.

The Fire District Board or any governing board from an intergovernmental fire agency will adopt rules and regulations for government of the department.

(1991 Code, § 1.93) (2012 amendment)

§ 30.63 ENFORCE FIRE LAWS.

It shall be the duty of the Fire Department to enforce all state laws and provisions of this code governing the following:

- (A) The prevention of fires;
- (B) The storage and use of explosives and flammables;
- (C) The maintenance of fire alarm systems, both automatic and private, and all fire extinguishing equipment;
- (D) The maintenance and use of fire escapes;
- (E) The maintenance of fire protection and the elimination of fire hazards in all buildings and structures;
- (F) The maintenance and adequacy of fire exits from factories, schools, hotels, asylums, hospitals, churches, halls, theaters and all other places in which numbers of persons work or congregate for any purpose; and
- (G) Structures erected and uses conducted on premises located within the city.

(1991 Code, § 1.94)

CHAPTER 31: DOWNTOWN DEVELOPMENT AUTHORITY

Section

31.01 Definitions

31.02 Determination of necessity

- 31.03 Creation of Authority
- 31.04 Board of Trustees
- 31.05 Powers of the Authority
- 31.06 Director; bond
- 31.07 Bylaws
- 31.08 Fiscal year; adoption of budget
- 31.09 Description of downtown district

Cross-reference:

Downtown Development Authority Development Plan; Tax Increment Finance Plan, see §§ 34.25 and 34.26

§ 31.01 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning. The terms used in this chapter shall have the same meaning as given to them in Public Act 197, being M.C.L.A. §§ 125.1651 through 125.1680, as amended, or as hereinafter in this section provided unless the context clearly indicates to the contrary.

ACT 197. Public Act 197 of 1975, being M.C.L.A. §§ 125.1651 through 125.1680, as amended, as now in effect or hereafter amended.

AUTHORITY. The City of Auburn Downtown Development Authority, as created by Ord. 113.

BOARD or BOARD OF TRUSTEES. The Board of Trustees of the Authority, the governing body of the Authority.

CHIEF EXECUTIVE OFFICER. The Mayor of the city.

CITY. The City of Auburn, Michigan.

COMMISSION or CITY COMMISSION. The City Commission of the City of Auburn, Michigan.

DOWNTOWN DISTRICT. The downtown district designated by and described in § 31.09, as now existing or hereafter amended.

(1991 Code, § 1.211)

Editor's note:

By § 1(4) of Ord. 141, passed 5-6-1991, the City Commission approved the development plan and the financing plan presented by the DDA Board on April 8, 1991

§ 31.02 DETERMINATION OF NECESSITY.

The City Commission hereby determines that it is necessary to form a Downtown Development Authority, for the best interests of the city to halt property value deterioration and increase property tax valuation where possible in the central business district of the city, to eliminate the causes for that economic and physical deterioration and to promote economic growth and development by establishing a Downtown Development Authority pursuant to Public Act 197, being M.C.L.A. §§ 125.1651 through 125.1680, as amended.

(1991 Code, § 1.212)

§ 31.03 CREATION OF AUTHORITY.

There is hereby created pursuant to Act 197, being M.C.L.A. §§ 125.1651 through 125.1680, as amended, a Downtown Development Authority for the city. The Authority shall be a public body corporate and shall be known and exercise its powers under title of "Auburn Downtown Development Authority". The Authority may adopt a seal, may sue and be sued in any court of law in this state, and shall possess all of the powers necessary to carry out the purpose of its incorporation as provided by this chapter and Act 197, being M.C.L.A. §§ 125.1651 through 125.1680, as amended. The enumeration of a power in this chapter or in Act 197, being M.C.L.A. §§ 125.1651 through 125.1680, as amended, shall not be construed as a limitation upon the general powers of the Authority.

(1991 Code, § 1.213)

§ 31.04 BOARD OF TRUSTEES.

The Authority shall be under the supervision and control of a Board consisting of the chief executive officer of the municipality and eight members as determined by the governing body of the municipality. Members shall be appointed by the governing body of the municipality. Not less than a majority of members of the Board shall be persons having an interest in property located in the downtown district. Of the members first appointed, an equal number of the members as near as is practicable, shall be appointed for one year, two years, three years and four years. A member shall hold office until the member's successor is appointed. Thereafter, each member shall serve a term of four years. An appointment to fill a vacancy shall be made by the governing body of the municipality for the unexpired term only. The Chairperson of the Board shall be elected by the Board.

(1991 Code, § 1.214) (Ord. 147, passed 3-16-1992)

§ 31.05 POWERS OF THE AUTHORITY.

Except as specifically otherwise provided in this chapter, the Authority shall have all powers provided by law subject to the limitations imposed by law and herein. The Authority shall have the power to levy ad valorem taxes on the real and tangible personal property not exempt by law and as finally equalized in the downtown district at the rate of not more than two mills each year if the City Commission annually approves the levy thereof by the Authority.

(1991 Code, § 1.215)

§ 31.06 DIRECTOR; BOND.

If a director is ever employed as authorized by § 5 of Act 197, being M.C.L.A. § 125.1655, as amended, he or she shall post bond in penal sum as may be required by the Board of Trustees at the time of appointment and shall be in conformance with § 5 of Act 197, being M.C.L.A. § 125.1655, as amended.

(1991 Code, § 1.216)

§ 31.07 BYLAWS.

The Board of Trustees shall adopt rules and regulations governing its procedures and the holding of regular meetings subject to the approval of the governing body of the city. Said rules of operation shall be governed by Public Act 267 of 1976, being M.C.L.A. §§ 15.261 through 15.275, and Public Act 442 of 1976, being M.C.L.A. §§ 15.231 through 15.246.

(1991 Code, § 1.217)

§ 31.08 FISCAL YEAR; ADOPTION OF BUDGET.

(A) The fiscal year of the Authority shall begin on July 1 of each year and end on June 30 of the following year, or such other fiscal year as may hereafter be adopted by the city.

(B) The Board shall annually prepare a budget and shall submit it to the Commission on the same date that the proposed budget for the city is required by the city's Charter to be submitted to the Commission. The Board shall not finally adopt a budget for any fiscal year until the budget has been approved by the City Commission. The Board may, however, temporarily adopt a budget in connection with the operation of any improvements which have been financed by revenue bonds where required to do so by the ordinance authorizing the revenue bonds.

(C) The Authority shall submit financial reports to the City Commission as requested by the City Commission. The Authority shall be audited annually by the same independent auditors auditing the city, and copies of the audit report shall be filed with the Commission.

(1991 Code, § 1.218)

§ 31.09 DESCRIPTION OF DOWNTOWN DISTRICT.

(A) The downtown district in which the Authority shall exercise its powers as provided by Public Act 197 of 1975, being M.C.L.A. §§ 125.1651 through 125.1680, as amended, shall consist of the following described territory in the city, subject to such changes as may hereinafter be made to this chapter pursuant to Act 197, being M.C.L.A. §§ 125.1651 through 125.1680, as amended.

(B) An area in the city, within the boundaries described as follows:

A part of Sections 23 and 24, T.14 N. - R.3 E., City of Auburn, Bay County Michigan, commencing at the west quarter corner of said Section 23; thence north on the west section line 264 feet; thence east on the north line of lots 14 to 17 and 45 and 46 and their extension, Brown's Subdivision, to the east line of said subdivision; thence south 37 feet; thence east on the north line of lot 1, Wiedyk Subdivision No. 1, and its extension, 165 feet; thence north on the centerline of Sycamore Street, 166 feet; thence east on the centerline of Green Street, 165 feet; thence south on the east line of Wiedyk Subdivision No. 1 and its extension, 208 feet; thence east 165 feet more or less; thence north on the west line of the east half of the east half of the southwest quarter of the northwest quarter of said Section 23, to the south line of the Central Michigan Railroad; thence east 165 feet more or less; thence south on the west one-eighth line to a point 210 feet north of the east and west quarter line; thence east 696 feet more or less to the centerline of Noell Way; thence north 183 feet; thence east on the centerline of Bryant Boulevard West, 656.5 feet; thence south 393 feet to the east and west quarter line; thence east on said quarter line to a point 108 feet west of the west line of the Plat of Auburn; thence north 270 feet; thence east 108 feet; thence north on the west line of the Plat of Auburn, 108 feet; thence east on the north line of vacated Green Street, 133 feet; thence south on the centerline of Frances Street as platted, 110 feet; thence east on the north line of lots 2 and 9, Block 15, Plat of Auburn, 266 feet; thence north on the centerline of Whittemore Street, 110 feet; thence east on the south line of lot 1, Block 11, Plat of Auburn, 133 feet; thence north on the east lines of lots 1, 2 and 3 of said Block 11, 150 feet; thence east on the south lines of lots 7 through 19, said Block 11, 703 feet; thence south 378 feet; thence east parallel with and 150 feet north of the east and west quarter line, 297 feet; thence south 150 feet to said quarter line; thence east on said quarter line, 29.5 feet; thence north 368 feet; thence east 165.99 feet; thence south 160.5 feet; thence east 132 feet to the east line of Section 23; thence north on said east line to the south line of Macomber Avenue extended east; thence west on said extended line, 33 feet; thence north on the west line of Auburn Road to the northeast corner of lot 7, Block 1, Plat of Auburn; thence west on the north line of said lot 7, 130 feet; thence south on the centerline of the vacated alley in said Block 1, 100 feet; thence west on the south line of lots 1 through 6, said Block 1, 353 feet; thence north on the centerline of vacated Nuffer Street, 100 feet; thence west on the north line of Block 2, Plat of Auburn, 458 feet; thence north on the east line of lot 12 and its northerly extension, North Auburn Subdivision No. 1, to the north line of the Plat of Auburn; thence east on said north line which is the south line of the Central Michigan Railroad right-of-way, 1,243.5 feet; thence south 20 feet; thence east 643.5 feet; thence north 20 feet; thence east 33 feet to the east section line; thence north on said east section line to the northwest corner of F. Weber's Subdivision; thence east entering into Section 24 and on the north line of F. Weber's Subdivision, and the south line of the Central Michigan Railroad right-of-way to the east line of the west half of the northwest quarter of said Section 24; thence south on said east line, 200 feet; thence west

608.1 feet; thence south on the centerline of Park Avenue, 156.82 feet; thence west on the north line of Noble Street, 250 feet; thence north on the centerline of Weber Street, 355.11 feet; thence west on said north line of F. Weber's Subdivision, 322.75 feet; thence south on the east lines of lots 7 and 6, Block 4, F. Weber's Subdivision, 102.35 feet; thence west on the south line of said lot 6, 100 feet; thence south on the east line of Auburn Road, 275 feet; thence east on the centerline of Hemmingway Street, 213 feet; thence south 242.5 feet; thence east 84.75 feet; thence south 132.5 feet; thence east on the north lines of lots 1 and 2, Block 2, and the north lines of lots 1 and 2, Block 3, F. Weber's Subdivision, 250 feet; thence north 91.25 feet; thence east on the north line of lot 20, Block 3, F. Weber's Subdivision, 125 feet; thence south on the centerline of Park Avenue, 240.75 feet; thence east on the east and west quarter line of said Section 24 to a point 275 feet west of the northeast corner of the northwest quarter of the southwest quarter of said Section 24; thence south, 422 feet; thence west 330 feet; thence south 36 feet; thence west to a line which is 656.3 feet east of the west section line; thence north on said line, 146 feet; thence west 273.3 feet; thence south 146 feet; thence west on the centerline of Elm Street, 383 feet; thence south on the west line of Section 24, 238 feet; thence east 33 feet; thence south 660 feet; thence west 33 feet; thence south to the northwest corner of the south half of the north half of the south half of the southwest quarter of said Section 24; thence east on the north line of said south half of the north half of the south half of the southwest quarter to the north and south quarter line; thence south on said quarter line to the north right-of-way line of Highway U.S. 10; thence west on said right-of-way line, 1,913.67 feet; thence northwesterly on said right-of-way line, 535.88 feet; thence northwesterly on said right-of-way line, 278.26 feet; thence west on the north line of the south half of the south half of the southwest quarter, 46.52 feet; thence north on the west line of said Section 24 to the northwest corner of said south half of the north half of the south half of the southwest quarter of said Section 24; thence north on the east line of said Section 24 to a point 874.5 feet south of the east quarter corner of said Section 24; thence west 165 feet; thence north 77.5 feet; thence east 165 feet; thence north on said east section line to the centerline of Elm Street; thence west 332 feet; thence north 125 feet; thence west one foot; thence north 73 feet; thence east 36 feet; thence north 74 feet; thence west 260 feet; thence south on the centerline of Roberts Street, 47 feet; thence west 165 feet; thence south 100 feet; thence west to a point 143 feet east of the west line of the northeast quarter of the southeast quarter; thence north 297 feet; thence west on the east and west quarter line, 143 feet; thence south 264 feet; thence west on the north line of Price Subdivision, 390 feet; thence north 24 feet; thence west 125 feet to the centerline of Price Street; thence west on the south lines of lots 9 and 8, of Price Subdivision, 310 feet; thence north on the centerline of Edwards Street 60.5 feet; thence west on the south line of the north 19.5 feet of lot 3, of Price Subdivision, 176.7 feet; thence south 40 feet; thence west on the south lines of lots 1 and 2, Block 2, and on the south lines of lots 1 and 2, Block 1, of O.B. Braun's Subdivision, 330.5 feet; thence south on the north and south quarter line, 30 feet; thence west on the south line of the north 180 feet of lot 1, DeCourcy Subdivision, 333 feet; thence north on the centerline of Renshar Drive, 80 feet; thence west 122 feet; thence south 30 feet; thence west 56 feet; thence south 118 feet; thence west 152 feet; thence south on the west line of the east half of the east half of the southwest quarter of Section 23, 407 feet; thence west to the east line of the west half of the west half of the east half of the southwest quarter thence south on said east line, to the north right-of-way line of Highway U.S. 10; thence west to the west line of the west half of the west half of the east half of the southwest quarter; thence north on said west line to the south line of the north half of the southwest quarter of the southwest quarter; thence west on said south line to the west line of Section 23; thence north on said west line, 1974 feet more or less to the west quarter corner of said Section 23 and the point of beginning.

(1991 Code, § 1.219) (Ord. 140, passed 5-6-1991)

CHAPTER 32: PLANNING COMMISSION

Section

- 32.01 Creation
- 32.02 Membership
- 32.03 Liaisons
- 32.04 Training
- 32.05 Members; appointment and terms
- 32.06 Removal from office
- 32.07 Membership; vacancies
- 32.08 Transition
- 32.09 Compensation
- 32.10 Meeting; records
- 32.11 Powers and duties
- 32.12 Staff
- 32.13 Bylaws
- 32.14 Approval, ratification and reconfirmation

§ 32.01 CREATION.

There shall be a City Planning Commission pursuant to Public Act 33 of 2008, as amended, being the Michigan Planning Enabling

Act, M.C.L.A. §§ 125.3801 *et seq.*, hereinafter referred to as the “Planning Commission”, with the powers and duties as therein set forth and as hereinafter provided and staffed Planning Department. This chapter shall be officially known and described as the “City of Auburn Planning Commission Ordinance”.

(2012 amendment)

§ 32.02 MEMBERSHIP.

(A) The Planning Commission shall consist of seven members, appointed by the Mayor and approved by the City Commission. To be qualified to be a member and remain a member of the Planning Commission, the individual shall meet the following qualifications:

- (1) Shall be a qualified elector of the city, except one non-qualified elector may be a member;
- (2) Shall not be a declared candidate for any political office, except this condition shall not apply to the City Commission representative to the Planning Commission;
- (3) After an individual’s first appointment and before reappointment shall have attended training for Planning Commission members, pursuant to § 32.04; and
- (4) Shall meet the conditions provided for each individual member in divisions (B), (D), (E) and (F) below, except the geographical location of the individual’s residency may be considered optional.

(B) The membership shall be representative of the important geographic and interest segments of the city as follows.

(C) Members shall be appointed for three-year terms; however when first appointed a number of members shall be appointed to one-year, two-year or three-year terms such that, as nearly as possible, the terms of one-third of all Planning Commission members will expire each year. If a vacancy occurs, the vacancy shall be filled for the unexpired term in the same manner as provided for an original appointment such that, as nearly as possible, the terms of one-third of all Planning Commission members continue to expire each year.

(D) Ex officio members shall include one member of the City Commission. The terms of office of ex officio members shall coincide with their elected terms of office on the legislative body or the term of office of the chief elected official who appointed him or her.

(E) The membership shall be representative of the important segments of the community, such as the economic, governmental, educational and social development of the city, in accordance with the major interests as they exist in the city, as follows:

- (1) Government (represented by the ex officio City Commissioner);
- (2) Natural resources and public health;
- (3) Recreation;
- (4) Education;
- (5) Industry and agriculture;
- (6) Transportation; and
- (7) Commerce;

(F) The membership shall also be representative of the entire geography of the city to the extent practicable, and as a secondary consideration to the representation of the major interests.

(G) A member of the City Commission, Chief Administrative Officer, person designated by the chief administrative officer, and chief elected official of the city shall not be Chair of the Planning Commission.

(H) Not more than one third of the total membership of the Planning Commission shall consist of, collectively, a member of the City Commission, Chief Administrative Officer, person designated by the chief elected officer, or chief elected official of the city.

(I) If the City Commission provides for a Planning Commissioner to be ex officio on the Zoning Board of Appeals, that Planning Commissioner shall be mindful that they should declare a conflict of interest and abstain from voting in any decision of the ZBA that would ratify or overturn the position of the Planning Commission on the same matter.

(2012 amendment)

§ 32.03 LIAISONS.

(A) The Commission, in its Bylaws, may name “liaisons” to the Planning Commission.

(B) The purpose of liaisons is to provide certain city and quasi-city officials ability to participate in discussion with the Planning Commission in addition to speaking in public participation, and nothing else.

(C) At a minimum, liaisons shall include:

- (1) City Administrator; and
- (2) City Attorney.

(2012 amendment)

§ 32.04 TRAINING.

(A) Appointed members of the Planning Commission shall attend educational programs designed for training members of State Planning Commissions generally, or City Commissioners specifically, if the adopted city budget for that fiscal year includes funds to pay for expenses, including possible tuition, registration and travel expenses for the training.

(B) Failure to meet probationary terms in the Planning Commission bylaws can be grounds for removal by the City Commission.

(C) The member may also be ineligible for reappointment at the conclusion of the term of office if he or she did not attend training.

(D) The Planning Commission shall include in its bylaws what training programs qualify to meet this requirement.

(2012 amendment)

§ 32.05 MEMBERS; APPOINTMENT AND TERMS.

(A) In January of each year, the City Clerk shall determine which members' terms of office expire, shall determine which major interest is to be represented by that term and shall place an advertisement(s) in a newspaper with paid circulation in the city to seek different applications.

(B) In February of each year, the City Mayor shall consider the applications and nominations received, and appoint members to the Planning Commission (subject to approval by the City Commission) for a three-year term of office, which shall end February 28, at 9:00 a.m. of the respective year.

(2012 amendment)

§ 32.06 REMOVAL FROM OFFICE.

(A) The City Commission may remove a member of the Planning Commission for misfeasance, malfeasance or nonfeasance in office upon written charges and after a public hearing. Failure to disclose a potential conflict of interest shall be considered malfeasance in office. Failure to repeatedly attend Planning Commission meetings shall be considered nonfeasance in office.

(B) The Secretary of the Planning Commission shall report any member who has missed three regular meetings in a row to the City Commission.

(2012 amendment)

§ 32.07 MEMBERSHIP; VACANCIES.

The City Commission shall fill any vacancy in the membership of the Planning Commission for the unexpired terms in the same manner as the initial appointment.

(2012 amendment)

§ 32.08 TRANSITION.

(A) The transition from the previous City Planning Commission and the Planning Commission established in this chapter shall be gradual and shall take place over the next three years. The City Commission shall continue to make annual appointments, appointing approximately one-third of the membership of the Planning Commission as specified in this chapter, so that three years from the effective date of this chapter the membership, membership representation and number of members have completed the transition to fully comply with this chapter.

(B) All other aspects of this chapter shall have immediate effect.

(2012 amendment)

§ 32.09 COMPENSATION.

All members of the Planning Commission shall serve as such with compensation equal to, or less than, the per diem of the City Commission per meeting.

(2012 amendment)

§ 32.10 MEETING; RECORDS.

(A) The Planning Commission shall meet at least six times per year and a majority of the Planning Commission shall constitute a quorum for the transaction of the ordinary business of said Planning Commission and all questions which shall arise at its meetings shall be determined by a vote of the majority of the members of the Planning Commission.

(B) The affirmative vote of two-thirds of the total number of seats for members of the Planning Commission, regardless if vacancies or absences exist or not, shall be necessary for the adoption, or recommendation for adoption, of any plan or amendment to a plan. With a seven-member Board, two-thirds equals five members.

(2012 amendment)

§ 32.11 POWERS AND DUTIES.

(A) The Planning Commission shall have its powers and duties as set forth in Public Act 33 of 2008, as amended, being the Michigan Planning Enabling Act, M.C.L.A. §§ 125.3801 *et seq.*; and Public Act 110 of the Public Acts of 2006, as amended, being the Michigan Zoning Enabling Act (M.C.L.A. §§ 125.3101 *et seq.*).

(B) The Planning Commission shall have authority to apply for and receive grants from any government agency or the federal government and to receive gifts.

(C) The Planning Commission may seek outside professional assistance as necessary to accomplish its goals and purposes.

(2012 amendment)

§ 32.12 STAFF.

(A) The appointment of the Planning Director and other such employees shall be subject to the same provisions of law, employment policies, employee roster, employee or union contracts, if any, as govern other employees of the city.

(B) Employees that are assigned to work with the Planning Commission shall follow the directives of the Planning Commission in matters of planning and zoning public policy issues, but shall not be subject to Planning Commission directives concerning employment provisions of law, employment policies, employee roster, employee or union contracts, if any.

(2012 amendment)

§ 32.13 BYLAWS.

The Planning Commission shall adopt bylaws for the transaction of business and which records shall be a public record.

(2012 amendment)

§ 32.14 APPROVAL, RATIFICATION AND RECONFIRMATION.

All official actions taken by all City Planning and Zoning Commissions preceding the Commission created by this chapter are hereby approved, ratified and reconfirmed. Any project, review, or process taking place at the effective date of this chapter shall continue with the Commission created by this chapter, subject to the requirements of this chapter, and shall be deemed a continuation of any previous City Planning Commission. This chapter shall be in full force and effect from and after its adoption and publication.

(2012 amendment)

CHAPTER 33: SPECIAL ASSESSMENTS

Section

- 33.01 Definitions
- 33.02 To initiate special assessment projects
- 33.03 Survey and report
- 33.04 Cost of condemned property added
- 33.05 Determination on the project; notice
- 33.06 Objections to improvement
- 33.07 Hearing on necessity
- 33.08 Deviation from plans and specifications
- 33.09 Limitations on preliminary expenses
- 33.10 Special assessment roll
- 33.11 Assessor to file assessment roll
- 33.12 Meeting to review special assessment roll
- 33.13 Changes and corrections in assessment roll
- 33.14 Special assessment; when due
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- 33.16 Collection from assessment roll; procedure
- 33.17 Collection by Treasurer
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- 33.19 Additional assessments; refunds
- 33.20 Additional procedures
- 33.21 Special assessment accounts
- 33.22 Contested assessments
- 33.23 Reassessment for benefits
- 33.24 Combination of projects
- 33.25 Single lot assessments

§ 33.01 DEFINITIONS.

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

COST. Includes the expense of the survey, the preparation of the tax roll, notices, advertising, printing, financing, legal, engineering, construction and condemnation and all other costs incidental to the making of the improvement.

IMPROVEMENT. Any public improvement which is a special benefit to one or more parcels of land over and above the benefit conferred upon the public as a whole.

(1991 Code, § 1.171)

§ 33.02 TO INITIATE SPECIAL ASSESSMENT PROJECTS.

(A) Proceedings for the making of improvements within the city may be commenced by resolution of the Commission, on its own initiative or by an initiatory petition signed by property owners whose aggregate property in the special assessment district was assessed for more than 50% of the total assessed value of the privately owned real property located therein, in accordance with the last preceding general assessment roll. In the case of special assessments for paving or similar improvements which are normally assessed on a frontage basis against abutting property, such petitions shall be signed by the owners of more than 50% of the frontage of property to be assessed.

(B) Such petitions shall contain, in addition to the signatures of the owners, a brief description of the property owned by the respective signers thereof.

(C) Such petitions shall be verified by the affidavit of one or more of the owners or by some person or persons with knowledge that the signers are such owners and that such signatures are genuine.

(D) Petitions shall be circulated and signed on blank forms furnished by the city.

(E) The City Clerk shall check the petitions to determine whether they conform to the foregoing requirements and shall report his or her findings to the City Commission.

(1991 Code, § 1.172)

§ 33.03 SURVEY AND REPORT.

(A) Before the Commission shall consider the making of any local public improvement, the Commission shall cause a report to be prepared 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 Commission 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 Commission shall not determine to proceed with the making of any local public improvement until after a public hearing has been held by the Commission for the purpose of hearing objections to the making of such public improvement.

(1991 Code, § 1.173)

§ 33.04 COST OF CONDEMNED PROPERTY ADDED.

Whenever any property is acquired by condemnation, or otherwise, for the purpose of any special improvement, the cost thereof, and of the proceedings required to acquire such property, may be added to the cost of such special improvement.

(1991 Code, § 1.174)

§ 33.05 DETERMINATION ON THE PROJECT; NOTICE.

(A) When the report required in § 33.03 has been made, and the Commission has reviewed the report, a resolution may be passed determining the necessity of the improvement; setting forth the nature thereof; prescribing what part or proportion of the cost of such improvement shall be paid by special assessment upon the property especially benefitted, determination of benefits received by affected properties and what part, if any, shall be paid by the city at large; designating the limits of the special assessment district to be affected; designating whether to be assessed according to frontage or other benefits; placing the complete information on file in the office of the Clerk where the same may be found for examination; and directing the Clerk to publish a notice of public hearing on the proposed improvement at which time and place opportunity will be given interested persons to be heard. Such notice shall be made by one

publication in a newspaper published or circulated within the city at least one week prior to the holding of the hearing.

(B) In accordance with Public Act 162 of 1962, being M.C.L.A. § 211.741, notice of the hearing shall also be given to each owner of or party in interest in property to be assessed, whose name appears upon the last local tax assessment records, by mailing by first class mail addressed to such owner or party at the address shown on the tax records, at least ten days before the date of such hearing.

(1) The last local tax assessment records means the last assessment roll for ad valorem tax purposes which has been reviewed by the local board of review, as supplemented by any subsequent changes in the names or the addresses of such owners or parties listed thereon.

(2) The notice of hearing shall include a statement that appearance and protest at the hearing 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. The hearing required by this section may be held at any regular, adjourned or special meeting of the Commission.

(1991 Code, § 1.175)

§ 33.06 OBJECTIONS TO IMPROVEMENT.

If, at or prior to such meeting of the Commission, property owners of property located in the special assessment district whose property in the aggregate was assessed for more than 50% of the total assessed value of the privately owned real property located therein, in accordance with the last preceding general assessment roll or in case of paving or similar improvements, more than 50% of the amount of frontage to be assessed for any such improvement, shall object in writing to the proposed improvement, the improvement shall not be made by proceedings authorized by this chapter without an affirmative vote of five Commission members.

(1991 Code, § 1.176)

§ 33.07 HEARING ON NECESSITY.

At the public hearing on the proposed improvement, all persons interested shall be given an opportunity to be heard, after which the Commission may modify the scope of the public improvements in such a manner as they shall deem to be in the best interest of the city as a whole; provided that if the amount of work is increased or additions are made to the district, then another hearing shall be held pursuant to notice prescribed in § 33.05. If the determination of the Commission shall be to proceed with the improvement, a resolution shall be passed approving the necessary profiles, plans, specifications, assessment district and detailed estimates of cost, and directing the assessor to prepare a special assessment roll in accordance with the Commission's determination and report the same to the Commission for confirmation.

(1991 Code, § 1.177)

§ 33.08 DEVIATION FROM PLANS AND SPECIFICATIONS.

No deviation from original plans or specifications as adopted shall be permitted by any officer or employee of the city without authority of the Commission by resolution. 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.

(1991 Code, § 1.178)

§ 33.09 LIMITATIONS ON PRELIMINARY EXPENSES.

No contract or expenditure, except for the cost of preparing necessary profiles, plans, specifications and estimates of cost, shall be made for the improvement until special assessments to defray the costs of the same shall have been levied.

(1991 Code, § 1.179)

§ 33.10 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 amount benefitted thereby. The amount spread in each case shall be based upon the detailed estimate contained in the report as set forth in § 33.03.

(1991 Code, § 1.180)

§ 33.11 ASSESSOR TO FILE ASSESSMENT ROLL.

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

(1991 Code, § 1.181)

§ 33.12 MEETING TO REVIEW SPECIAL ASSESSMENT ROLL.

(A) Upon receipt of such special assessment roll, the Commission by resolution shall accept such assessment roll and order it to be filed in the office of the Clerk for public examination; shall fix the time and place the Commission will meet to review such special assessment roll; and direct the Clerk to publish a notice of a public hearing for the purpose of giving an opportunity for interested persons to be heard. Such notice shall be made by one publication at least one week prior to the holding of the hearing. Notice by mail shall also be given in the manner prescribed in § 33.05.

(B) The hearing required by this section may be held at any regular, adjourned or special meeting of the Commission. At this meeting, all interested persons or parties shall present in writing their objections, if any, to the assessments against them. The notice of meeting shall include a statement that the owner or any person with an interest in the real property may file a written appeal 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 purpose of confirming the roll. The assessor shall be present at every meeting of the Commission at which a special assessment is to be reviewed.

(1991 Code, § 1.182)

§ 33.13 CHANGES AND CORRECTIONS IN ASSESSMENT ROLL.

The Commission shall meet at the time and place designated for the review of such special assessment roll and such objections thereto submitted in writing. The Commission 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 such assessment roll and the same proceedings shall be followed in making a new roll as in the making of the original roll. If, after hearing all objections and making a record of such changes as the Commission deems justified, the Commission determines that it is satisfied with the special assessment roll, and that assessments are in proportion to benefits received, it shall thereupon pass a resolution reciting such determinations, confirming such 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 within ten days, therein commanding the assessor to spread the various sums and amounts appearing thereon on a special assessment roll or upon the tax rolls of the city of the full amounts or in annual installments as directed by the Commission. Such roll shall have the date of confirmation endorsed thereon and shall have from date be final and conclusive for the purpose of the improvement to which it applied, subject only to adjustment to conform to the actual cost of the improvement, as provided in § 33.19.

(1991 Code, § 1.183)

§ 33.14 SPECIAL ASSESSMENT; WHEN DUE.

All special assessments, except such installments thereof as the Commission shall make payable at a future time as provided herein shall be due and payable upon confirmation of the special assessment roll.

(1991 Code, § 1.184)

§ 33.15 PARTIAL PAYMENTS; WHEN DUE.

(A) The Commission may provide for the payment of special assessments in annual installments. Such annual installments shall not exceed 30 in number, the first installment being due upon confirmation of the roll and the deferred installments being due annually thereafter; however, the Commission may, in its discretion, spread upon and make a part of each annual city tax roll thereafter the annual installments heretofore mentioned. The first annual installment may be spread the next year following the confirmation at an interest rate not to exceed the maximum established by state law for municipal borrowing. After the Commission 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.

(B) Each property owner shall have 30 days from the date of such notification to pay the assessment in full and without interest or penalty. Upon the expiration of the 30-day period, the roll shall be closed for collection and forwarded to the city assessor for spreading the roll on all unpaid assessments in conformity with the Commission resolution. Following the 30-day period, the property owner may pay all of his or her assessment at any time but shall be required to pay all interest that the city has obligated itself to pay upon the description by reason of financing the improvement. Failure on the part of the City Treasurer to give the notice or of such owner to receive the notice shall not invalidate any special assessment roll of the city or any assessment thereon nor excuse the payment of the interest.

(1991 Code, § 1.185)

§ 33.16 COLLECTION FROM ASSESSMENT ROLL; PROCEDURE.

When any special assessment shall be confirmed, and be payable as hereinbefore provided, the Commission shall direct the assessment so made in the special assessment roll to be collected directly therefrom or from the general tax rolls; and thereupon the City Clerk shall attach his or her warrant to a certified copy of the special assessment roll, therein commanding the City Treasurer to collect from each of the persons assessed in the roll the amount of money assessed to and set opposite his or her name therein and in case any person named in the roll shall neglect or refuse to pay his or her assessment upon demand, then to levy and collect the same by distress and sale of the goods and chattels of such person and return the roll and warrant, together with his or her doings thereon, within 60 days from the date of such warrant.

(1991 Code, § 1.186)

§ 33.17 COLLECTION BY TREASURER.

Upon receiving the assessment roll and warrant, the City Treasurer shall proceed to collect the amounts assessed therein. If any person shall neglect or refuse to pay his or her assessment upon demand, the Treasurer may seize and levy upon any personal property found within the city, or elsewhere within the county, belonging to such person, and sell the same at public auction, first giving six days' notice of the time and place of such sale, by posting such notices in three of the most public places in the city or township where such property may be found. The proceeds of such sale, or so much thereof as may be necessary for that purpose, shall be applied to the payment of the assessment, and a percentage of 5% upon the amount of the assessment for the costs and expenses of the seizure and sale, and the surplus, if any, shall be paid to the person entitled thereto.

(1991 Code, § 1.187)

§ 33.18 CREATION OF LIEN.

(A) Special assessments and all interest and charges thereon, from the date of confirmation of the roll, 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 and county taxes, and by the City Charter for city taxes, until paid.

(B) From such date after confirmation as shall be fixed by the Commission, the same collection fees shall be collected on delinquent special assessments and upon delinquent installments of such special assessments as are provided by the city's Charter to be collected on delinquent city taxes.

(C) Such delinquent special assessments shall be subject to the same penalties and the lands upon which the same are a lien shall be subject to sale therefor the same as are delinquent city taxes and the lands upon which they constitute a lien.

(1991 Code, § 1.188)

§ 33.19 ADDITIONAL ASSESSMENTS; REFUNDS.

(A) The City 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 Commission.

(B) Should the assessment roll prove insufficient to pay for the improvement and related costs of the project for which it was levied, the Commission may make an additional pro rata assessment which shall not exceed 25% of the original assessment.

(C) Should the assessment prove larger than necessary by less than 5%, the Commission may place the excess in the City Treasurer; if more than 5%, the excess shall be refunded pro rata to those persons making the payments. Interest and penalties shall be in the same amounts and collected in the same manner as set forth in § 9 of the city's Charter.

(1991 Code, § 1.189)

§ 33.20 ADDITIONAL PROCEDURES.

In any case where the provisions of this chapter may prove to be insufficient to carry into full effect the making of any special assessment, the Commission shall provide by ordinance any additional steps or procedures required.

(1991 Code, § 1.190)

§ 33.21 SPECIAL ASSESSMENT ACCOUNTS.

Moneys raised by special assessment to pay the cost of any local improvement shall be held in a special fund to pay such cost or to repay any money borrowed therefor. Each special assessment account must be used only for the improvement project for which the assessment was levied, except as otherwise provided in this chapter.

(1991 Code, § 1.191)

§ 33.22 CONTESTED ASSESSMENTS.

Except and unless notice is given to the Commission in writing of an intention to contest or enjoin the collection of any special assessment for the construction of any public improvement or the removal or abatement of any public hazard or nuisance, within 30 days after the date of the resolution of the Commission confirming the assessment roll for such improvement, which notice shall state the grounds on which the proceedings are to be contested, no suit or action of any kind shall be instituted or maintained for the purpose of contesting or enjoining the collection of such special assessment.

(1991 Code, § 1.192)

§ 33.23 REASSESSMENT FOR BENEFITS.

(A) Whenever the Commission shall deem any special assessment invalid or defective for any reason whatever, or if any court of competent jurisdiction shall have adjudged such assessment to be illegal for any reason whatever, in whole or in part, the Commission shall have power to cause a new assessment to be made for the same purpose for which the former assessment was made, whether the improvement or any part thereof has been completed and whether any part of the assessment has been collected or not.

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

(C) 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.

(D) If more than the amount reassessed shall have been collected, the balance shall be refunded to the person making such payment.

(1991 Code, § 1.193)

§ 33.24 COMBINATION OF PROJECTS.

The Commission may combine several districts into one project for the purpose of effecting a saving in the costs; however, for each

district there shall be established separate funds and accounts to cover the cost of the same.

(1991 Code, § 1.194)

§ 33.25 SINGLE LOT ASSESSMENTS.

(A) When any expense shall have been incurred by the city upon or in respect to any single premises, which expense is chargeable against the premises and the owner thereof under the provisions of this code and the city charter and is not of that class required to be prorated among the several lots and parcels of land in a special assessment district, an account of the labor, material and service for which such expense was incurred, with a description of the premises upon or in respect to which the expense was incurred, and the name of the owner, if known, shall be reported to the Treasurer, who shall immediately charge and bill the owner, if known.

(B) The Treasurer, at the end of each quarter, shall report to the City Commission all sums so owing to the city and which have not been paid within 30 days after the mailing of the bill therefor. The Commission shall, at such times as it may deem advisable, direct the assessor to prepare a special assessment roll covering all such charges reported to it together with a penalty of 10%. Such roll shall be filed with the Clerk, who shall advise the Commission of the filing of the same, and the Commission shall thereupon set a date for the hearing of objections to such assessment roll. The assessment roll shall be open to public inspection for a period of seven days before the Commission shall meet to review the roll and hear complaints.

(C) The City Clerk shall give notice in advance by publication of the opening of the roll to public inspection and of the meeting of the Commission to hear complaints and shall also give like notice to the owners of and persons having an interest in property affected by first class mail at their addresses as shown on the last general assessment roll of the city, at least ten full days prior to the date of such hearing. Such special assessments and all interest and charges thereon, shall, from the date of confirmation of the roll, be and remain a lien upon the property assessed, of the same character and effect as a lien created by general law for state and county taxes, until paid.

(D) The same penalty and interest shall be paid on such assessments, when delinquent from such date after confirmation as shall be fixed by the City Commission, as are provided by the city's Charter to be paid on delinquent general city taxes; and such assessments, with penalties and interest, shall be added by the Treasurer to the next general city tax roll or general county and school tax roll, as shall be convenient, and shall thereafter be collected and returned in the same manner as general city taxes.

(1991 Code, § 1.195)

CHAPTER 34: TAX AND FINANCE

Section

Charges for Fire Department Services; Methods of Collection; Exemptions

- 34.01 Title
- 34.02 Definition
- 34.03 Purpose
- 34.04 Duty to remove and clean up; failure to remove and clean up
- 34.05 Charges
- 34.06 Payment
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- 34.09 Multiple property protection
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Downtown Development Authority Development Plan; Tax Increment Finance Plan

- 34.25 General provisions
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- 34.40 Title
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- 34.42 Transactions equal to or less than \$5,000
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- 34.47 Emergency purchases
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- 34.49 Sale of property

CHARGES FOR FIRE DEPARTMENT SERVICES; METHODS OF COLLECTION; EXEMPTIONS

§ 34.01 TITLE.

This subchapter shall be known and may be cited as the “City of Auburn Emergency Response Cost Recovery Ordinance”.

(Ord. 181, passed 4-1-2002)

§ 34.02 DEFINITION.

For purposes of this subchapter, any reference to **FIRE DEPARTMENT** shall mean the Auburn Williams Fire Department, which is operated by the city and the Charter Township of Williams pursuant to agreement authorized by Public Act 33 of 1951, being M.C.L.A. §§ 41.801 through 41.813, as thereafter amended.

(Ord. 181, passed 4-1-2002)

§ 34.03 PURPOSE.

The within subchapter is adopted for the purpose of providing financial assistance to the city in the operation of a Fire Department from those receiving direct benefits from the Fire Department.

(Ord. 181, passed 4-1-2002)

§ 34.04 DUTY TO REMOVE AND CLEAN UP; FAILURE TO REMOVE AND CLEAN UP.

(A) It shall be the duty of the owner, operator, occupant or other person responsible for the operation, maintenance and/or condition of any building, premises, property, equipment or vehicle to clean up or repair those items listed in § 34.05 set forth in such a manner as to assure that the premises are safe and the area fully restored to its condition prior to the happening of the incident.

(B) The timing of the cleanup or repair shall be in conformity with the federal, state, county or local official in charge of overseeing the incident.

(C) In the event the owner, operator, occupant or other person responsible for the operation, maintenance and/or condition of any building, premises, property or vehicle shall fail or refuse to fully cleanup or repair the incident, the city shall have the right, but not the obligation, to enter onto said property in order to conduct a cleanup or repair and to hire appropriate personnel in order to conduct a cleanup or repair.

(D) If the federal, state, county or local official in charge of overseeing the incident determines that the situation does not pose an emergency which shall require immediate action by the Fire Department, then prior to engaging in such cleanup or repair, the city shall make diligent efforts to notify the owner of its duty to abate the existing condition.

(E) All costs associated with the cleanup or repair shall be in addition to the costs associated in § 34.05 and are to be paid to the city in a like manner.

(Ord. 181, passed 4-1-2002)

§ 34.05 CHARGES.

(A) The City Commission shall, by resolution, adopt a schedule of fees and costs included within the expenses of an emergency response by the Fire Department.

(B) The schedule shall include an hourly rate for the use of Fire Department equipment, motor vehicles and personnel. This schedule shall be available to the public from the City Clerk’s office.

(C) The costs and charges shall hereafter be due and payable to the city from a recipient of any of the following enumerated emergency response services from the Fire Department:

(1) For any spill or release of a hazardous or toxic material. For purposes of this section, a **HAZARDOUS OR TOXIC MATERIAL** is defined by applicable federal or state laws and regulations and includes, but is not limited to, an actual release of or a threatened release of polychlorinated biphenyls (PCBs), or explosives, pyrotechnics, flammable compressed gas, natural gas, flammable liquid, combustible liquid, oxidizing material, poisonous gas, poisonous liquid, poisonous solid, irritating material, etiologic material, radioactive material, corrosive material, liquefied petroleum gas and petroleum products; or

(2) Responses involving electrical power distribution systems, including, but not limited to, fires, arching wires, leaking transformer fluid and downed power lines.

(Ord. 181, passed 4-1-2002)

§ 34.06 PAYMENT.

(A) All of the charges shall be due and payable within 30 days from the date a written bill prepared by the City Clerk is delivered or mailed by first class mail with postage prepaid to the party or parties to whom any service is rendered.

(B) Any person aggrieved by a charge authorized in this subchapter may appeal the charge as follows.

(1) Within the time period for which a bill payable, the party shall file a written request with the City Clerk, setting forth specific reasons why the charge is improper.

(2) The Clerk shall notify the aggrieved party, in writing, of the time, place and date the City Commission will hold a hearing on the appeal.

(3) The City Commission may grant relief on appeal if it finds:

(a) The service provided was given as a result of false information or false alarm not caused by the party to whom service was provided;

(b) Service was provided to city or Township of Williams buildings, grounds, vehicles property, employees or elected or appointed officials while on city or Township of William business; or

(c) For other good cause with sufficient proof to satisfy the City Commission.

(Ord. 181, passed 4-1-2002)

§ 34.07 EXEMPTION.

The following services shall be exempt from the foregoing charges:

(A) False alarms;

(B) Responses to city or Township of Williams buildings, grounds and/or property; and

(C) Responses performed outside the jurisdiction of the city or Township of Williams under a mutual aid contract with an adjoining municipality.

(Ord. 181, passed 4-1-2002)

§ 34.08 COLLECTION OF CHARGES.

The city may proceed in a court of competent jurisdiction by suit to collect any monies remaining unpaid and shall have any and all other remedies provided by law for the collection of said charges.

(Ord. 181, passed 4-1-2002)

§ 34.09 MULTIPLE PROPERTY PROTECTION.

(A) When a particular service rendered by the Fire Department directly benefits more than one person or property, the owner of each property so benefitted and each person so benefitted where property protection is not involved shall be jointly and severally liable for the payment of the full charge for such service hereinbefore outlined.

(B) The interpretation and application of the within section is hereby delegated to the Fire Chief subject only to appeal, within the time limits for payment, to the City Commission and shall be administered so that charges shall only be collected from the recipients of the service.

(Ord. 181, passed 4-1-2002)

§ 34.10 LIEN UPON PROPERTY LOCATED WITHIN THE CITY.

Upon the failure of the owner, occupant or operator to reimburse the city for the expenses of the response, a lien shall be placed upon the relevant property for the amount of said expenses, which lien shall be assessed and collected in the same fashion and manner as real property taxes are collected within the city.

(Ord. 181, passed 4-1-2002)

DOWNTOWN DEVELOPMENT AUTHORITY DEVELOPMENT PLAN; TAX INCREMENT FINANCE PLAN

§ 34.25 GENERAL PROVISIONS.

(A) In accordance with § 17 of Public Act 197 of 1975, being M.C.L.A. §§ 125.1651 through 125.1681, as amended, the City Downtown Development Authority Board prepared a revised Development Plan as the basis for extending its Tax Increment Financing Plan and submitted this plan to the City Commission. Thereafter on 4-18-2011, the City Commission held a public hearing with notice as required by § 18 of the DDA Act, which provided full opportunity for expression of opinion, for argument on the merits, and for introduction of documentary evidence pertinent to the development plan.

(B) The City Commission hereby determines that the amended Development Plan and the extension of the Financing Plan submitted

by the DDA Board constitute reasonable efforts and direction towards the furtherance of public purposes.

(C) The City Commission further determines the following.

- (1) The Plans meet the requirements of § 17(2) of the Act.
- (2) The proposed method of financing the development is feasible and the Authority has the ability to arrange the financing.
- (3) The development is reasonable and necessary to carry out the purposes of the Act.
- (4) The land included within the development area to be acquired is reasonably necessary to carry out the purposes of the plans and of the Act in an efficient and economically satisfactory manner.
- (5) The development plan is in reasonable accord with the master plan of the city.
- (6) Public services such as fire and police protection and utilities are or will be adequate to service the project area.
- (7) There are no currently contemplated or proposed zoning changes, street changes or utility changes within the project area.

(D) The City Commission does accordingly approve the amended Development Plan and the Financing Plan submitted to the City Commission on the 3-28-2011 and the Clerk shall keep copies of said plans on file with the city for review by the public.

(Ord. 194, passed 5-2-2011)

§ 34.26 FILING; EFFECTIVE DATE.

(A) This subchapter, once adopted, shall be filed with the Secretary of State of the State of Michigan and shall once be published in the Bay County Democrat on or before 5-5-2011.

(B) This subchapter shall become immediately effective upon publication.

(Ord. 194, passed 5-2-2011)

PURCHASING POLICIES

§ 34.40 TITLE.

This subchapter shall be known and may be cited as the City of Auburn Purchasing Policy.

(Ord. 199, passed 7-14-2014)

§ 34.41 DEFINITIONS.

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

CONTRACT. Includes contracts for services to the exclusions mentioned in this subchapter, and shall include any type of services, lease for grounds, buildings, offices, or maintenance of equipment, machinery, and other city-owned personal property. The term **CONTRACT** shall not include professional and other contract services which may be unique and not subject to competition.

PURCHASING AGENT or AGENT. The City Administrator.

(Ord. 199, passed 7-14-2014)

§ 34.42 TRANSACTIONS EQUAL TO OR LESS THAN \$5,000.

(A) The purchasing agent, subject to budgetary appropriations, is authorized to make purchases of materials and equipment and contract for labor or materials in an amount not to exceed \$5,000 without further approval from the City Commission.

(B) Except for those situations requiring the need for sealed bids, the purchasing agent, shall consider all circumstances surrounding the purchase to be made or the services to be provided. If it is in the best interest of the city, the purchasing agent shall deal with sources within the city.

(1) *Quotations.* The purchasing agent, with the exception of approved budget items, shall secure or cause to be secured quotations from no less than two sources in all transactions involving expenditures of \$2,500 or more and less than \$5,000. The purchasing agent shall maintain a written record of the quotations received.

(2) *Other.* Transactions involving expenditures less than \$2,500 may be authorized by the purchasing agent in such manner and from such source as the purchasing agent may determine.

(Ord. 199, passed 7-14-2014)

§ 34.43 TRANSACTIONS OVER \$5,000.

(A) The purchasing agent shall secure sealed bids in all transactions involving an expenditure of \$5,000 or more.

(B) Sealed bids shall not be required in the following instances:

- (1) Where the subject of the purchase or contract is other than a public work or improvement and the product or material to be

transacted for is not competitive in nature, provided that in no instance shall such product or material be transacted for without prior Commission approval.

(2) The City Commission may, at the request of the City Administrator, authorize the City Administrator to negotiate a contract for the purchase of any product, material or service with a provider of such product, material or service without regard to the requirements of this section relative to purchases where the City Commission finds:

(a) Due to circumstances beyond the control of the city, the market for such product, material or service is not competitive even though such product, material or services is normally competitive in nature; and

(b) The economic interests of the city are best served by negotiating a contract with the provider of the product, material or service without requesting sealed bids.

(3) In the employment of professional series, provided that in no instance shall such professional services be contracted for without prior Commission approval.

(4) If the city elects to use city personnel.

(Ord. 199, passed 7-14-2014)

§ 34.44 SEALED BID POLICY.

(A) Sealed bids shall be required by the purchasing agent by mailing a copy of the specifications or requirements to such qualified vendors as may be known to the purchasing agent or the agent's designee, by filing a copy of the request with the office of the City Clerk, and posting on the city's website.

(B) Unless fixed by the Commission, the purchasing agent shall prescribe the amount of any security to be deposited with any bid and, in the case of construction contracts, the amounts of labor and material or performance bond to be required of the successful bidder. Such security shall be in the form of a certified or cashier's check or bond written by a surety company authorized to do business in the state, or a non-revocable letter of credit issued by a banking institute.

(C) Bids shall be opened in public at the time and place designated in the bid notice. Bids may be opened by the purchasing agent, the City Clerk or their respective designee and at least one other city employee. Within a reasonable period, not to exceed seven business days following the opening, the bids shall be examined, tabulated, and available for public inspections.

(D) The tabulation of the bids shall be submitted to the Commission at the next regular Commission meeting. The Commission, in its discretion, may accept the lowest competent bid, reject any or all bids, or determine the lowest bid(s) to be unsatisfactory and award to the next competitive bidder.

(E) If in the Commission's discretion, the award is not made to the lowest bidder, the resolution awarding the contract shall state reasons for not accepting the low bid.

(F) After the opening of such bids, such bids may not be withdrawn without forfeiture of the bid deposit. Deposits of security accompanying bids shall be retained until the contract is awarded and signed, except deposits from bidders not awarded the contract shall be returned within three business days following Commission action.

(G) If any successful bidder fails or refuses to enter into the contract awarded within ten business day after being notified of such award, or should they fail to file any bond required within the same time, the deposit accompanying their bid shall be forfeited to the city and the Commission may, in its discretion, award the contract to the next lowest bidder.

(Ord. 199, passed 7-14-2014)

§ 34.45 PROHIBITIONS.

No contract or purchase shall be subdivided to avoid the requirements of this division.

(Ord. 199, passed 7-14-2014)

§ 34.46 INSPECTIONS OF MATERIALS.

The responsibility for the inspection and acceptance of all material/supplies and equipment shall rest with the purchasing agent, unless such responsibility has been delegated to a department head.

(Ord. 199, passed 7-14-2014)

§ 34.47 EMERGENCY PURCHASES.

If an emergency or an apparent emergency endangering the public peace, health and/or safety of the city should arise, and the delay of establishing purchasing procedures would vitally affect the welfare of the city, the purchasing agent, City Treasurer, or any department head may purchase directly any supplies, material, or equipment that the department head deems to be to be immediately necessary. Within three business days from the time of purchase, the purchaser shall file in writing with the purchasing agent a detailed explanation of the necessity for any purchases, in addition to a request for such purchases. If the emergency transaction is \$5,000 or more, the purchasing agent shall submit a statement to the Commission no later than its next regular meeting before payment thereof may be authorized.

(Ord. 199, passed 7-14-2014)

§ 34.48 COOPERATIVE PURCHASES.

The use of bulk purchasing programs such as the state's extended purchasing program and joining together with area municipalities to secure bids or quotations for goods or services is encouraged. The use of any such source, which conducted a bona fide price competition, will be exempt from the requirements of this subchapter with respect to soliciting bids or quotes. Bids as mentioned in § 34.44 will be presented for Commission approval.

(Ord. 199, passed 7-14-2014)

§ 34.49 SALE OF PROPERTY.

Whenever any city property, real or personal, is no longer needed for public purposes, the same may be offered for sale in accordance with the restrictions established by § 12.05 of the Charter.

(Ord. 199, passed 7-14-2014)

CHAPTER 35: MUNICIPAL CIVIL INFRACTIONS

Section

- 35.01 Definitions
- 35.02 Action; commencement
- 35.03 Citations; issuance and service
- 35.04 Citations; content
- 35.05 Amendment provision

- 35.99 Penalties

§ 35.01 DEFINITIONS.

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

ACT. Public Act 12 of 1994, being M.C.L.A. §§ 600.8701 through 600.8735, as amended.

AUTHORIZED CITY OFFICIAL. The City Administrator, City Building Inspector, Zoning Administrator, Code Enforcement Official or any other city employee specially designated in writing by the Administrator and/or City Commission, to issue municipal civil infraction citations.

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 to appear in court regarding the occurrence or existence of one or more municipal civil infraction violations by the person cited.

(2012 amendment)

§ 35.02 ACTION; COMMENCEMENT.

A municipal civil infraction action may be commenced upon the issuance by an authorized city official with respect to an ordinance violation designated a civil infraction of a municipal civil infraction citation directing the alleged violator to appear in court.

(2012 amendment)

§ 35.03 CITATIONS; ISSUANCE AND SERVICE.

Municipal civil infraction citations shall be served by authorized city officials as follows.

(A) The time for appearance specified in a citation shall be within a reasonable time after the citation is issued.

(B) The place for appearance specified in a citation shall be the 74th District Court.

(C) Each citation shall be numbered consecutively and shall be in a form approved by the State Court Administrator. The original citation shall be filed with the district court. Copies of the citation shall be retained by the city and issued to the alleged violator as provided by the Act.

(D) A citation for a municipal civil infraction signed by an authorized city official shall be treated as made under oath if the violation alleged in the citation occurred in the presence of the official signing the complaint if the citation contains the following statement immediately above the date and signature of the official: "I declare under the penalties of perjury that the statements above are true to the

best of my information, knowledge and belief.”

(E) An authorized city official who witnesses a person commit a municipal civil infraction shall prepare and subscribe, as soon as possible and as completely as possible, an original and required copies of a citation.

(F) An authorized city official may issue a citation to a person if:

(1) Based upon investigation, the official has reasonable cause to believe that the person is responsible for a municipal civil infraction; or

(2) Based upon investigation of a complaint by someone who allegedly witnessed the person commit a municipal civil infraction, the official has reasonable cause to believe that the person is responsible for an infraction, and, if the City Attorney approves in writing the issuance of the citation.

(G) Municipal civil infraction citations shall be served by authorized city official as follows.

(1) Except as provided by division (G)(2) below, an authorized city official shall personally serve a copy of the upon the alleged violator.

(2) If the municipal civil infraction action involves the use or occupancy of land, a building or other structure, a copy of the citation does not need to be personally served upon the alleged violator, but may be served upon an owner or occupant of the land, building or structure by posting the copy on the land or attaching a copy to the building or structure. In addition, a copy of the citation shall be sent by first class mail to the owner of the land, building or structure at the owner’s last known address.

(2012 amendment)

§ 35.04 CITATIONS; CONTENT.

(A) A municipal civil infraction citation shall contain the name and address of the alleged violator, the municipal civil infraction alleged, the place where the alleged violator shall appear in court, the telephone number of the court, and the time at or by which the appearance shall be made.

(B) Further, the citation shall inform the alleged violator that he or she may do one of the following:

(1) Admit responsibility for the municipal civil infraction by mail, in person, or by representation, at or by the time specified for appearance;

(2) Admit responsibility for the municipal civil infraction “with explanation” by mail by the time specified for appearance or, in person, or by representation; or

(3) Deny responsibility for the municipal civil infraction by doing either of the following:

(a) Appearing in person for an informal hearing before a judge or district court magistrate, without the opportunity of being represented by an attorney, unless a formal hearing before a judge is requested by the city; or

(b) Appearing in court for a formal hearing before a judge, with the opportunity of being represented by an attorney.

(C) The citation shall also inform the alleged violator of all of the following:

(1) That if the alleged violator desired to admit responsibility “with explanation” in person or by representation, the alleged violator must apply to the court in person, by mail, by telephone or by representation within the time specified for appearance and obtain a scheduled date and time for an appearance;

(2) That if the alleged violator desires to deny responsibility the alleged violator must apply to the court in person, by mail, by telephone or by representation within the time specified for appearance and obtain a scheduled date and time to appear for a hearing unless a hearing date is specified on the citation;

(3) That a hearing shall be an informal hearing unless a formal hearing is requested by the alleged violator or by the city;

(4) That at an informal hearing the alleged violator must appear in person before a judge or district court magistrate, without the opportunity of being represented by an attorney; and

(5) That at a formal hearing the alleged violator must appear in person before a judge with the opportunity of being represented by an attorney.

(D) The citation shall contain a notice in boldfaced type that the failure of the alleged violator to appear within the time specified in the citation or at the time scheduled for a hearing or appearance is a misdemeanor and will result in the entry of a default judgment against the alleged violator on the municipal civil infraction.

(2012 amendment)

§ 35.05 AMENDMENT PROVISION.

All penalty sections of all other city ordinances in effect and as amended are hereby amended as follows: the penalty for the violation of this chapter shall be deemed a municipal civil infraction, and upon a finding of responsibility, shall be subject to the penalties as set forth in § 35.99, which establishes the penalties for the violation of a city municipal civil infraction.

(2012 amendment)

§ 35.99 PENALTIES.

(A) If a defendant is determined to be responsible for a municipal civil infraction the Judge or District Court Magistrate making the determination of responsibility may order the defendant to pay a civil fine not to exceed the sum of \$500, and, if applicable, in addition to the civil fine, the Judge or Magistrate may order the payment of damages and expenses incurred as authorized by § 8733 of the Act.

(B) If a defendant is ordered to pay a civil fine, the Judge or Magistrate shall summarily determine the city's costs of the action and tax such costs. The city's costs shall not necessarily be limited to the costs taxable in ordinary civil actions and may include all expenses, direct and indirect, to which the city has been put in connection with the municipal civil infraction, up to the entry of the judgment. Costs of not less than \$9 or more than \$500 shall be ordered.

(C) In addition to the imposition of civil fines and costs as set forth in divisions (A) and (B) above, the District Court Judge may exercise its equitable jurisdiction as provided by § 8302 of the Act and issue and enforce injunctive orders, order the recession or reformation of a contract and/or issue and enforce any judgment, writ or order necessary to enforce the ordinance violated, and to issue any such orders necessary to abate nuisances.

(D) In the order of judgment finding, the defendant responsible for the violation of a municipal civil infraction, the Judge or District Court Magistrate may grant a defendant permission to pay the civil fine, costs, expenses imposed within a specified period of time or in specified installments. In the event no period of time is specified and no specified installments are set forth in the judgment all of such fines, costs, damages and expenses are due immediately.

(E) (1) A failure to pay a civil fine, costs, damages and/or expenses may result in the city's obtaining a lien against the land, building or structure involved in the violation in accordance with § 8731 of the Act, and, may subsequently be enforced and discharged as provided.

(2) A failure to pay a civil fine, costs, damages and/or expenses may further result in the court's issuance of an order to show cause requiring the defendant to show cause why the defendant should not be held in civil contempt; or, the court's issuance of a bench warrant of arrest for the defendant's appearance.

(3) A defendant who fails to answer a citation for a municipal civil infraction is guilty of a misdemeanor punishable by a fine not to exceed \$500, or by imprisonment in the county jail for a term not exceeding 90 days, or, by both fine and imprisonment.

(2012 amendment)

TITLE V: PUBLIC WORKS

Chapter

50. GARBAGE AND RUBBISH

51. CITY WATER UTILITY

52. SEWER RATES

53. SEWER USE

CHAPTER 50: GARBAGE AND RUBBISH

Section

- 50.01 Service to residents
- 50.02 Definitions
- 50.03 Collection schedule
- 50.04 Owner's duty as to refuse
- 50.05 Uncollectible refuse
- 50.06 Disposition of garbage
- 50.07 Accumulation and disposition of rubbish

Cross-references:

Garbage in parks, see § 93.01

Litter, see Ch. 131

Open rubbish fire, see §§ 92.20 through 92.29

§ 50.01 SERVICE TO RESIDENTS.

All residents of the city are required to utilize the collection service provided or contracted by the city and to pay the collection services established by Commission resolution.

(Prior Code, § 2.0) (Ord. 123, passed 9-21-1987) Penalty, see § 10.99

§ 50.02 DEFINITIONS.

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

ADMINISTRATOR. The City Administrator.

GARBAGE. All putrescible, animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of foods, and includes animal carcasses or parts thereof.

REFUSE. Includes all of the foregoing items of waste as defined in this section.

RUBBISH. Includes combustible refuse, to mean, but not limited to, paper, cartons, boxes, wood, tree branches, yard trimmings and similar waste and noncombustible refuse, including, but not limited to, metals, tin cans, small quantities of earth, rock and pieces of concrete, glass, crockery and other mineral waste, provided **RUBBISH** shall not include earth and wastes from building operations, nor shall it include solvent waste resulting from industrial processes or manufacturing operations.

(Prior Code, § 2.1)

§ 50.03 COLLECTION SCHEDULE.

The Administrator shall establish a schedule for the collection of garbage and rubbish throughout the city and shall either provide the proper labor and equipment for carrying out such schedule, or, when the Commission shall authorize all or part of such collection service to be carried out by contract, shall supervise the performance thereof in accordance with such contract.

(Prior Code, § 2.2)

§ 50.04 OWNER'S DUTY AS TO REFUSE.

(A) It shall be the duty of the owner, occupant or person in charge of any dwelling, house, store or other business establishment, manufacturing company or other building where refuse accumulates to provide suitable receptacles and cause to be placed therein refuse or other waste material created or accumulated on the premises owned or controlled by him or her.

(B) It shall be the further duty of such owner, occupant or other person in charge to place or cause to be placed on the days scheduled for the collection of refuse from the said premises, the receptacles containing such refuse at the curb line in front of the building.

(C) Such refuse containers shall not be set out for collection prior to 12:00 noon preceding the day of collection, and after such receptacles are emptied, they shall be removed from the street by 12:00 noon the next day.

(Prior Code, § 2.3) Penalty, see § 10.99

§ 50.05 UNCOLLECTIBLE REFUSE.

It shall be unlawful for any person to place in any receptacle for collection any material that might either endanger the collection personnel or that would be detrimental to the normal operation of disposal such as gaseous, solid or liquid poisons, dead animals, ammunition, explosives or any material that possesses heat sufficient to ignite any other collected materials.

(Prior Code, § 2.4) Penalty, see § 10.99

§ 50.06 DISPOSITION OF GARBAGE.

No person shall dispose of any garbage within the city other than by means of an approved incinerator, approved garbage grinder or an approved collection service.

(Prior Code, § 2.5) Penalty, see § 10.99

§ 50.07 ACCUMULATION AND DISPOSITION OF RUBBISH.

Any rubbish accumulated or stored outside of a dwelling or building on any premises shall be stored in receptacles meeting the requirements of this chapter. No rubbish may be stored or accumulated which is contaminated by any garbage as herein defined, unless stored as garbage. Rubbish shall be disposed of only to an approved rubbish collector, except that any person may dispose of his or her own rubbish by an approved incinerator located within a building.

(Prior Code, § 2.6) Penalty, see § 10.99

CHAPTER 51: CITY WATER UTILITY

- 51.01 Definitions
- 51.02 Water system
- 51.03 Water Superintendent
- 51.04 No free service
- 51.05 Fiscal year
- 51.06 Hydrant charges
- 51.07 Rate changes
- 51.08 Applications for connection
- 51.09 Water connections
- 51.10 Water extension
- 51.11 Meters
- 51.12 Cross-connections
- 51.13 Fire hydrants
- 51.14 Liability of the city
- 51.15 Interference/injuring the waterworks; any violation
- 51.16 Violation declared nuisance

§ 51.01 DEFINITIONS.

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

CITY TREASURER. The duly appointed officer of the city.

WATER CONNECTION. The part of the consumer's water system between the city's distribution main and the curb stop box which is located approximately one foot outside the sidewalk line.

WATER EXTENSION. The part of the consumer's water supply system extending from the end of the water connection into the premises served and ending at, and including, the city's water meter.

WATERWORKS SUPERINTENDENT. The duly appointed officer of the city or his or her authorized representative and/or representatives.

(1991 Code, § 2.31)

§ 51.02 WATER SYSTEM.

The water supply system of the city shall be operated under the direction and control of the City Commission, subject to all of the provisions and regulations and conditions as hereinafter set forth.

(1991 Code, § 2.32)

§ 51.03 WATER SUPERINTENDENT.

(A) The Waterworks Superintendent shall be appointed by the City Commission and, under the direction of the City Commission, shall have control of the operation and maintenance of the water supply system of the city. He or she shall direct and control all employees of the water supply system who shall serve at the pleasure of the Waterworks Superintendent.

(B) The compensation of the Waterworks Superintendent and all other employees of the water supply system shall be fixed and determined from time to time by resolution, motion or order of the City Commission and may be changed from time to time at the pleasure of the City Commission.

(1991 Code, § 2.33)

§ 51.04 NO FREE SERVICE.

No free service shall be furnished by the water system and plant to the city or to any person.

(1991 Code, § 2.34)

§ 51.05 FISCAL YEAR.

The fiscal year of the water system shall be from July 1 to June 30, both dates inclusive, of each year.

(1991 Code, § 2.35)

§ 51.06 HYDRANT CHARGES.

For fire protection, the city shall pay, out of its general funds, the sum of \$100 per year for each fire hydrant. This payment shall be charged and payable annually in advance.

(1991 Code, § 2.39)

§ 51.07 RATE CHANGES.

All water rates, charges, fees and required deposits may be fixed and revised from time to time by resolution of the City Commission.

(1991 Code, § 2.40)

§ 51.08 APPLICATIONS FOR CONNECTION.

(A) No service connection shall be constructed for the purpose of introducing water into any premises until an application for a permit for such connection has been made in writing to the city.

(B) The applicant shall be furnished a form and the form shall be filled out in all details and filed with the Waterworks Superintendent, in triplicate.

(C) The Waterworks Superintendent shall file all copies of the application with the city, along with his or her recommendations for approval or disapproval of the application.

(D) The City Commission shall then establish the necessary payment required for each particular connection and shall act upon the application, and if approved, the same shall then be turned over to the City Treasurer so that the necessary moneys can be collected from the applicant.

(E) Upon receipt of the required moneys, the City Treasurer shall so mark the application, and file one copy with the customer, one copy with the Waterworks Superintendent and the third copy shall be filed in the Water Department records.

(1991 Code, § 2.41) Penalty, see § 10.99

§ 51.09 WATER CONNECTIONS.

(A) Water connections shall only be installed by the city and upon prepayment of the connection cost and cost of installing the meter. The City Commission shall from time to time determine the average connection cost for the city; and this shall be payment complete for all material and labor involved in tapping the main, laying the copper pipe from the distribution main to the curb stop and box, the furnishing and placing of the curb stop and box, and the installation of the meter.

(B) The meter installation charge is included in the connection charge.

(1) In all cases, the water connection shall be constructed of type "K" copper pipe, unless the connection is two inches or greater, in which case state-approved pipe may be used.

(2) All water connections shall be laid to the depth of five feet under the surface of the street or lowest part of the gutter.

(3) No water connection shall be laid in the same trench with a sewer pipe unless supported upon an earth shelf at least one foot above the sewer.

(4) The city shall install a brass stopcock with a valve box which shall be placed approximately one foot outside of the street side of the sidewalk, and this stopcock shall be under the exclusive control of the city.

(5) No person other than an authorized employee of the city shall open or close or otherwise interfere with the stopcock; however, any licensed plumber may stop and/or open the stopcock in emergency cases when authorized by the Waterworks Superintendent.

(1991 Code, § 2.42) Penalty, see § 10.99

§ 51.10 WATER EXTENSION.

(A) All pipe used in the water extension shall be of the same type as described above in § 51.09.

(B) The entire water extension shall be installed at the owner's expense and shall include a meter shut-off conveniently placed ahead of the meter.

(C) The necessary couplings for connection of the meter shall be furnished by the city.

(D) The water extension shall be protected from damage whenever so notified by the city.

(E) Whenever a water extension is frozen, it shall be thawed out by the customer at his or her own expense.

(F) The water extension shall not be covered until inspected and approved by the Waterworks Superintendent.

(1991 Code, § 2.43) Penalty, see § 10.99

§ 51.11 METERS.

(A) All water service shall be metered.

(B) The meter shall be furnished and installed by the city and shall remain the property of and under the control of the city.

(C) The city shall have access to the meter for the purpose of reading, testing and repairing.

(D) The customer shall provide a suitable place for the installation of the meter, and if in the judgement of the city a meter pit should be constructed, such meter pit shall be constructed by the water customer in accordance with the plans and specifications supplied by the city.

(E) No persons other than an authorized employee of the city shall break or injure the seal on, or change the location of, alter or interfere in any way with any meter.

(F) The water customer shall be responsible for all damage to the meter or meter seal caused by any act or negligence of any person other than an employee of the city, including damage by hot water, frost or other causes, and the expense to the city caused thereby shall be charged to and collected from the water customer.

(1991 Code, § 2.44) Penalty, see § 10.99

§ 51.12 CROSS-CONNECTIONS.

(A) The city adopts by reference the Water Supply Cross Connection Rules of the Michigan Department of Public Health, being R325.11401 to R325.11407 of the Michigan Administrative Code.

(B) It shall be the duty of the city to cause inspection to be made of all properties served by public water supply where cross-connections with the public water supply is deemed possible. The frequency of inspections and re-inspections based on potential hazards involved shall be as established by the city and as approved by the State Department of Public Health.

(C) Representatives of the city 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 thereof for cross-connections.

(1) 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 such property.

(2) The refusal of such information or refusal of access, when requested, shall be deemed evidence of the presence of cross-connections.

(D) The Waterworks Superintendent 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 noncompliance with the provisions of this section.

(E) The potable water supply made available on the properties served by the public water system supply shall be protected from possible contamination as specified by this section and by the City Plumbing Code (found in Title XV). 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

(F) This section does not supersede the City Plumbing Code or other provisions of this code relating to plumbing.

(G) Any person or customer found guilty of violating any of the provisions of this section, or any written order of the Waterworks Superintendent in pursuance thereof, shall be deemed guilty of a violation of this code, punishable as prescribed in § 10.99.

(1991 Code, § 2.45) Penalty, see § 10.99

§ 51.13 FIRE HYDRANTS.

No person shall open or use water from any public or private fire hydrant for any purpose, except for extinguishing fire, unless a written permit from the Waterworks Superintendent has been issued for such use.

(1991 Code, § 2.46) Penalty, see § 10.99

§ 51.14 LIABILITY OF THE CITY.

All parties using water from the waterworks of the city for any purpose whatsoever will do so at their own risk, and the city or employees thereof shall not be liable for any damages occasioned by or growing out of the stoppage of the water, nor for an insufficient supply of same, nor for accidents or any damage of any kind caused by or growing out of the use or failure of such water.

(1991 Code, § 2.48)

§ 51.15 INTERFERENCE/INJURING THE WATERWORKS; ANY VIOLATION.

Any person willfully interfering with or injuring the waterworks of the city, or any of the pipes, stopcocks or other appurtenances appertaining to the city waterworks or such system; or any person putting any animal, vegetable or other substance in any of the reservoirs, tanks or pipes or polluting the water therein in any way; or any person violating or failing to comply with any provision or provisions of this chapter shall be punishable as prescribed in § 10.99.

(1991 Code, § 2.49) Penalty, see § 10.99

§ 51.16 VIOLATION DECLARED NUISANCE.

(A) Violation of any provision of this chapter is hereby declared to be a nuisance per se.

(B) Any court of competent jurisdiction may order such nuisance abated and the violator guilty of maintaining a nuisance per se.

(1991 Code, § 2.50) Penalty, see § 10.99

CHAPTER 52: SEWER RATES

Section

52.01 Sewer service rates

52.02 Disconnection for late payment

52.03 Collection from tax roll

52.04 Fiscal year

52.05 Supervision of system

§ 52.01 SEWER SERVICE RATES.

Each premises connected to the system shall be billed at the rates from time to time established by resolution of the City Commission.

(Prior Code, § 2.131)

§ 52.02 DISCONNECTION FOR LATE PAYMENT.

(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; and

(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 may be discontinued for nonpayment; and

(3) That if any bill is not paid within 15 days after the billing date on the statement, then a penalty of 10% shall be added thereto and commencing 90 days after the due date such charges shall draw interest at the rate of 6% per annum; 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 as set by the City Commission.

§ 52.03 COLLECTION FROM TAX ROLL.

Charges for services furnished by the system to any premises shall be a lien thereon as of the due date thereof, and on June 1 of each year the City Clerk shall certify any such charges which have been delinquent 90 days or more, plus penalties and interest accrued thereon, to the City Assessor who shall enter the same upon the next tax roll against the premises to which such service shall have been rendered, and said charges, with penalties and interest accrued thereon, shall be collected and said lien shall be enforced in the same manner as provided in respect to taxes assessed upon such roll.

(Prior Code, § 2.133)

§ 52.04 FISCAL YEAR.

The system shall be operated upon the basis of a fiscal year beginning on July 1 of each year and ending on June 30 of the following year.

(Prior Code, § 2.134)

§ 52.05 SUPERVISION OF SYSTEM.

The operation, maintenance and management of the system shall be under the immediate supervision and control of the City Commission.

CHAPTER 53: SEWER USE

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- 53.002 Scope of chapter; authority for control of discharges
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GENERAL PROVISIONS

§ 53.001 PURPOSES AND OBJECTIVES.

(A) This chapter sets forth uniform requirements for direct and indirect contributors located within the local unit into the West Bay County Regional Wastewater System (POTW) and enables the local unit and the Bay County Department of Water and Sewer of the Bay County Board of County Road Commissioners (the “Department”) (also referred to as the “Control Authority” or the “POTW,” as appropriate to the context herein) to comply with all applicable state and federal laws as required by the Federal Water Pollution Control Act (also known as the “Clean Water Act”), as amended, 33 U.S.C. §§ 1251 *et seq.*; the general pretreatment regulations (40 C.F.R. part 403); part 31 of Act 451 of the Public Acts of Michigan of 1994, M.C.L.A. §§ 324.3101 *et seq.*, as amended (“Water Resources Protection”); and the rules, Michigan Administrative Code, R 323.2301 *et seq.*, as amended, promulgated pursuant to §§ 3103, 3106 and 3109 of Part 31 of Act 451 of the Public Acts of Michigan of 1994, as amended.

(B) The purposes and objectives of this chapter are:

- (1) To establish standards, rules, and regulations with respect to the use of the POTW;
- (2) To prevent the discharge of pollutants into the POTW that do not meet applicable pretreatment standards and requirements; that would interfere with the operation of the POTW; that would pass through the POTW into the receiving waters or the atmosphere; that would inhibit or disrupt the POTW's processing, use, or disposal of sludge; that would cause health or safety problems for any person working on the POTW; or that would result in a violation of the POTW's NPDES permit or of other applicable laws and regulations;
- (3) To improve and maximize the opportunity to recycle and reclaim wastewaters and sludges from the system;
- (4) To regulate the discharge of wastewater to the POTW and to enforce the requirements of this chapter through the issuance of permits and through other means as provided by this chapter;
- (5) To authorize and require all inspection, monitoring, reporting and enforcement activities as necessary to insure compliance with applicable pretreatment standards and requirements and other applicable laws and regulations; and
- (6) To provide for equitable distribution of the costs of wastewater system within the local unit.

(Ord. 185, passed 4- -2006)

§ 53.002 SCOPE OF CHAPTER; AUTHORITY FOR CONTROL OF DISCHARGES.

(A) This chapter shall apply to all persons that discharge to the POTW from within the local unit.

(B) Except as otherwise specifically provided by this chapter, the WWTP Superintendent shall administer, implement, and enforce the provisions of this chapter on behalf of the local unit and the POTW.

(C) It shall be unlawful for any person to discharge any wastewater or pollutant to the POTW or to any storm sewer or natural outlet within the local unit or in any area under the jurisdiction of the local unit, except in accordance with the provisions of this chapter. If any user discharges or proposes to discharge wastewaters or pollutants that are prohibited or limited by this chapter, authorized representatives of the POTW and/or the local unit may take any action as provided by this chapter or other applicable laws or regulations to assure and require compliance with the provisions of this chapter; provided, however, that in any case where the POTW requests the local unit to take or require action against a user in connection with discharges to the POTW from the area under the jurisdiction of the local unit, and the local unit fails or refuses to timely take or require the requested action, then the POTW may proceed unilaterally to take or require such action as determined necessary by the POTW to meet the purposes and objectives of this chapter.

(Ord. 185, passed 4- -2006)

§ 53.003 DEFINITIONS.

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

ACT (or THE ACT). The Federal Water Pollution Control Act (also known as the Clean Water Act), 33 U.S.C. §§ 1251 *et seq.*, as amended.

ASTM. The American Society for Testing and Materials, an international, nonprofit, technical, scientific and educational society devoted to the promotion of knowledge of the materials of engineering, and the standardization of specifications and methods of testing.

AUTHORIZED REPRESENTATIVE OF USER. An authorized representative of a user is:

- (1) A responsible corporate officer, if the user is a corporation. **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 principal manager of one or more manufacturing, production, or operation facilities employing more than 250 persons or having gross annual sales or expenditures of more than \$25,000,000 in second quarter 1980 dollars, if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
- (2) A general partner or proprietor, if the user is a partnership or proprietorship, respectively.

(3) The principal executive officer, ranking elected official, or director having responsibility for the overall operation of the discharging facility, if the user is a federal, state or local governmental entity.

(4) If none of the categories listed in divisions (1), (2) or (3), above, are applicable to the user, then a representative of the industrial user as approved by the WWTP Superintendent.

(5) A duly authorized representative of an individual designated in divisions (1), (2), (3) or (4) above, if the representative is responsible for the overall operation of the facilities from which the discharge to the POTW originates.

a. To be considered **DULY AUTHORIZED**, the authorization must be made in writing by an individual designated in divisions (1), (2), (3) or (4) above. The authorization must specify either an individual or a position having responsibility for the overall operation of the facility (such as the position of plant manager, operator of a well or well field, or a position of equivalent responsibility, or having overall responsibility for the environmental matters for the company or entity). The written authorization must be submitted to the WWTP Superintendent prior to or together with any reports to be signed by the authorized representative.

b. If an authorization under division (5)(a) above 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 or entity, a new written authorization must be submitted to the WWTP Superintendent prior to or together with any reports to be signed by the newly authorized representative.

BOD or **BIOCHEMICAL OXYGEN DEMAND**. The quantity of oxygen used in the biochemical oxidation of organic matter under standard laboratory procedures for five days at 20 degrees Centigrade, expressed in milligrams per liter (mg/l).

BUILDING LEAD. The portion of building sewer from the soil pipe to the sewer stub.

BUILDING SEWER. The portion of a sewer from the soil pipe to the wye branch of the sewer main.

BYPASS. The intentional diversion of waste streams from any portion of an industrial user's treatment facility.

CATEGORICAL PRETREATMENT STANDARD. A national pretreatment standard promulgated by the U.S. EPA in accordance with §§ 307(b) and (c) of the Act that specifies quantities or concentrations of pollutants or pollutant properties that may be discharged to a POTW by users in specific industrial subcategories.

CATEGORICAL USER. Any nondomestic user subject to a categorical pretreatment standard.

COD or **CHEMICAL OXYGEN DEMAND**. The quantity of oxygen consumed from a chemical oxidant in a specific test, expressed in milligrams per liter (mg/l).

CHLORINE DEMAND. The difference between the amount of chlorine applied and the amount of free chlorine available at the end of the contact time, expressed in milligrams per liter (mg/l).

COMPATIBLE POLLUTANT. A pollutant which, as determined by the WWTP Superintendent, is susceptible to effective treatment by the POTW as designed, and which will not interfere with, or pass through, the POTW, and which is otherwise not incompatible with the treatment processes or in excess of the capacity at the POTW. The term **COMPATIBLE** is a relative concept that must be determined on a case-by-case basis. In determining whether or not a pollutant is compatible with the POTW, the Superintendent may consider, among other factors determined relevant by the Superintendent, the nature and qualities of the pollutant, and the concentration, mass, and flow rate at which the pollutant is (or is proposed to be) discharged. Thus, for example, even pollutants such as BOD, fats, oils or grease, phosphorus, suspended solids, and fecal coliform bacteria, which are typically considered compatible may be determined incompatible, if discharged in concentrations or flows that would cause interference or pass through or exceed the POTW's capacity. Specifically excluded from the definition of **COMPATIBLE POLLUTANTS** are "heavy" metals, PCBs, and any other pollutants that will likely contribute or cause operational or sludge disposal problems or unacceptable discharges to the receiving waters, as determined by the WWTP Superintendent.

COMPOSITE SAMPLE. A series of individual samples taken at regular intervals over a specific time period and combined into a single sample (formed either by continuous sampling or by mixing discrete samples) representative of the average stream during the sampling period. For categorical sampling, a composite sample shall consist of at least four individual samples taken within a 24-hour period.

CONTROL AUTHORITY. The Department of Water and Sewer of the Bay County Board of County Road Commissioners acting in its capacity to administer and implement this chapter and the approved industrial pretreatment program.

CONTROL AUTHORITY ENFORCEMENT RESPONSE PLAN (CAER PLAN). The plan prepared by the POTW as required by 40 C.F.R. § 403.8(f)(5) that describes how the POTW will investigate and respond to instances of non-compliance and the types of escalated enforcement actions the POTW will take in response to violations of applicable standards and requirements.

COOLING WATER (CONTACT). Water used for cooling purposes only that may become contaminated or polluted either through the use of water treatment chemicals (such as corrosion inhibitors or biocides) or by direct contact with process materials and/or wastewater

COOLING WATER (NON-CONTACT). Water used for cooling purposes only that has no direct contact with any raw material, intermediate, or final product and that does not contain a detectable level of contaminants higher than that of the intake water or exceed local limits.

COUNTY. The County of Bay, Michigan.

DAILY MAXIMUM. The concentration (or mass loading, expressed in terms of pounds per day) that shall not be exceeded on any single calendar day. Where daily maximum limitations are expressed in terms of a concentration, the daily discharge is the arithmetic

average measurement of the pollutant concentration derived from all measurements taken that day. Where daily maximum limitations are expressed in units of mass, the daily discharge is the total mass discharged during the day. Sampling for daily maximum shall be a 24-hour flow proportioned composite sample, except that a minimum of four grab samples shall be taken in lieu of a 24-hour flow proportioned composite sample for pH, cyanide, phenol (T), residual chlorine, oil and grease, sulfides, volatile organic compounds (and any other parameters specified by the WWTP Superintendent). If it is not feasible to obtain a flow proportioned composite sample, a time proportioned composite sample or a minimum of four grab samples may be used in lieu of the flow proportioned composite sample if the user demonstrates to the WWTP Superintendent that a representative sample will be obtained. If the pollutant concentration in any sample is less than the applicable detection limit, that value shall be regarded as zero when calculating the daily maximum concentration (except as otherwise provided in a permit, order or agreement issued under this chapter). If a composite sample is required for a parameter, the determination whether the daily maximum limitation for that parameter has been exceeded on a single calendar day shall be based on the composite sample collected for that parameter on that calendar day. If grab samples are required for a parameter, the determination whether the daily maximum limitation for that parameter has been exceeded on a calendar day shall be based on the average of all grab samples collected for that parameter on that calendar day. If only one grab sample is collected for a parameter on a given day, the determination whether the daily maximum limitation for that parameter has been exceeded for the day shall be based on the results of that single grab sample.

DEPARTMENT. The Department of Water and Sewer of the Bay County Board of County Road Commissioners, or the Department's authorized agents, deputies, or representatives; also referred to as the control authority or the POTW as appropriate to the context herein.

DIRECTOR. The Director of the Department, or the Director's authorized agents, deputies, or representatives.

DISCHARGE. The introduction of wastewater or pollutants into the POTW, whether intentional or unintentional, and whether direct or indirect (including inflow and infiltration).

DOMESTIC USER. A user that discharges only segregated normal strength domestic waste into the POTW.

DOMESTIC WASTE. Water-carried waste of human origin generated by personal activities from toilet, kitchen, laundry, or bathing facilities, or by other similar facilities used for household or dwelling purposes (sanitary sewage). Domestic waste shall not include any waste resulting from industrial or commercial processes, including, without limitation, any hazardous or toxic pollutants.

DWELLING. Any structure designed for habitation, including but not limited to houses, mobile homes, apartment buildings, condominiums and townhouses.

ENVIRONMENTAL PROTECTION AGENCY (EPA). The United States Environmental Protection Agency, or its duly authorized representatives.

FOOTING DRAIN. A pipe or conduit placed around the perimeter of a building foundation and that intentionally admits ground water.

GARBAGE. Solid wastes from the preparation, cooking, and dispensing of food, from the handling, storage, processing and sale of produce, or from the canning or packaging of food.

GRAB SAMPLE. An individual sample that is taken from a wastestream on a one-time basis without regard to the flow in the wastestream and over a period of time not to exceed 15 minutes.

GROUND WATER. The subsurface water occupying the saturation zone from which wells and springs are fed.

HAZARDOUS WASTE. Any substance discharged or proposed to be discharged into the POTW, that, if otherwise disposed of, would be a hazardous waste under 40 C.F.R. part 261.

HEAVY METALS. Heavy metals include, but shall not be limited to, elemental, ionic, or combined forms of antimony, arsenic, barium, cadmium, chromium, cobalt, copper, lead, mercury, molybdenum, nickel, selenium, silver, and zinc, and other metals that may accumulate in sludge, and/or are generally toxic in low concentrations to animal and plant life, as determined by the WWTP Superintendent.

HOLDING TANK WASTE. Any waste from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks, and vacuum-pump tank trucks.

INCOMPATIBLE POLLUTANT. Any pollutant that is not a compatible pollutant.

INDIRECT DISCHARGE. The introduction of pollutants into the POTW, intentionally or unintentionally, from any non-domestic source regulated under § 307(b), (c) or (d) of the Act (including, without limitation, holding tank waste or trucked or hauled waste discharged into the POTW and pollutants entering the POTW through infiltration or inflow).

INDUSTRIAL USER. Any non-domestic user that contributes, causes or permits the contribution or introduction of wastewater or pollutants into the POTW, whether intentional or unintentional, and whether direct or indirect.

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

INFLOW. Any waters entering the POTW from sources such as, but not limited to, roof leaders; cellar, yard, and area drains; footing drains; foundation drains; cooling water discharges; drains from springs and swampy areas; manhole covers; storm sewers; catch basins; storm waters; surface runoff; street wash waters; or drainage. Inflow does not include, and is distinguished from, infiltration.

INSTANTANEOUS MAXIMUM CONCENTRATION. The maximum concentration of a pollutant allowed to be discharged at any instant in time (independent of the flow rate or duration of the sampling event). If the concentration determined by analysis of any grab

sample, composite sample, or discrete portion of a composite sample exceeds the instantaneous maximum concentration, the instantaneous maximum concentration shall be deemed to have been exceeded. Any discharge of a pollutant at or above a specified instantaneous maximum concentration is a violation of this chapter.

INTERCEPTOR SEWER. A sewer intended to receive dry weather flow from a number of transverse sewers or outlets that conducts such waters to a point for treatment or disposal.

INTERFERENCE. A discharge that, alone or in conjunction with a discharge or discharges from other sources: (1) inhibits or disrupts the POTW, its treatment processes or operations, or its sludge processes, use or disposal; or (2) 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 there under (or more stringent State or local regulations, as applicable): § 405 of the Act; the Solid Waste Disposal Act (SWDA) (including Title II, more commonly referred to as RCRA, and including State regulations contained in any State sludge management plan prepared pursuant to Subtitle D of the SWDA); the Clean Air Act; the Toxic Substances Control Act; and the Marine Protection, Research, and Sanctuaries Act.

LATERAL SEWER. A sewer that is designed to receive a building sewer.

LOCAL UNIT. The City of Auburn, Bay County, Michigan, acting by and through its duly authorized agents, deputies and representatives.

MAY is permissive. (See **SHALL**.)

MONTHLY AVERAGE. The concentration (or mass loading, expressed in terms of pounds per day) that shall not be exceeded for any single calendar month. Where expressed in terms of a concentration, the monthly average limit means the sum of the concentrations of a pollutant obtained through sample analysis during a calendar month divided by the number of samples taken during that calendar month. Where expressed in terms of a mass loading, the monthly average limit means the sum of the daily mass loadings of a pollutant obtained through sample analysis during a calendar month divided by the number of days that mass loading samples were taken during that calendar month. The concentrations (or loadings) that are added are single numbers for single calendar days for all days during the calendar month for which analyses are obtained (whether by the user or the POTW), but the concentrations (or loadings) may be based upon a sample or samples taken over either all or part of that day and upon single or multiple analyses for that day, as determined by the WWTP Superintendent. Sampling for monthly average shall be by composite samples, except that a minimum of four grab samples shall be taken in lieu of a 24-hour flow proportioned composite sample for a single day for pH, cyanide, phenol (T), residual chlorine, oil and grease, sulfide, and volatile organic compounds (and any other parameters specified by the WWTP Superintendent). If it is not feasible to obtain a flow proportioned composite sample, a time proportioned composite sample or a minimum of four grab samples may be used in lieu of the flow proportioned composite sample if the user demonstrates to the WWTP Superintendent that representative samples will be obtained. If the pollutant concentration in any sample is less than the applicable detection limit, that value shall be regarded as zero when calculating the monthly average concentration (except as otherwise provided in a permit, order or agreement issued under this chapter). If no samples are taken during particular months because less than monthly sampling is required for a pollutant parameter (e.g., a specified quarterly monitoring period), the monthly average for each month within the specified monitoring period shall be deemed to be the sum of concentrations (or loadings) for the monitoring period divided by number of samples taken during the monitoring period.

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

NEW SOURCE.

(1) Any building, structure, facility or installation from which there is or may be a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under § 307(c) of the Act that will be applicable to the source, if pretreatment standards are thereafter promulgated in accordance with that section, provided that:

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

(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 general type of activity as the existing source should be considered.

(2) Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility or installation meeting the criteria of division (b) or (c) of, above, but otherwise alters, replaces, or adds to existing process or production equipment. Commencement of construction of a new source shall be determined in a manner consistent with 40 C.F.R. § 403.3(k)(3).

NON-DOMESTIC USER. Any user other than a domestic user.

NORMAL STRENGTH DOMESTIC WASTE. A domestic waste flow for which the levels of pollutants (including, without limitation, BOD, TSS, ammonia nitrogen, or phosphorous) are below the surcharge levels for any parameter as established by this chapter. Further, to be considered normal strength, the wastewater must have a pH between 6.5 and 9.5, and must not contain a concentration of other constituents that would interfere with POTW treatment processes.

NPDES PERMIT. A permit issued pursuant to § 402 of the Act.

OPERATION AND MAINTENANCE. All work, materials, equipment, utilities and other effort required to operate and maintain the

POTW consistent with insuring adequate treatment of wastewater to produce an effluent in compliance with the NPDES permit and other applicable state and federal regulations.

PASS THROUGH. A discharge that exits the POTW into waters of the state (or waters of the United States) in quantities or concentrations that, alone or in conjunction with a discharge or 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, partnership, co-partnership, firm, company, corporation, association, society, group, trust, estate, governmental entity or any other legal entity, or their legal representatives, agents or assigns. As used in this chapter, the masculine gender shall include the feminine, and the singular shall include the plural where indicated by the context.

pH. The logarithm (base 10) of the reciprocal of the concentration of hydrogen ions expressed in grams per liter of solution.

POLLUTANT. The term **POLLUTANT** includes, without limitation, all of the following:

(1) Any material that is discharged into water or other liquid, including, without limitation, dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, wrecked or discharged equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste.

(2) Properties of materials, including, but not limited to, pH and heat.

(3) Substances regulated by categorical standards.

(4) Substances discharged to the POTW that are required to be monitored by a user under this chapter, are limited in the POTW's NPDES permit, or required to be identified in the POTW's application for an NPDES permit.

(5) Substances for which control measures on industrial users are necessary to avoid restricting the POTW's residuals management program; to avoid operational problems at the POTW; or to avoid POTW worker health and safety problems.

POTW (PUBLICLY OWNED TREATMENT WORKS). The complete West Bay County Regional Wastewater sewage disposal system and "treatment works" (as defined by the Act), including any devices, equipment, structures, property, processes and systems used in the storage, treatment, recycling or reclamation of wastewater, sewage or sludge, as well as sewers (including all main, lateral and intercepting sewers), manholes, inlets, pipes and other conduits and conveyances used to collect or convey wastewater or sewage from any source to the treatment works, as now or hereafter added to, extended or improved. The term POTW is also used to refer to the Department acting in its capacity as the Control Authority to administer and implement this chapter and the approved industrial pretreatment program.

POTW TREATMENT PLANT. The portion of the POTW that is designed to provide control and treatment (including recycling or reclamation) of sewage and industrial waste (commonly referred to as the wastewater treatment plant or WWTP).

PREMISES. A lot or parcel of land, or a building or structure, having any connection, direct or indirect, to the POTW, or from which there is a discharge to the POTW.

PRETREATMENT (or TREATMENT). The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into the POTW. The reduction or alteration can be obtained by physical, chemical or biological processes, process changes or other means, except for the use of dilution as prohibited by MAC R 323.2311(6).

PRETREATMENT REQUIREMENT. Any substantive or procedural requirement related to pretreatment, other than a national pretreatment standard, imposed on an industrial user.

PRETREATMENT STANDARD. Any regulation containing pollutant discharge limits promulgated by the U.S. EPA in accordance with § 307(b) and (c) of the Act that applies to industrial users, including prohibitive discharge limits and local limits established under MAC R 323.2303 and categorical standards.

PRIVATE. Jurisdiction by a nongovernmental entity.

PROPERLY SHREDDED GARBAGE. The wastes from the preparation, cooking and dispensing of food that have been cut or shredded to such a degree that all particles will be carried freely under flow conditions normally prevailing in public sewers, with no particle greater than one-half of an inch in any dimension.

PUBLIC. Jurisdiction by a governmental entity.

PUBLIC SEWER. A sewer in which all owners of abutting property have equal rights and that is controlled by public authority.

REPLACEMENT. The replacement in whole or in part of any equipment or facilities in the POTW to ensure continuous treatment of wastewater in accordance with the NPDES permit and other applicable state and federal regulations.

SANITARY SEWER. A sewer intended to carry liquid and water-carried wastes from residences, commercial buildings, industrial plants and institutions, together with minor quantities of ground, storm and surface waters that are not intentionally admitted.

SEPTAGE. Any human excrement or other domestic waste, including graywater and other material or substance removed from a portable toilet, septic tank, seepage pit, cesspool, holding tank, or other similar enclosure that receives, or is intended to receive, only domestic, non-industrial waste.

SEVERE PROPERTY DAMAGE. Substantial physical damage to property, damage to the treatment facilities that causes them to become inoperable, or substantial and permanent loss of natural resources that 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.

SEWER. Any pipe, tile, tube or conduit for carrying wastewater or drainage water.

SEWER STUB. The part of the sewerage system extending from the wye branch on the sewer main to the private property or easement line of the property.

SHALL is mandatory. (See **MAY**.)

SIGNIFICANT INDUSTRIAL USER.

(1) Any industrial user:

(a) Subject to categorical pretreatment standards; or

(b) Any other industrial user that:

1. Discharges to the POTW an average of 25,000 gallons per day or more of process wastewater (excluding sanitary, non-contact cooling and boiler blow-down wastewater);

2. Contributes a process waste stream that makes up 5% or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or

3. Is otherwise designated by the WWTP Superintendent as a significant industrial user on the basis that the industrial user has a reasonable potential to adversely affect the operation of the POTW, to violate any pretreatment standard or requirement, or because the WWTP Superintendent determines that a wastewater discharge permit for the user's discharge is required to meet the purposes and objectives of this chapter.

(2) The WWTP Superintendent may determine that a user that meets the criteria of divisions (b)1. and (b)2. above is not currently a significant industrial user, if the Superintendent finds that the user has no reasonable potential to adversely affect the operation of the POTW, to violate any pretreatment standard or requirement, or that a permit is not required to meet the purposes and objectives of this chapter. A determination that a user is not a significant industrial user (or that a permit is therefore not required) shall not be binding and may be reversed by the Superintendent at any time based on changed circumstances, new information, or as otherwise determined necessary by the Superintendent to meet the purposes and objectives of this chapter.

SIGNIFICANT NON-COMPLIANCE. A violation (or group of violations) of applicable pretreatment standards or requirements or any other action (or failure to act) by an industrial user that meets the criteria set forth in § 53.259 of this chapter, or that will otherwise adversely affect the operation or implementation of the POTW's pretreatment program as determined by the WWTP Superintendent.

SLUG, SLUG LOAD, or SLUG DISCHARGE. Any discharge of a non-routine, episodic nature, including, but not limited to, an accidental spill or a non-customary batch discharge.

SOIL PIPE. The 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.

STANDARD INDUSTRIAL CLASSIFICATION (SIC). A classification pursuant to the *Standard Industrial Classification Manual* issued by the Executive Office of the President, Office of Management and Budget, 1972, as amended.

STATE. The State of Michigan.

STORM SEWER or STORM DRAIN. A sewer intended to carry storm water and surface water, street wash, other wash waters, or drainage, but not wastewater.

STORM WATER. The excess water running off from the surface of a drainage area during and immediately after a period of rain or snow melt and is that portion of the rainfall or snow melt runoff and resulting surface flow in excess of that which can be absorbed through the infiltration capacity of the surface of the basin.

SUPERINTENDENT. See WWTP Superintendent.

SURCHARGE. The additional treatment charges made by the POTW for the treatment of wastewater containing pollutants in excess of specified concentrations, loadings or other applicable limits.

SUSPENDED SOLIDS. The suspended matter that floats on the surface of, or is suspended in, water, wastewater or other liquids, and that is removable by laboratory filtering (referred to as non-filterable residue in laboratory testing).

TOXIC POLLUTANT. Any pollutant or combination of pollutants that is or can potentially be harmful to the public health or the environment, including, without limitation, those listed as toxic in regulations promulgated by the Administrator of the EPA under § 307(a) of the Act or under other laws.

TRADE SECRET. The whole or any portion or phase of any manufacturing proprietary process or method which is not patented, which is secret, which is useful in compounding an article of trade having a commercial value, and the secrecy of which the owner has taken reasonable measure to prevent from becoming available to persons other than those selected by the owner to have access for limited purposes. Trade secret shall not be construed, for purposes of this chapter, to include any information regarding the quantum or character of waste products or their constituents discharged, or sought to be discharged, into the POTW.

TRUCKED or HAULED WASTE or POLLUTANTS. Any waste proposed to be discharged to the POTW from a mobile source,

including, without limitation, holding tank waste.

TSS. Total suspended solids.

UPSET. An exceptional incident in which there is unintentional and temporary noncompliance with categorical pretreatment standards because of factors beyond the reasonable control of the industrial user. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

USER. Any person who contributes, causes or permits the contribution, introduction or discharge of wastewater into the POTW, whether intentional or unintentional, and whether direct or indirect.

WASTEWATER. The liquid and water-carried industrial or domestic waste from dwellings, commercial buildings, industrial facilities, and institutions (including, without limitation, contaminated groundwater and landfill leachate), whether treated or untreated, that is contributed, introduced or discharged into the POTW.

WASTEWATER DISCHARGE PERMIT. A permit issued to industrial users as provided by this chapter to control the discharge of wastewater to the POTW and to ensure compliance with applicable pretreatment standards and requirements.

WASTEWATER TRANSMISSION FACILITIES. The facilities for collecting, transporting, regulating, pumping and storing of wastewater.

WASTEWATER TREATMENT WORKS. The arrangement of devices and structures for treating wastewater, industrial wastes, and sludge.

WATERS OF THE STATE. All streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, that are contained within, flow through, or border upon the state or any portion of the state, and as otherwise specified by applicable laws and regulations.

WATERS OF THE UNITED STATES. All waters as defined by 40 C.F.R. § 122.2.

WWTP SUPERINTENDENT(or SUPERINTENDENT). The person designated by the Department to supervise the operation, maintenance, alteration, repair and management of the POTW and who is charged with certain duties and responsibilities by this chapter, or the Superintendent's duly authorized agents, deputies or representatives.

WYE BRANCH. The part of the POTW connecting the sewer main and the sewer stub.

(Ord. 185, passed 4- -2006)

§ 53.004 ABBREVIATIONS.

The following abbreviations shall have the following designated meanings:

BOD. Biochemical Oxygen Demand.

CFR. Code of Federal Regulations.

COD. Chemical Oxygen Demand.

EPA. Environmental Protection.

l. Liter.

mg. Milligrams.

mg/l. Milligrams per liter.

MAC. Michigan Administrative Code.

NPDES. National Pollutant Discharge Elimination System.

POTW. Publicly Owned Treatment Work.

SIC. Standard Industrial Classification.

SWDA. Solid Waste Disposal Act, 42 U.S.C. §§ 6901 *et seq.*

T. Total.

TSS. Total Suspended Solids.

USC. United States Code.

(Ord. 185, passed 4- -2006)

USE OF PUBLIC SEWERS

§ 53.020 REQUIRED.

The following requirements shall apply to all connections to the public sewer by users of the POTW:

(A) The owner of any house, building, property or premises used for human occupancy, employment, recreation, or other purposes, and from which sanitary sewage originates and which is situated within the local unit and which is not more than 200 feet from an available public sewer, is hereby required at the owner's expense to install wastewater facilities therein in accordance with law and to connect such facilities directly with the available public sewer in accordance with the provisions of this chapter within 90 days after notification from the local unit or the POTW.

(B) The requirements of division (A) above shall be in addition to any requirements that may be imposed by the United States, the State of Michigan, or the POTW.

(C) Plans and specifications for all sewers (including, but not limited to, sewer mains) to be constructed within the POTW shall be prepared by a registered professional engineer and approved by the local unit and the POTW, as applicable.

(D) Each new sewer for which a sewer stub is not presently available but which is designed and is to be constructed so as to connect with or constitute an integral part of the sewerage system shall not be constructed without a written permit issued by the local unit and the POTW, as applicable.

(E) No person shall uncover, make any connections with or opening into, use, alter, repair or disturb any public sewer or appurtenance thereof including sewer stub, wye branch and sewer main, without first obtaining a written permit from the POTW and the local unit, as applicable.

(F) All permit and inspection fees shall be established from time to time by the local unit or by the POTW, as applicable.

(G) No openings shall be made into the sewerage system without first obtaining a sewer connection permit on an application form furnished by the POTW. All applications for a permit shall be made by the owner of the premises, or the owner's authorized agent. Each application for a permit shall be accompanied by an application and inspection fee to defray the cost of processing the application and subsequent inspection of construction or installation. All inspections shall be done in conformance with regulations as adopted and approved by the POTW. If conditions require more than one inspection or if a full time inspector be required, an additional inspection fee may be charged. The removal of the cookie or stopper and connection to the sewerage system shall be performed only in the immediate presence of the POTW inspector or an authorized representative of the POTW. It shall be unlawful for any person, performing work under a permit for the laying of a sewer stub or building lead to cover any portion thereof until such time as same has been inspected and approved by the POTW Inspector or an authorized representative of the POTW. Such person shall notify the POTW when the work is ready for inspection and shall leave the premises in a condition convenient for examination by the Inspector. The person who applies for the permit shall be responsible to remove and replace all rejected work, restore all public streets and alleys to a similar condition as existed prior to excavation, and shall make all adjustments necessary to fully meet the requirements of this chapter, other rules and regulations hereinafter established and the conditions of the permit as required by the POTW and the local unit.

(H) All costs and expenses incidental to the installation, connection and maintenance including inspections of the sewer stub and building lead shall be borne by the owner(s). The owner(s) shall indemnify the local unit and the POTW from any loss or damage that may directly or indirectly be occasioned by the installation, connection and maintenance of the sewer stub and building lead. If a maintenance problem develops and it is determined after inspection that the sewer stub is damaged, the cost of uncovering and repairing the sewer stub shall be the cost of the local unit.

(I) A separate and independent building sewer shall be utilized for every building except where one building stands at the rear of another on an interior lot and no building sewer is available or can be constructed to the rear building through an adjoining alley, court yard, or driveway, the front building may extend a sanitary sewer to the rear building and the whole considered as one building sewer after approval by the POTW. Old building leads and sewer stubs may be used in connection with new buildings only when they are found, after examination and test by the POTW to meet all requirements of this chapter.

(J) Each person other than an owner or land contract vendee applying for a sewer connection permit shall be approved by the POTW.

(K) In all buildings in which any soil pipe is too low to permit gravity flow to the public sewer, wastewater carried by such soil pipe shall be lifted by approved means and discharged to the building sewer. All excavations required for the installation of a sewer shall be open trench work unless otherwise approved. Pipe laying bedding and backfill shall be performed in accordance with applicable ASTM specifications. No backfill shall be placed until the work has been inspected and approved.

(L) No person shall make connection of roof downspouts, footing drains, areaway drains, sump pumps, or other sources of surface runoff or groundwater and other sources of uncontaminated water to a sewer stub or building lead which in turn is connected directly or indirectly to a public sewer. If any such connection is determined to exist, the POTW may order its disconnection at the property owner's expense, and if the property owner refuses to obey the order, then the POTW may disconnect the connection and the costs shall be charged to the property owner.

(M) All excavations for the wye branch and/or sewer stub shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways and other public property disturbed in the course of the construction shall be restored to the same or better condition than prior to excavation.

(N) The type and quality of sanitary sewer pipe and fittings used shall conform to the current POTW specifications at the time the permit is issued.

(Ord. 185, passed 4- -2006)

SEWER EXTENSIONS

§ 53.030 PLANS, SPECIFICATIONS, CONNECTIONS AND CAPACITY.

(A) Plans and specifications for all sewer main extensions shall be prepared by a registered professional engineer. The plans and specifications shall be reviewed, and, if acceptable, approved by the POTW.

(B) All sewer stubs and building leads shall be made at the wye branch in the sewer main designated for the property if such branch is available. Any connection not made at the designated wye branch in the sewer main shall be made only as directed by the POTW.

(C) It shall be unlawful to connect any sanitary sewer to the existing sewer system until it has been tested. Copies of test results and procedures shall be kept on file for inspection.

(D) No sewer extension shall be allowed unless there is capacity available in all downstream sewers, lift stations, force mains, and wastewater treatment plant, including capacity for BOD and suspended solids.

(Ord. 185, passed 4- -2006)

GREASE, OIL, SAND AND SEDIMENT TRAPS OR BAR SCREENS

§ 53.040 REQUIREMENTS APPLICABLE TO TRAPS AND SCREENS.

(A) Grease, oil, sand and sediment traps shall be provided when determined necessary by the WWTP Superintendent for the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand, sediment and other harmful ingredients. All traps shall be of a type and capacity approved by the WWTP Superintendent and shall be located so as to be readily and easily accessible for cleaning and inspection.

(B) Grease and oil traps shall be constructed of impervious materials capable of withstanding abrupt and extreme changes in temperature. They shall be of substantial construction, watertight, and equipped with easily removable covers that, when bolted in place, shall be gas tight and water tight.

(C) All grease, oil and sand interceptors shall be provided and maintained by the owner, at the owner's expense, in continuous efficient operation at all times.

(D) Bar screens shall be provided when determined necessary by the WWTP Superintendent for the proper removal of rags, plastics, paper products or other materials which may enter the POTW and cause blockage.

REGULATION OF DISCHARGES TO THE POTW

§ 53.050 DISCHARGE PROHIBITIONS.

The general discharge prohibitions under division (A) below and the specific discharge prohibitions under division (B) below apply to every person whether or not the person is subject to any other national, state or local pretreatment standards or requirements, and whether or not the discharge is made pursuant to a wastewater discharge permit issued pursuant to this chapter.

(A) *General prohibitions.* No person shall discharge, contribute or cause to be discharged this chapter or contributed, directly or indirectly to the POTW, any pollutant or wastewater that will pass through or interfere with the operation or performance of the POTW.

(B) *Specific prohibitions.* No user shall discharge, contribute, or cause to be discharged or contributed, to the POTW, directly or indirectly, any of the pollutants, substances, or wastewater as provided by this subsection. This subsection sets forth the minimum requirements for a user's discharges to the POTW. Additional or more restrictive requirements may be required of particular users under a wastewater discharge permit, or as otherwise authorized or required by this chapter or other applicable laws and regulations.

(1) Pollutants in concentrations that exceed the instantaneous maximum, daily maximum or monthly average concentrations listed below in this subsection.

<i>Parameter Daily</i>	<i>Maximum (mg/l)†</i>	<i>Monthly Average (mg/l)†</i>	<i>Instantaneous Maximum (mg/l)†</i>
<i>Parameter Daily</i>	<i>Maximum (mg/l)†</i>	<i>Monthly Average (mg/l)†</i>	<i>Instantaneous Maximum (mg/l)†</i>
Arsenic	0.45	0.45	—
Cadmium	0.38	0.38	—
Chromium	11.70	11.70	—
Copper	8.52	8.20	—
Lead	1.53	1.53	—
Nickel	1.14	1.14	—
Selenium	0.24	0.20	—
Silver	0.07	0.07	—
Zinc	1.94	1.94	—
Cyanide	0.20	0.20	—
1, 2-Dichlorobenzene	1.63	1.63	—
1, 2-Dichloroethane	10.41	10.41	—

4-Isopropyltoluene	0.00	0.00	0.00
Acetone	340	340	—
Benzene	0.41	0.41	—
Carbon Tetrachloride	0.03	0.03	—
Chlorobenzene	2.31	2.31	—
Chloroform	0.41	0.41	—
Cis-1, 2-Dichloroethene	0.28	0.28	—
Methylene Chloride	2.06	2.06	—
o-Xylene	1.81	—	—
P&M-Xylene	1.80	—	—
Total Xylene	—	2.1	—
Toluene	1.36	1.36	—
Vinyl Chloride	0.0003	0.0003	—
BOD	1500 ₁	—	—
TSS	1500 ₂	—	—
Phosphorus (T) as P	303	—	—
Ammonia Nitrogen as N	N 804	—	—

Notes:

1. Any discharge of BOD in excess of 300 mg/l shall be subject to surcharge at the rate of \$0.209 per pound of BOD.
2. Any discharge of TSS in excess of 300 mg/l shall be subject to surcharge at the rate of \$0.161 per pound of TSS.
3. Any discharge of total phosphorus as P in excess of 8 mg/l shall be subject to surcharge at the rate of \$1.5485 per pound of phosphorus.
4. Any discharge of ammonia nitrogen as N in excess of 40 mg/l shall be subject to surcharge at the rate of \$0.511 per pound of ammonia nitrogen.

All surcharges shall be in addition to any other fees or charges required by this chapter. Surcharges are intended to reimburse the POTW for all costs incurred by the POTW in handling or treating a discharge which contains pollutants in excess of specified surcharge concentrations, loadings or other applicable limits. Any user exceeding applicable surcharge limitations or other applicable limits shall be subject to the imposition of one or more surcharges as provided by this section to reimburse the POTW for any costs or expenses, direct or indirect, the POTW may incur in handling or treating the discharge, or which may be imposed upon the POTW, where the exceedence of applicable limits causes or contributes to those costs or expenses. All exceedences of applicable discharge prohibitions and limitations and all instances of noncompliance with applicable discharge requirements shall constitute a violation of this chapter, subject to applicable fines, penalties and other enforcement actions provided by this chapter. In no event shall the imposition of a surcharge for a discharge which does not meet the applicable prohibitions, limitations or requirements be construed as authorizing the illegal discharge or otherwise excuse a violation of this chapter.

† Discharges containing more than one pollutant which may contribute to fume toxicity shall be subject to more restrictive limitations, as determined necessary by the WWTP Superintendent. The more restrictive discharge limits will be calculated based on the additive fume toxicity of all compounds identified or reasonably expected to be present in the discharge, including, without limitation, the specific compounds listed in division (B)(1) of this chapter.

This daily maximum limit for BOD of 1,400 mg/l shall be effective until December 31, 2006. Thereafter, the daily maximum limit for BOD shall decrease by 100 mg/l per year as follows: 1300 mg/l (effective January 1, 2007 through December 31, 2007) and from that date thereafter, unless and until this chapter is subsequently amended as approved by the POTW to provide a different daily maximum limit for BOD)

(2) Pollutants in concentrations that exceed the instantaneous maximum, daily maximum or monthly average concentrations listed below in this subsection:

<i>Parameter</i>	<i>Instantaneous Maximum</i>	<i>Daily Maximum</i>	<i>Monthly Average Concentration</i>
	The instantaneous maximum concentration, daily maximum and monthly average discharge limit for mercury is 0.0000026 mg/l. except as otherwise required by the POTW Superintendent, compliance with this limit shall be determined as follows:		

Mercury	<p>A compliance limit of “non-detect” shall be used for instantaneous maximum concentration, daily maximum and monthly average. Any discharge of mercury at or above the detection limit is a specific violation of this chapter. The detection limit shall be established pursuant to the procedure for determination of the method detection limit (MDL) as set forth in §§ 3(a) of Appendix B of 40 C.F.R. part 136. The MDL study used to determine the MDL shall be made available to the POTW immediately upon request. In no case may the detection limit exceed 0.0002 mg/l, unless a higher detection limit is approved by the POTW Superintendent because of sample matrix interference.</p>
	<p>Mercury sampling procedures, preservation and handling, and analytical protocol for compliance monitoring of a user's discharge shall be in accordance with EPA method 245.1, unless other sampling procedures, protocol or methods (including, but not limited to, EPA method 1631) are required or approved in advance by the POTW Superintendent.</p>
	<p>If determined necessary by the POTW Superintendent to prevent interference or pass through, to protect the POTW, to comply with applicable federal or state laws or regulations, to comply with the POTW's NPDES permit, or to otherwise meet the purposes and objectives of this chapter, any user determined by the POTW Superintendent to have a reasonable potential to discharge mercury to the POTW may be required to develop, submit for approval, and implement a mercury reduction plan (MRP). At a minimum, the MRP shall contain such requirements and conditions (including, but not limited to, requirements and conditions regarding source identification; best management practices; schedules of compliance; monitoring, sampling and analysis; and reporting), as determined necessary by the POTW Superintendent to ensure the mercury reduction efforts will be effective in achieving the goals of this Section. Failure to submit an approvable MRP within the specified deadlines or to comply with any condition or requirement of an approved MRP shall constitute a violation of this chapter, subject to the fine, penalty, and other enforcement provisions of this chapter.</p>

(3) Any liquid, solid, gas or other pollutant which by reason of its nature or quantity is sufficient either alone or by interaction with other substances to create a fire or explosion hazard or be injurious in any other way to persons, the POTW, or to the operation of the sewerage system, including, but not limited to, wastestreams with a closed cup flashpoint of less than 140° F or 60° C using test methods specified in 40 C.F.R. § 261.21. At no time shall two successive readings on an explosion hazard meter at the point of discharge into the POTW (or at any point in the POTW) be more than 5% nor any single reading over 10% of the lower explosive limit (LEL) on the meter. Prohibited materials include, but are not limited to, gasoline, kerosene, naphtha, benzene, fuel, fuel oil, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorate, perchlorates, bromates, carbides, hydrides and sulfides and any other substances which the POTW, the State or EPA has notified the user is a fire hazard or a hazard to the system.

(4) Pollutants that may cause corrosive structural damage to the POTW, or that due to their corrosive properties are capable of causing injury to persons or POTW personnel or harm to fish, animals or the environment. Discharges that have a pH lower than 6.5 or greater than 9.5 shall not be discharged.

(5) Any solid, insoluble or viscous substance in concentrations or quantities which may cause obstruction to the flow in the POTW, may create an encumbrance to the POTW operations, or which otherwise may result in interference, including, but not limited to, grease, animal entrails or tissues, bones, hair, hides or fleshings, whole blood, feathers, ashes, cinders, sand, cement, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, strings, fibers, spent grains, spent hops, wastepaper, wood, plastics, tar, asphalt residues, residues from refining or processing of fuel or lubricating oil, mud or glass grinding or polishing wastes or tumbling and deburring stones.

(6) Pollutants, including, but not limited to, oxygen demanding pollutants, released at a flow rate and/or pollutant concentration that may cause pass through or interference with the POTW or constitute a slug load. In no case shall a slug load have a flow rate or contain concentrations or qualities of pollutants that exceed for any time period longer than 15 minutes, more than five times the average 24-hour concentration, quantities or flow during normal production.

(7) Wastewater (or vapor) having a temperature that will inhibit biological activity in the POTW resulting in interference, or heat in such quantities that the temperature at the POTW treatment plant exceeds 104° Fahrenheit (40° C). No discharge to the POTW shall have a temperature less than 32° Fahrenheit (0° C) or greater than 150° Fahrenheit (65.7° C).

(8) Petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin in amounts that will cause interference or pass through.

(9) Pollutants that result in the presence of toxic gases, vapors or fumes within the POTW in a quantity that may cause acute worker health and safety problems. This prohibition includes, but is not limited to, wastewaters which contain liquids, solids or gases that cause gases, vapors or fumes from the discharge to exceed 10% of the immediately dangerous to life and health (IDLH) concentration. Discharges which contain more than one pollutant which may contribute to fume toxicity shall be subject to more restrictive limitations, as determined necessary by the WWTP Superintendent. The more restrictive discharge limits shall be calculated based on the additive

fume toxicity of all compounds identified or reasonably expected to be present in the discharge.

(10) Trucked or hauled pollutants, except those discharged at the WWTP at the discharge point designated by the WWTP Superintendent, subject to the prior approval of the Superintendent and issuance of a wastewater discharge permit.

(a) The WWTP Superintendent shall determine whether to allow the discharge of trucked or hauled pollutants based on the particular nature or quantity of the proposed discharge in accordance with the discharge prohibitions, limitations and requirements provided by this division.

(b) The WWTP Superintendent may impose any conditions on the discharge determined necessary to ensure compliance with this division, including, without limitation, conditions regarding the time, place, and manner of discharge, restrictions on the quantity and quality of the discharge, and sampling requirements.

(c) The discharge shall not commence without prior notice to, and authorization from, the WWTP Superintendent, and a representative of the POTW shall be present at all times during the discharge.

(d) All trucked or hauled wastes to be discharged to the POTW must be accompanied by a completed waste manifest form signed by the permittee and the hauler as provided by the minimum requirements of this section. The permittee shall certify in writing on the manifest as to the source of all wastes in the load proposed to be discharged and that the wastes have been pretreated as required by applicable pretreatment standards and requirements. The hauler shall certify in writing on the manifest that no wastes other than those listed on the manifest have been accepted by the hauler. The manifest must be reviewed by the WWTP Superintendent prior to commencing discharge of the load. Failure to accurately record every load, falsification of data, or failure to transmit the form to the WWTP Superintendent for review prior to discharge shall constitute a violation of the permit and may result in revocation of the permit and/or the imposition of fines and penalties as provided by this chapter.

(e) The permittee's discharge of hauled wastes shall be subject to sampling by the POTW at any time, including, without limitation, prior to and during discharge. The WWTP Superintendent may require the permittee to refrain from, or suspend, discharging until the sample analysis is complete.

(f) Trucked or hauled pollutants will be accepted only if transported to the POTW in compliance with state and federal hazardous waste and liquid industrial waste laws.

(g) For each discharge of trucked or hauled pollutants, the permittee will be required to pay to the POTW a trucked or hauled pollutant discharge fee to cover the POTW's administrative expenses and any additional treatment, handling or inspection expenses incurred by the POTW in connection with the discharge. The fee shall be established, paid, and collected as provided by §§ 53.295 to 53.299. This discharge fee shall be in addition to any sewer rates, fees, charges, or surcharges otherwise required by this chapter.

(11) Solvent extractibles, including, but not limited to, oil, grease, wax, or fat, whether emulsified or not, in excess of applicable local limits; or other substances that may solidify or become viscous (with a viscosity of 110% of water) at temperatures between 32° Fahrenheit and 150° Fahrenheit in amounts that may cause obstruction to the flow in sewers or other interference with the operation of the POTW.

(12) Noxious or malodorous liquids, gases, or solids that either singly or by interaction with other wastes are sufficient to create a public nuisance or hazard to life or are sufficient to prevent entry into the sewers for maintenance and repair.

(13) Wastewater containing toxic pollutants in sufficient quantity, either singly or by interaction with other pollutants, to injure or interfere with any wastewater treatment process, constitute a hazard to humans or animals, create a toxic effect in the receiving waters of the POTW, or to exceed the limitation set forth in a categorical pretreatment standard.

(14) Any substance that may cause the POTW's effluent or any other product of the POTW such as residues, sludges, or scums, to be unsuitable for reclamation, reuse or disposal, or otherwise interfere with the reclamation, reuse, or disposal process. In no case shall a substance discharged to the POTW cause the POTW to be in non-compliance with sludge use or disposal criteria, guidelines or regulations developed under § 405 of the Act; under the Solid Waste Disposal Act (SWDA) (including Title II, more commonly referred to as RCRA, and including State regulations contained in any State sludge management plan prepared pursuant to Subtitle D of the SWDA); the Clean Air Act; the Toxic Substances Control Act; the Marine Protection, Research, and Sanctuaries Act; or any more stringent state or local regulations, as applicable.

(15) Soluble substances in a concentration that may increase the viscosity to greater than 10% over the viscosity of the water or in amounts that will cause obstruction to the flow in the POTW resulting in interference.

(16) Any medical or infectious wastes, as defined by the Michigan Department of Environmental Quality.

(17) Any pollutant that results in excess foaming during the treatment process. Excess foaming is any foam that, in the opinion of the WWTP Superintendent, may interfere with the treatment process.

(18) Any unpolluted water, non-contact cooling water, storm water, surface water, groundwater, roof runoff or subsurface drainage (except to a storm sewer as authorized by this chapter and other applicable laws and regulations and subject to the prior approval of the WWTP Superintendent).

(19) Any substance that will cause the POTW to violate its NPDES permit, the receiving water quality standards, or associated local, state or federal laws, rules or regulations.

(20) Wastewater with objectionable color or light absorbency characteristics that interfere with treatment processes or analytical determinations, including, but not limited to, dye wastes and vegetable tanning solutions.

(21) Wastewater containing any radioactive wastes or isotopes of a half-life or concentration that may exceed limits established by applicable state or federal laws, rules or regulations.

(22) Any contaminated groundwater or landfill leachate determined by the WWTP Superintendent to have a reasonable potential to adversely affect the operation of the POTW, to result in pass through or interference, or to violate any pretreatment standard or requirement.

(23) Septage.

(24) Any hazardous waste as defined by this chapter.

(25) Any garbage or other solid material that has not been properly shredded. Garbage or solid materials having a specific gravity greater than 1.2 or a cross-section dimension of one-half inch or greater, or which are sufficient in quantity to cause pass through or interference to the POTW shall be deemed improperly shredded. The installation and operation of any garbage shredder equipped with a motor of three-quarter HP or greater shall be subject to the review and approval of the WWTP Superintendent.

(26) Any substance which exerts or causes a high concentration of inert suspended solids, including, but not limited to, lime slurries, diatomaceous earth and lime residues.

(27) Any substance which exerts or causes a high concentration of dissolved solids, including, but not limited to, sodium chloride.

(28) Any substance which causes a high chlorine demand, including, but not limited to, nitrite, cyanide, thiocyanate, sulfite and thiosulfate.

(29) Any compatible or incompatible pollutant in excess of the allowed limits as determined by applicable local, state or federal laws, rules or regulations.

(30) Any sludge, precipitate or waste resulting from any industrial or commercial treatment or pretreatment of any person's wastewater or air pollutants.

(31) Residue (total on evaporation) in an amount that will cause obstruction to the flow in the POTW resulting in interference.

(32) Any wastewater containing polychlorinated biphenyls (PCBs).

(33) Any discharge containing strong acid, iron, pickling waste or concentrated plating solutions whether neutralized or not.

(34) Any discharge containing phenols or other taste or odor-producing substances in such concentrations exceeding limits which may be established by the WWTP Superintendent as necessary, after treatment of the composite sewage, to meet the requirements of the state, federal or other public agencies having jurisdiction for such discharge to the receiving waters.

(35) Any pollutant, substance, or wastewater that, either directly or indirectly, and either singly or by interaction with other pollutants:

(a) Creates a chemical reaction with any materials of construction to impair the strength or durability of sewer structures;

(b) Causes a mechanical action that will damage or destroy sewer structures;

(c) Impedes or restricts the hydraulic capacity of the POTW;

(d) Interferes with normal inspection or maintenance of sewer structures;

(e) Places unusual demands upon the wastewater treatment equipment or processes by biological, chemical or physical means; or

(f) Causes a hazard to human life or creates a public nuisance.

(Ord. 185, passed 4- -2006)

§ 53.051 PRETREATMENT STANDARDS AND REQUIREMENTS.

(A) *Compliance with applicable standards and requirements.* The national categorical pretreatment standards when finalized for specific industries shall become a part of the requirements of this chapter in accordance with federal and state laws and regulations. A user shall comply with all categorical pretreatment standards and any other pretreatment requirements established under the Act that are applicable to that user. A user shall also comply with all applicable pretreatment standards and requirements established under this chapter or under state laws and regulations.

(B) *Deadlines for compliance.* Compliance by existing sources with categorical pretreatment standards shall be within three years of the date the standard is effective unless a shorter compliance time is specified by 40 C.F.R. chapter I, subchapter N. Existing sources that become industrial users subsequent to promulgation of an applicable categorical pretreatment standard shall be considered existing industrial users except where such sources meet the definition of new source. New sources shall install and have in operating condition, and shall start-up all pollution control equipment required to meet applicable pretreatment standards and requirements before beginning to discharge. Within the shortest feasible time (not to exceed 90 days), new sources must meet all applicable pretreatment standards and requirements.

(C) *Alternative categorical limits.* Categorical pretreatment standards shall apply to an industrial user subject to categorical standards, unless an enforceable alternative limit to the corresponding national categorical standards is derived using any of the methods specified in MAC R 323.2313 (regarding removal credits, fundamentally different factor variances, net/gross calculations, equivalent mass per day limitations, and combined wastestream formula alternative limitations). If local limits are more stringent than derived alternative

categorical limits, the local limits shall control.

(D) *Compliance with other applicable laws and regulations.* Users of the POTW shall comply with all local, state and federal laws and regulations that may apply to their discharges to the POTW, including, but not limited to, Article II, Air Pollution Control, Part 55 of Act 451 of the Public Acts of Michigan of 1994 (the Natural Resources and Environmental Protection Act).

(Ord. 185, passed 4- -2006)

§ 53.052 RIGHT OF REVISION.

The POTW reserves the right to establish more restrictive prohibitions, limitations or requirements for discharges to the POTW (and to revise or revoke wastewater discharge permits and/or, as a condition to continued discharge to the POTW, to require the local unit to revise this chapter accordingly) as necessary to prevent interference or pass through, to protect the POTW, to comply with applicable federal or state laws or regulations, to comply with the POTW's NPDES permit, or as otherwise determined necessary by the WWTP Superintendent. The POTW will provide reasonable advance notice to the local unit regarding required revisions to this chapter.

(Ord. 185, passed 4- -2006)

§ 53.053 POTW'S RIGHT TO REFUSE OR CONDITION DISCHARGE.

The POTW may refuse to accept, or may condition its acceptance of, all or any portion of any proposed or existing discharge to the POTW, regardless of whether or not a wastewater discharge permit has been issued for the discharge, if the WWTP Superintendent determines that the discharge has a reasonable potential to adversely affect the operation of the POTW; result in pass through or interference; violate any pretreatment standard or requirement; cause the POTW to violate its NPDES permit; or if the impacts of the discharge on the POTW or the POTW's discharge are uncertain or unknown (because, for example, no local limits or headworks analysis has been conducted for particular pollutants in the discharge). If the WWTP Superintendent denies any person permission to commence or continue all or any portion of a discharge to the POTW, the person shall refrain from commencing to discharge or shall immediately terminate the discharge to the POTW and shall not thereafter recommence discharge without written authorization from the WWTP Superintendent. Similarly, if the WWTP Superintendent denies any person permission to commence or continue all or any portion of a discharge to the POTW except subject to conditions determined necessary and appropriate by the WWTP Superintendent, the person shall refrain from commencing or continuing the discharge except in full compliance with those conditions.

(Ord. 185, passed 4- -2006)

§ 53.054 MOST RESTRICTIVE STANDARDS AND REQUIREMENTS APPLY.

Notwithstanding any provision of this chapter to the contrary, the most stringent or restrictive standard or requirement applicable to a user's discharge shall control, whether established by this chapter, by any notice, order, permit, decision or determination promulgated, issued or made by the POTW or the WWTP Superintendent under this chapter, by state laws or regulations, including the POTW's NPDES permit, or by federal laws or regulations. Further, if state or federal laws or regulations provide for standards and requirements not covered by this chapter that are otherwise applicable to a user's discharge, those standards and requirements shall apply to the user in addition to those required by this chapter, and the most restrictive of those additional standards or requirements shall control and shall be complied with by the user within the time period required by the law or regulation.

(Ord. 185, passed 4- -2006)

§ 53.055 DILUTION PROHIBITED AS SUBSTITUTE FOR TREATMENT.

Unless expressly authorized to do so by an applicable pretreatment standard or requirement, no industrial user shall ever increase the use of process water, mix separate wastestreams, or in any other way attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with a federal, state or local standard, requirement or limitation. The POTW may impose mass limitations on nondomestic users that are using dilution to meet applicable pretreatment standards or requirements and in other cases where the imposition of mass limitations is appropriate as determined by the WWTP Superintendent.

(Ord. 185, passed 4- -2006)

WASTEWATER DISCHARGE PERMITS

§ 53.065 REQUIRED.

(A) It is unlawful for any significant industrial user (or any other user as determined necessary by the WWTP Superintendent to carry out the purposes of this chapter) to discharge to the POTW without a wastewater discharge permit as provided by this section.

(B) Any violation of the terms or conditions of a wastewater discharge permit is a violation of this chapter, subject to the fine, penalty, and other enforcement provisions of this chapter. Obtaining a wastewater discharge permit shall not relieve a user of its obligation to obtain other permits or approvals that may be required by other local, state or federal laws or regulations.

(C) The issuance of a wastewater discharge permit shall not convey to a user any property rights or privilege of any kind whatsoever, nor shall it be construed to authorize any injury to private or public property or any invasion of personal rights, nor any violation of local, state or federal laws or regulations.

(D) The WWTP Superintendent may require any user to obtain a permit to discharge to the POTW, subject to such terms and conditions as are determined necessary and appropriate by the WWTP Superintendent to achieve the purposes, policies and objectives of this chapter. A discharge permit issued to a user as provided by this sub-section may contain, but shall not be required to contain, any of

the terms and conditions that would apply to a discharge permit issued to a significant industrial user as provided by this section, including, but not limited to, discharge limitations, and requirements regarding sampling and monitoring, pretreatment, pollution reduction plans, and best management practices, to comply with the general and specific discharge prohibitions of this chapter. Failure to comply with a permit issued under this subsection constitutes a violation of this chapter. In no case shall a permit issued to a user under this division be construed as authorizing the illegal discharge or otherwise excuse a violation of this chapter. To the extent determined appropriate by the WWTP Superintendent on a case-by-case basis, permits issued under this sub-section shall be subject to provisions otherwise applicable to permits for significant industrial users. However, all user permits are non-transferable, and are subject to the permit fee and permit appeals provisions of this chapter.

(Ord. 185, passed 4- -2006)

§ 53.066 APPLICATION AND DEADLINES.

Each industrial user must file an application for a wastewater discharge permit within the following deadlines:

(A) *Existing users.* Any industrial user discharging into the POTW as of the effective date of this chapter that has not previously submitted an application and/or obtained a permit to discharge to the POTW shall, within 30 days after the effective date of this chapter, apply to the WWTP Superintendent for a wastewater discharge permit as provided by this division and shall not cause or allow any discharges into the POTW after 120 days from the effective date of this chapter, except in accordance with a wastewater discharge permit as determined necessary by the WWTP Superintendent.

(B) *New users.* Any industrial user proposing to commence (or recommence) discharging into the POTW after the effective date of this chapter shall, at least 90 days prior to the anticipated date on which discharging will commence, apply to the WWTP Superintendent for a wastewater discharge permit, and shall not cause or allow any discharges into the POTW to commence, except in accordance with a wastewater discharge permit as determined necessary by the WWTP Superintendent.

(Ord. 185, passed 4- -2006)

§ 53.067 PERMIT APPLICATION REQUIREMENTS.

All industrial users shall submit the following information on the wastewater discharge permit application form supplied by the WWTP Superintendent in units and terms as determined necessary by the WWTP Superintendent to adequately evaluate the application, accompanied by payment of a permit application review fee:

(A) The name, address, and location of facility from which discharge will be made, including the names of the owner(s) and operator(s) of the facility.

(B) Whether the user is a corporation, partnership, proprietorship, or other type of entity, and the name of the person(s) responsible for discharges by the user.

(C) SIC code of both the industry (or use) as a whole and any processes for which categorical pretreatment standards have been promulgated.

(D) Wastewater constituents and characteristics, including, without limitation, any pollutants that are limited or regulated by any federal, state, or local standards or requirements. Sampling and analysis shall be performed in accordance with the procedures established by the U.S. EPA and contained in 40 C.F.R. part 136.

(E) Time and duration of discharges.

(F) Daily maximum and monthly average wastewater flow rates, including daily, monthly, and seasonal variations, if any. All flows shall be measured unless other variable techniques are approved by the WWTP Superintendent due to cost or nonfeasibility.

(G) Description of activities, facilities, and plant processes on the premises, including a list of all raw materials and chemicals used at the facility (including copies of material safety data sheets for all such materials and chemicals) that are, or could accidentally or intentionally be, discharged to the POTW.

(H) Site plans, floor plans, mechanical and plumbing plans and details to show all sewers, sewer connections, floor drains, inspection manholes, sampling chambers and appurtenances by size, location and elevation.

(I) Each product produced by type, amount, process and rate of production.

(J) Type and amount of raw materials processed (average and maximum per day).

(K) Number and type of employees, hours of operation, and proposed or actual hours list of operation of the pretreatment system.

(L) A list of all environmental permits (and, if requested by the WWTP Superintendent, a copy of any environmental permit) held by the user applicable to the premises for which the wastewater discharge permit is being sought.

(M) Whether additional operation and maintenance (O&M) and/or additional pretreatment is required for the user to meet all applicable federal, state and local pretreatment standards and requirements. If additional O&M or additional pretreatment will be required to meet the applicable standards and requirements, then the user shall indicate the shortest time schedule necessary to accomplish installation or adoption of the additional O&M and/or pretreatment. The completion date in this schedule shall not be longer than the compliance date established for the applicable pretreatment standard. The following conditions shall apply to this schedule:

(1) The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards

(including, without limitation, hiring an engineer, completing preliminary plans, completing final plans, executing contracts for major components, commencing construction, completing construction, beginning operation, and conducting routine operation). No increment referred to above shall exceed nine months, nor shall the total compliance period exceed 18 months.

(2) No later than 14 days following each date in the schedule and the final date for compliance, the user shall submit a progress report to the WWTP Superintendent including, at a minimum, whether or not it complied with the increment of progress, the reason for any delay, and if appropriate, the steps being taken by the user to return to the established schedule. In no event shall more than nine months elapse between submission of the progress reports to the WWTP Superintendent.

(N) Any other information determined necessary by the WWTP Superintendent to adequately evaluate the application. To the extent that actual data is not available for a new source, the applicant shall supply estimated or expected information.

(O) All site plans, floor plans, or other plans required to be submitted as a part of the application shall be prepared and sealed by a licensed engineer.

(P) All applications shall be signed by an authorized representative of the user and certified as provided by § 53.100 below.

(Ord. 185, passed 4- -2006)

§ 53.068 ISSUANCE, DENIAL, OR DETERMINATION THAT PERMIT NOT REQUIRED.

(A) The WWTP Superintendent shall evaluate the application information furnished by the user and may require additional information as necessary to complete and properly review the application. Within 120 days after the submission of a complete application, the WWTP Superintendent shall either issue a wastewater discharge permit subject to terms and conditions provided by this chapter, deny the application, or determine that a permit is not required as provided by this chapter.

(B) A permit may be denied by the WWTP Superintendent if the Superintendent determines that the proposed discharge, or continued discharge, will not comply with all applicable standards and requirements of this chapter; if the user refuses to accept the terms and conditions of a permit as proposed to be issued by the WWTP Superintendent; for any reason that would support a suspension or revocation of the permit as provided by this chapter; if the WWTP Superintendent determines that the POTW cannot adequately, efficiently, or economically treat the discharge (due to insufficient capacity, quality or quantity of pollutants, for example); or for any other reason as determined necessary by the WWTP Superintendent to meet the intent and purposes of this chapter or to ensure compliance by the POTW with its NPDES permit.

(Ord. 185, passed 4- -2006)

§ 53.069 CONDITIONS.

(A) Wastewater discharge permits shall be subject to all provisions of this chapter and all other applicable regulations, user charges, surcharges, and fees established by the local unit or by the POTW. In addition, permits shall include any conditions determined to be reasonably necessary by the WWTP Superintendent to prevent pass through or interference, to protect the quality of the receiving waters, to protect worker health and safety, to facilitate POTW sludge management and disposal, to protect ambient air quality, and to protect against damage to the POTW. Unless determined by the WWTP Superintendent to be inapplicable to the user in question, all permits shall contain at least the following conditions:

(1) Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization.

(2) Limits on the average and/or maximum concentration, mass, or other measure of identified wastewater constituents or properties.

(3) Requirements for installation of pretreatment technology or construction of appropriate containment devices, or similar requirements designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works.

(4) Development and implementation of spill control plans or other special conditions, including additional management practices necessary to adequately prevent accidental, unanticipated, or routine discharges.

(5) Requirements for installation, maintenance, repair, calibration and operation of inspection and sampling facilities and discharge flow monitors.

(6) Specifications for monitoring programs which may include sampling locations, frequency of sampling, number, types, and standards for tests, and reporting schedules.

(7) Compliance schedules.

(8) Requirements for submission of technical reports or discharge reports.

(9) Requirements for maintaining and retaining plant records relating to wastewater discharge as specified by the WWTP Superintendent and affording the POTW access to those records.

(10) Requirements for notification of any new introductions of wastewater constituents or of any substantial change in the volume or character of the wastewater being introduced into the POTW.

(11) Requirements for the notification of any change in the manufacturing and/or pretreatment process used by the permittee.

(12) Requirements for notification of accidental or slug discharges, or discharges that exceed a discharge prohibition.

(13) A statement regarding limitations on transferability of the permit.

(14) A statement of the duration of the permit.

(15) A statement that compliance with the permit does not relieve the permittee of responsibility for compliance with all applicable pretreatment standards and requirements, including those that become effective during the term of the permit.

(16) A statement of applicable civil and criminal penalties for violation of discharge limitations, pretreatment standards and requirements, and compliance schedules.

(17) Requirements regarding development by a user of a pollutant reduction plan (e.g., for mercury or PCBs) or requirements regarding use of best management practices to reduce potential discharges of pollutants to the sewer or otherwise meet the purposes, policies and objectives of this chapter.

(18) Other conditions as determined necessary by the WWTP Superintendent to ensure compliance with this chapter and other applicable laws, rules and regulations.

(B) If it is determined that a user is discharging substances of a quality, in a quantity, or in a location that may cause problems to the POTW or the receiving stream, the POTW has the authority to develop and enforce effluent limits applicable to the user's discharge.

(Ord. 185, passed 4- -2006)

§ 53.070 MODIFICATIONS.

(A) A permit may be modified by the WWTP Superintendent for any reason determined necessary by the WWTP Superintendent to assure compliance with the requirements of this chapter and other applicable laws and regulations, including, without limitation, any of the following reasons:

(1) To incorporate any new or revised federal, state or local pretreatment standards or requirements, or other applicable requirement of law or regulation.

(2) Material or substantial changes or additions to the permittee's operations, processes, or the character or quality of discharge that were not considered in drafting or issuing the existing permit.

(3) A change in any condition in the permittee's discharge, facility, production or operations, or in the POTW, that requires either a temporary or permanent reduction or elimination of the permittee's discharge to assure compliance with applicable laws, regulations or the POTW's NPDES permit.

(4) Information indicating that the permitted discharge poses a threat to collection or treatment systems; the POTW's processing, use, or disposal of sludge; POTW personnel; or the receiving waters.

(5) Violation of any terms or conditions of the permit.

(6) Misrepresentation or failure to disclose fully all relevant facts in the permit application or in any required report or notice.

(7) Revision of, or a grant of a variance from, applicable categorical standards pursuant to 40 C.F.R. § 403.13.

(8) To correct typographical or other errors in the permit.

(9) To reflect transfer of the facility ownership and/or operation to a new owner/operator.

(10) To add or revise a compliance schedule for the permittee.

(11) To reflect changes or revisions in the POTW's NPDES permit.

(12) To ensure POTW compliance with applicable sludge management requirements promulgated by EPA.

(13) To incorporate any new or revised requirements resulting from reevaluation of the POTW's local limits.

(14) To incorporate a request for modification by the permittee, as determined appropriate by the WWTP Superintendent and provided the request does not create a violation of any applicable requirement, standard, law, rule or regulation.

(B) The permittee shall be informed of any changes in the permit at least 30 days prior to the effective date of the change, unless a shorter time is determined necessary by the WWTP Superintendent to meet applicable laws or to protect human health or the environment.

(Ord. 185, passed 4- -2006)

§ 53.071 DURATION.

Permits shall be issued for a specified time period, not to exceed five years, subject to modification, reissuance, suspension or revocation as provided by this section. At the discretion of the WWTP Superintendent, a permit may be issued for any period less than five years and may be stated to expire on a specific date.

(Ord. 185, passed 4- -2006)

§ 53.072 REISSUANCE.

To apply for reissuance of a permit, a user must submit a complete permit application to the WWTP Superintendent accompanied by payment of an application fee at least 90 days prior to the expiration of the user's existing permit. It shall be the responsibility of the user to make a timely application for reissuance.

(Ord. 185, passed 4- -2006)

§ 53.073 CONTINUATION OF EXPIRED PERMITS.

(A) An expired permit will continue to be effective until the permit is reissued only if:

(1) The user has submitted a complete permit application at least 90 days prior to the expiration date of the user's existing permit; and

(2) The failure to reissue the permit, prior to expiration of the previous permit, is not due to any act or failure to act on the part of the user.

(B) In all other cases, discharge to the POTW following expiration of a permit is unlawful.

(Ord. 185, passed 4- -2006)

§ 53.074 SUSPENSION AND REVOCATION.

(A) Permits may be suspended or permanently revoked by the WWTP Superintendent for any reason determined necessary by the WWTP Superintendent to assure compliance with the requirements of this chapter, the POTW's NPDES permit, or other applicable laws and regulations, including, without limitation, any of the following reasons:

(1) Falsifying self-monitoring reports.

(2) Tampering with monitoring equipment.

(3) Failure to allow reasonable access to the permittee's premises and records by representatives of the POTW for purposes authorized by this chapter, including, without limitation, inspection or monitoring.

(4) Failure to meet effluent limitations.

(5) Failure to pay fines or penalties.

(6) Failure to pay sewer charges.

(7) Failure to pay permit fees.

(8) Failure to meet compliance schedules.

(9) Failure to comply with any term or condition of the permit, an order, the requirements of this chapter, or any final judicial order entered with respect thereto.

(10) Failure to comply with any reporting or notice requirement.

(11) Failure to disclose fully all relevant facts in the permit application or during the permit issuance process, or misrepresentation of any relevant fact at any time.

(12) As determined by the WWTP Superintendent, the discharge permitted by the permit has a reasonable potential to endanger human health or the environment and the threat can be abated only by suspension or revocation of the permit.

(B) Upon suspension or revocation of a permit, a user shall immediately terminate its discharge to the POTW and shall not thereafter recommence discharge without further authorization from the WWTP Superintendent as provided by this chapter. The WWTP Superintendent may reissue a revoked permit upon a showing satisfactory to the WWTP Superintendent that the permittee has corrected the violation or condition that led to the revocation. A person who has had a permit revoked may apply for a new permit.

(Ord. 185, passed 4- -2006)

§ 53.075 LIMITATIONS ON PERMIT TRANSFER.

(A) A wastewater discharge permit is issued to a specific user for discharge from a specific facility and operation and shall not be assigned or transferred or sold to a new or different owner, operator, user, discharger, facility or premises, or to a new or changed facility or operation, without the prior written approval of the WWTP Superintendent as provided by this section.

(B) The WWTP Superintendent may deny any request for approval of a proposed transfer of a permit and require the proposed transferee to apply for a new permit as provided by this chapter, as determined appropriate by the Superintendent.

(C) If the transfer of a permit is approved, any succeeding transferee permittee must also comply with the terms and conditions of the existing permit. The Superintendent may approve the transfer of a permit only if all of the following conditions are met:

(1) The transferor (permittee) shall give at least 90-days' advance notice to the Superintendent of the proposed transfer of the permit (unless a shorter notice period is approved by the Superintendent in advance). The notice shall include a written certification signed by the proposed transferee that (a) states that the transferee has no present intent to change the facility's operations and processes; (b) identifies the specific date on which the transfer is to occur; (c) acknowledges that the transferee has read and fully understands all terms and conditions of the permit; and (d) acknowledges that the transferee accepts all of the terms and conditions of the permit as written and

accepts full responsibility for complying with the existing permit if the transfer is approved.

(2) As of the date of the proposed transfer, there are no unpaid charges, fines, penalties or fees of any kind due to the POTW or the local unit from the transferor or the transferee related to use of the POTW.

(3) Except as to the identity of the new discharger (the transferee), the application materials for the permit to be transferred as originally filed by the transferor, as well as the terms and conditions of the permit itself, are completely accurate with respect to, and fully applicable to, the discharge, facilities, and activities of the transferee.

(D) If the transfer of a permit is approved, the WWTP Superintendent shall make the necessary minor modifications to the permit to show the transferee as the permittee, and a copy of the permit shall be provided to the transferee for signature and certification by the transferee as provided by § 53.100 of this chapter. The transferor (permittee) shall remain liable for any discharges to the POTW from the facility (along with any other persons actually discharging from the facility to the POTW) until a transfer of the permit has been approved as provided by this section.

(E) This section is not intended to, and shall not be construed to, limit in any way the transfer of ownership of the property involved.

(Ord. 185, passed 4- -2006)

§ 53.076 DUTY TO PROVIDE INFORMATION.

Users shall furnish to the WWTP Superintendent any available information that the WWTP Superintendent requests to determine whether cause exists for modifying, revoking and reissuing, or terminating a permit, to determine compliance with a permit, or to determine whether a permit is required. Users shall also, upon request, furnish to the WWTP Superintendent copies of any records required to be kept by a permit. The information and records requested by the WWTP Superintendent shall be provided by the user to the WWTP Superintendent within 24 hours of the request, unless an alternative time frame is specified by the WWTP Superintendent when making the request or unless the WWTP Superintendent allows additional time for the user to submit the requested information based on a showing by the user of good cause for any delay. The user's failure to submit the requested information to the WWTP Superintendent within 24 hours (or within any alternate time period approved by the WWTP Superintendent as provided by this section) shall constitute a violation of this chapter.

(Ord. 185, passed 4- -2006)

§ 53.077 APPEALS.

Except as otherwise provided by this Section, an appeal to the WWTP Board of Appeals of any final decision made by the WWTP Superintendent in connection with issuing or implementing a wastewater discharge permit shall be governed by §§ 53.280 through 53.285 below. An appealing party must specify in its notice of appeal the action of the WWTP Superintendent being appealed and the grounds for the appeal. If a particular permit provision is objected to, the notice of appeal must specify the reasons for the objection, and the alternative provision, if any, sought to be placed in the permit. The effectiveness of a permit or any final decision made by the WWTP Superintendent shall not be stayed pending a decision by the WWTP Board of Appeals. If, after considering the record on appeal including any statements provided by the WWTP Superintendent in response to the appeal, the Board of Appeals determines that a permit or any provision of a permit should be reconsidered, the Board of Appeals shall remand the matter to the WWTP Superintendent for further action as determined appropriate by the Board of Appeals. Specific provisions of a permit that are remanded by the Board of Appeals for reconsideration by the WWTP Superintendent shall be stayed pending further final action taken by the Superintendent as required by the decision of the Board of Appeals. A decision of the Board of Appeals not to remand any matter shall be considered final administrative action for purposes of judicial review.

(Ord. 185, passed 4- -2006)

§ 53.078 PERMITS NOT STAYED.

Except as otherwise expressly provided by § 53.077, no action taken or request filed by any permittee shall operate to stay the effect of any permit or of any provision, term or condition of any permit, including, without limitation, a request for permit modification, reissuance, or transfer, or a notification of planned changes or anticipated noncompliance.

(Ord. 185, passed 4- -2006)

§ 53.079 FEES.

Wastewater discharge permit fees shall be established, paid and collected as provided by this section and § 53.069.

(Ord. 185, passed 4- -2006)

REPORTING AND NOTICE REQUIREMENTS

§ 53.090 INDUSTRIAL USERS REQUIRED TO COMPLY.

All industrial users shall comply with the minimum reporting and notice requirements provided by this subchapter, as follows.

(Ord. 185, passed 4- -2006)

§ 53.091 REPORTS BY INDUSTRIAL USERS REGARDING CATEGORICAL PRETREATMENT STANDARDS AND REQUIREMENTS.

(A) *Baseline reports.* Within 180 days after the effective date of a categorical pretreatment standard, or 180 days after the final administrative decision made upon a category determination submission under MAC R 323.2311(2) whichever is later, an existing industrial user subject to the categorical pretreatment standards and that currently discharges or is scheduled to discharge to the POTW shall submit a report to the POTW as required by MAC R 323.2310(2). At least 90 days prior to commencement of discharge, new sources, and sources that become industrial users subsequent to the promulgation of an applicable categorical pretreatment standard shall submit the reports to the POTW as required by MAC R 323.2310(2). Any changes to the information required to be submitted by an industrial user pursuant to MAC R 323.2310(2)(a) through (e) shall be submitted by the user to the POTW within 60 days when the user becomes aware of the change.

(B) *Reports on compliance with categorical pretreatment standard deadline.* Within 90 days following the date for final compliance with applicable categorical pretreatment standard or, in the case of a new source, following commencement of the discharge to the POTW, any industrial user subject to categorical pretreatment standards and requirements shall submit the reports to the POTW required by MAC R 323.2310(3).

(C) *Periodic reports on continued compliance.* Any industrial user subject to a categorical pretreatment standard, after the compliance date of the categorical pretreatment standard, or, in the case of a new source, after commencement of the discharge into the public sewer or POTW, shall submit the periodic reports to the POTW required by MAC R 323.2310(4). These periodic reports shall be submitted at least once every six months (during the months of June and December unless alternate months are approved by the WWTP Superintendent), unless required more frequently by the applicable pretreatment standard, by the WWTP Superintendent, or by the State. The reports shall include a record of all average and maximum daily flows during the reporting period, except that the WWTP Superintendent may require more detailed reporting of flows. All flows shall be reported on the basis of actual measurement unless the WWTP Superintendent agrees, due to cost or nonfeasibility, to accept reports of average and maximum flows estimated using techniques approved by the WWTP Superintendent.

(Ord. 185, passed 4- -2006)

§ 53.092 REPORTS REQUIRED FOR INDUSTRIAL USERS NOT SUBJECT TO CATEGORICAL PRETREATMENT STANDARDS.

All industrial users not subject to categorical pretreatment standards shall submit to the POTW periodic reports providing information regarding the quality and quantity of wastewater and pollutants discharged into the POTW (including, without limitation, information regarding the nature, concentration (or mass), and flow of the discharge). These reports shall be based on sampling and analysis performed in the period covered by the report in accordance with the sampling, analysis and monitoring requirements provided by §§ 53.115 to 53.125. For significant industrial users, the reports shall be submitted at least once every six months for the preceding six months (during the months of June and December unless alternate months are specified by the WWTP Superintendent), unless required more frequently by the WWTP Superintendent. For all industrial users other than significant industrial users, the reports shall be submitted at least once every 12 months for the preceding 12 months (during the month of December unless an alternate month is specified by the WWTP Superintendent), unless required more frequently or less frequently by the WWTP Superintendent. The reports for all industrial users shall be submitted on forms provided by (or in a format required by) the WWTP Superintendent, and shall include, without limitation, the volume of wastewater; the concentration of pollutants; the names of all person(s) responsible for operating and maintaining any pretreatment equipment, pretreatment processes, or responsible for wastewater management at the user's facilities, with a brief description of each person's duties; information regarding materials or substances that may cause interference or pass through; and any other information deemed necessary by the WWTP Superintendent to assess and assure compliance with applicable discharge requirements or to safeguard the operation of the POTW.

(Ord. 185, passed 4- -2006)

§ 53.093 NOTICE BY USER OF POTENTIAL PROBLEMS.

All industrial users, whether or not subject to categorical pretreatment standards, shall notify the POTW immediately of all discharges by the user that could cause problems to the POTW, including, without limitation, slug loadings, or discharges that exceed a discharge prohibition or limitation provided by this chapter.

(Ord. 185, passed 4- -2006)

§ 53.094 NOTICE BY USER OF VIOLATION OF PRETREATMENT STANDARDS.

If sampling performed by a user indicates a violation, the user shall notify the WWTP Superintendent within 24 hours of becoming aware of the violation (and shall comply with other applicable requirements provided by § 53.121 regarding repeat sampling and analysis).

(Ord. 185, passed 4- -2006)

§ 53.095 NOTICE BY USER OF CHANGED DISCHARGE OR CHANGE IN USER STATUS.

An industrial user shall promptly notify the WWTP Superintendent in advance of any substantial change in the volume or character of pollutants in its discharge, or of any facility expansion, production increase, or process modifications that could result in a substantial change in the volume or character of pollutants in its discharge. For purposes of this section, ***SUBSTANTIAL CHANGE*** includes, without limitation, the following: (1) the discharge of any amount of a pollutant not identified in the user's permit application or in the permit issued; (2) an increase in concentration (or degree) of any pollutant that exceeds 15% of the concentration (or degree) for the pollutant as indicated in any report required under §§ 53.091 or 53.092; (3) an increase in discharge volume that exceeds 15% of the volume as indicated in any report required under §§ 53.091 or 53.092; (4) any increase in the amount of any hazardous wastes

discharged, including, without limitation, the hazardous wastes for which the industrial user has submitted initial notification under § 53.096 of this chapter; (5) the discharge of any ground waters purged for a removal or remedial action; (6) the discharge of any pollutants that are present in the discharge due to infiltration; or (7) a change in discharge that may convert an industrial user into a significant industrial user. This section shall not be construed to authorize a discharge that exceeds a discharge prohibition or limitation provided by this chapter or a permit. In determining whether to accept any changed discharge, or, if so, under what conditions, the WWTP Superintendent shall evaluate the changed discharge pursuant to the general and specific discharge prohibitions of § 53.050 and other applicable provisions of this chapter.

(Ord. 185, passed 4- -2006)

§ 53.096 NOTICE BY USER REGARDING WASTES THAT ARE OTHERWISE HAZARDOUS.

Any industrial user that discharges to the POTW a substance that, if disposed of other than by discharge to the POTW, would be a hazardous waste under 40 C.F.R. part 261 or under the rules promulgated under the state hazardous waste management act (Part 111 of Act 451 of the Public Acts of Michigan of 1994, M.C.L.A. §§ 324.11101 *et seq.*, as amended) shall notify the WWTP Superintendent, the U.S. EPA Region V Waste Management Division Director, and the Chief of the Waste Management Division of the Michigan Department of Environmental Quality, of the discharge as required by MAC R 323.2310(15).

(Ord. 185, passed 4- -2006)

§ 53.097 NOTICE BY USER OF INSTALLATION OF NEW PRETREATMENT FACILITIES.

Within five days after completing installation of new pretreatment facilities, the user shall notify the WWTP Superintendent in writing of the time and date when it intends to commence operation of the new facilities, and the identity of the person who will conduct any tests to be performed. The pretreatment facilities shall not be placed in regular operation until adequate tests have been conducted to establish that the discharges will comply with the requirements of this chapter and other applicable laws and regulations. Upon prior written request by the WWTP Superintendent, the user shall allow a representative of the POTW to observe the tests at the time they are conducted. The cost of the tests shall be paid by the user.

(Ord. 185, passed 4- -2006)

§ 53.098 OTHER REPORTS AND NOTICES REQUIRED BY THIS CHAPTER OR BY OTHER APPLICABLE LAWS AND REGULATIONS.

Users shall comply with all other reporting or notice requirements as provided by this chapter, by any notice, order or permit issued under this chapter, or as required by any other applicable law or regulation, including, without limitation, the reporting and notice requirements in connection with accidental discharge (§§ 53.140 to 53.150), upset (§ 53.165, and 53.166), bypass (§ 53.180 to 53.183), and any other reports or notice requirements determined necessary by the WWTP Superintendent to assess and assure compliance with the requirements of this chapter.

(Ord. 185, passed 4- -2006)

§ 53.099 REQUIREMENTS APPLICABLE TO ALL REPORTS AND NOTIFICATIONS.

All reports and notifications submitted by a user to the POTW as required by this chapter (or by any order, permit or determination issued or made pursuant to this chapter) shall meet the following requirements:

(A) All reports required by this chapter shall be based upon data obtained through appropriate sampling and analysis performed during the period covered by the report. The data shall be representative of conditions occurring during the applicable reporting period.

(B) If a user monitors any pollutant (or measures flow) more frequently than required by this chapter or a wastewater discharge permit, using the monitoring, sampling and analytical procedures as required by § 53.116, the results of all such additional monitoring shall be included in any report or notification submitted pursuant to this chapter.

(C) The POTW may require that reports, notifications, and other required documents and data be submitted in a standardized format, as specified by the Superintendent.

(D) If the POTW instead of a user collects all of the information, including flow data, required for a report required by §§ 53.091 or 53.092, the WWTP Superintendent may in its discretion waive the requirement that the report be submitted by the user.

(E) The reports, notifications, and other documents and data required to be submitted or maintained by this chapter shall be subject to all of the provisions as specified by MAC R 323.2310(13).

(F) Failure to provide the reports and notifications required by this chapter constitutes an independent violation of this chapter. However, compliance with applicable reporting and notification requirements shall not relieve a user of any expense, loss, damage, or other liability that may be incurred as a result of damage to the POTW, fish kills, or any other damage to person or property; nor shall such report or notification relieve a user of any fines, penalties, or other liability that may be imposed by applicable laws or regulations. Further, the reporting and notification requirements required by this chapter shall not be construed to authorize a discharge that exceeds a discharge prohibition or limitation under this chapter or other applicable laws or regulations.

(Ord. 185, passed 4- -2006)

§ 53.100 SIGNATURE AND CERTIFICATION REQUIREMENTS.

All written reports and notifications required by this chapter shall be signed and certified as follows:

(A) *Required signatures.* The reports and notifications shall be signed by an authorized representative of the user as defined in § 53.003 of this chapter.

(B) *Required certification.* The reports and notifications shall include the following certification statement:

“I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”

(C) *Exception.* If the POTW elects to perform instead of the user all or any portion of the sampling or analysis otherwise required for a report or notification, the user will not be required to comply with the certification requirements for the sampling and analysis (or portion thereof) performed by the POTW.

(Ord. 185, passed 4- -2006)

SAMPLING, ANALYSIS, AND MONITORING

§ 53.115 APPLICATION OF SUBCHAPTER.

This subchapter provides the sampling, analysis and monitoring requirements applicable to all users of the POTW. However, it does not apply to domestic users except as may be determined appropriate by the POTW in specific cases. All users required by this chapter (or by any permit, order, decision or determination issued or made under this chapter) to sample, monitor and analyze their discharges to the POTW shall do so according to the minimum requirements provided by this subchapter. Additional or more restrictive sampling, analytical or monitoring requirements may be required for a particular user by a permit, order, decision or determination issued or made under this chapter.

(Ord. 185, passed 4- -2006)

§ 53.116 SAMPLING AND ANALYTICAL TECHNIQUES AND PROCEDURES.

All sampling, measurements, tests, and analyses of the characteristics of discharges to the POTW shall be performed in accordance with the procedures approved by the U.S. EPA contained in 40 C.F.R. part 136. If, as determined by the WWTP Superintendent, the sampling and analytical techniques contained in 40 C.F.R. part 136 are not available, do not apply to the discharge or pollutants in question, are not appropriate under the circumstances for application to the discharge or pollutants in question, or where one or more alternate techniques are available under 40 C.F.R. part 136, sampling and analysis shall be performed using validated sampling and analytical methods and procedures approved or required by the WWTP Superintendent.

(Ord. 185, passed 4- -2006)

§ 53.117 SAMPLING FREQUENCY.

Users shall sample their discharges to the POTW at a frequency necessary to assess and assure compliance with the requirements of this chapter, any permit or order issued pursuant to this chapter, all applicable pretreatment standards and requirements, other applicable state and federal laws and regulations, or as otherwise determined necessary by the WWTP Superintendent consistent with the purposes and intent of this chapter. At a minimum, all users shall sample their effluent two times per year and report the results to the POTW unless otherwise provided by the user's wastewater discharge permit. Each discharge point to the POTW shall be sampled and reported individually.

§ 53.118 SAMPLE TYPES.

Where representative samples are required to be taken, a user shall take a minimum of four grab samples for pH, cyanide, phenols (T), residual chlorine, oil and grease, sulfide, and volatile organics (and any other parameters designated by the WWTP Superintendent). For all other pollutants, 24-hour composite samples must be obtained through flow-proportional composite sampling techniques. The WWTP Superintendent may waive flow-proportional composite sampling for any user that demonstrates to the satisfaction of the WWTP Superintendent that flow-proportional sampling is infeasible. If flow-proportional sampling is waived, samples may instead be obtained through time-proportional composite sampling techniques, or through a minimum of four grab samples, if the user demonstrates to the satisfaction of the Superintendent that this will provide a representative sample of the effluent being discharged.

(Ord. 185, passed 4- -2006)

§ 53.119 SAMPLING METHODS, EQUIPMENT AND LOCATION.

A user shall use the sampling methods, sampling equipment, and sampling location specified by the user's wastewater discharge permit, or, in the absence of a permit, as required by the WWTP Superintendent.

(Ord. 185, passed 4- -2006)

§ 53.120 COSTS OF MONITORING, SAMPLING AND ANALYSES.

All required monitoring, taking of samples, and sample analyses shall be solely at the user's cost.

(Ord. 185, passed 4- -2006)

§ 53.121 SELF-MONITORING.

Except as otherwise provided by this chapter, self-monitoring shall be conducted by each user to insure compliance with all applicable requirements of this chapter and other applicable laws and regulations. A user performing its own sampling shall submit the samples for analysis to a laboratory (which may include the user's own laboratory) approved by the WWTP Superintendent. A user performing its own sampling or monitoring shall record and maintain for all samples and monitoring the date, exact place, time (including start time and stop time) and method of sampling or measurement, and the name(s) of person(s) taking the samples or measurements; sampler programming information; the sample preservation techniques or procedures used; the full chain-of-custody for each sample; the dates the analyses were performed; who performed the analyses; the analytical techniques and methods used; quality assurance/quality control (QA/QC) procedures used and QA/QC data; and the results of the analyses. If sampling performed by a user indicates a violation, the user shall notify the WWTP Superintendent 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 POTW within 30 days after becoming aware of the violation (unless a shorter time period is specified by the WWTP Superintendent to the user), except that the user shall not be required to resample if (a) the POTW performs sampling at the user at a frequency of at least once per month, or (b) the POTW 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 the sampling that indicates the violation. If a user uses its own laboratory for sample analysis, the WWTP Superintendent may require the user to send split samples to an independent laboratory at a frequency specified by the Superintendent as a quality control check.

(Ord. 185, passed 4- -2006)

§ 53.122 SAMPLING AND ANALYSES PERFORMED BY POTW.

(A) The sampling and analysis required by this chapter may be performed by the POTW instead of the user, as determined necessary by the WWTP Superintendent for purposes of this chapter. The POTW shall provide the user with copies of analytical results prepared by the POTW. If the results of any sampling and analysis performed by the POTW instead of the user show that a pretreatment standard has been violated, the POTW shall provide the user with copies of the analytical results within ten days after the results are available.

(B) If the POTW performs the required sampling and analysis for a user, the user shall pay a sampling fee to the POTW to fully reimburse the POTW for the sampling, including administrative and overhead costs. The POTW may contract with an independent firm to perform the sampling and analysis and the user shall fully reimburse the POTW for amounts paid by the POTW to the independent firm.

(Ord. 185, passed 4- -2006)

§ 53.123 SPLIT SAMPLES.

(A) If requested by the WWTP Superintendent, the POTW shall be provided with splits of any sample taken by a user.

(B) In cases of disputes arising over split samples, the portion taken and analyzed by the POTW shall be controlling unless proven invalid by the user at the user's sole cost.

(Ord. 185, passed 4- -2006)

§ 53.124 MAINTENANCE, REPAIR AND CALIBRATION OF EQUIPMENT.

A user who is performing self-monitoring shall contract with an independent company (unless the requirement to use an independent company is waived in advance by the WWTP Superintendent as determined appropriate by the Superintendent) to maintain, repair, and calibrate the sampling and flow measurement equipment and instruments used to monitor the user. The maintenance, repair, and calibration shall be performed as often as necessary to ensure that monitoring data is accurate and representative, and consistent with the accepted capability of the type of equipment used, and shall be at the sole cost of the user. A user shall keep a complete and accurate written record of all calibrations, inspections and maintenance done (including, without limitation, the date and time of the activity, a description of what was done and the methods used, the names of persons conducting the activity, and any required or recommended follow-up). The record shall also include a description of all problems discovered regarding the equipment whether in response to a regularly scheduled inspection or otherwise. The POTW, in any event, may inspect and test a user's sampling and flow measurement equipment and instruments at all reasonable times.

(Ord. 185, passed 4- -2006)

§ 53.125 REQUIRED SAMPLING STRUCTURES AND DEVICES.

(A) The WWTP Superintendent may require any user to install at each discharge point a suitable control structure (such as a manhole or sampling vault) and necessary measuring and sampling devices (including automatic devices) to facilitate the observation, sampling, and measurement of the quantity, composition, and concentrations of discharges to the POTW.

(B) There shall be ample room in or near the control structure to allow accurate monitoring, measuring, sampling and preparation of samples for analysis, as determined necessary by the WWTP Superintendent. At a minimum, all sewers shall have an inspection and sampling manhole or structure with an opening of no less than 24 inches in diameter and an internal diameter of no less than 36 inches containing flow measuring, recording and sampling equipment as required by the WWTP Superintendent to assure compliance with this chapter.

(C) The location and complexity of the required control structure or devices may vary with sampling requirements determined necessary by the WWTP Superintendent to protect the POTW and to comply with applicable laws and regulations.

(D) The required sampling structures and devices shall be constructed and installed at the user's sole expense in accordance with plans submitted to the WWTP Superintendent, and in compliance with all applicable local construction standards and specifications. Construction shall be completed within 90 days following written notification by the WWTP Superintendent, or within such other shorter or longer time period specified by the WWTP Superintendent as required by the particular circumstances to meet the requirements of this chapter. The structures and devices shall be operated and maintained by the user at the user's sole expense so as to be safe and accessible to POTW personnel during all reasonable times and so as to provide accurate and representative monitoring data. If a user fails to install or maintain a required structure or device, the POTW may do so and charge the costs to the user.

(E) The sampling structures and devices must be provided on the user's premises as approved by the WWTP Superintendent, but the Superintendent may, if the Superintendent determines that such a location would be impractical or cause undue hardship to the user, allow the facility to be constructed in the public street or sidewalk area and located so that it will not be obstructed by landscaping or parked vehicles.

(F) Samples shall be taken at a control structure approved by the WWTP Superintendent. However, in the absence of a suitable control structure as required by this section, samples shall be taken immediately downstream from pretreatment facilities if pretreatment facilities exist, or immediately downstream from the regulated process if no pretreatment facilities exist. If other wastewaters are mixed with a regulated process wastestream prior to pretreatment, the user must measure the flows and concentrations necessary to allow use of the combined wastestream formula under MAC R 323.2311(7) or other methods required by the WWTP Superintendent to evaluate compliance with applicable pretreatment standards and requirements.

(Ord. 185, passed 4- -2006)

ACCIDENTAL DISCHARGES

§ 53.140 GENERAL.

This subchapter sets forth minimum requirements for industrial users to prepare for, respond to, and report, accidental discharges to the POTW. Additional or more restrictive requirements may be required for particular users under a wastewater discharge permit, a slug control plan, or by other applicable laws and regulations.

(A) Each user shall provide and continuously maintain protection from accidental discharge of materials or other substances regulated by this chapter as provided by this subchapter.

(B) Detailed plans showing facilities and operating procedures to provide the protections required by this subchapter shall be submitted to the WWTP Superintendent for review. All existing users shall submit the required plans and information with their permit applications or upon request of the WWTP Superintendent. For new sources, facilities and operating procedures to provide the protections required by this subchapter shall be approved by the WWTP Superintendent prior to commencing discharge. No user who commences discharging to the POTW after the effective date of this chapter shall be permitted to introduce pollutants into the system until accidental discharge facilities and procedures as provided by this section are in place and have been approved by the WWTP Superintendent.

(C) Facilities to prevent accidental discharge of regulated materials or substances shall be provided and maintained at the user's cost and expense. Review and approval by the WWTP Superintendent of plans and operating procedures shall not relieve the industrial user from the responsibility to modify the user's facility as necessary to meet the requirements of this chapter. Compliance with the requirements of this subchapter shall not relieve a user of any expense, loss, damage, or other liability that may be incurred as a result of damage to the POTW, or for any other damage to persons or property, or for any other liability that may be imposed under this chapter or under other applicable laws and regulations.

(D) No change shall be made in any plan or procedure approved by the WWTP Superintendent as provided by this section without the prior review and approval of the WWTP Superintendent.

(E) All users shall notify the WWTP Superintendent in writing within five days of any change in the information required to be provided to the POTW as set forth below in this Section (including, without limitation, information regarding the person in charge of discharge operations, the description of chemicals stored, used or manufactured by the user, the description of user discharges, and the description of user premises).

(Ord. 185, passed 4- -2006)

§ 53.141 DESIGNATION OF PERSON IN CHARGE OF DISCHARGE OPERATIONS.

Each industrial user shall designate at least one person to be in charge of and responsible for the user's discharges to the POTW, including responsibility for maintaining pretreatment facilities and operations, if any, and prevention of accidental discharges (person in charge). The person so designated shall be an individual or a position with knowledge of all toxic wastes or hazardous substances routinely or potentially generated by the user, and of all process alterations that could, in any manner, increase or decrease normal daily flow or waste strength to the POTW. The names of the person (or persons) designated as provided by this Section and a phone number where the person can be reached shall be submitted by each user to the POTW.

(Ord. 185, passed 4- -2006)

§ 53.142 DESCRIPTION OF CHEMICALS STORED, USED OR MANUFACTURED BY USER.

Each industrial user shall catalog all chemicals stored, used, or manufactured by the user at the user's premises. The list of chemicals shall include specific chemical names (not just manufacturer's codes) and shall be provided to the POTW.

(Ord. 185, passed 4- -2006)

§ 53.143 DESCRIPTION OF USER DISCHARGES.

Each industrial user shall provide the POTW with a written description of the user's discharge practices, including an estimate of daily average flows, waste strengths, and flow types, separated according to appropriate categories, including process, cooling, sanitary, and other types of discharges.

(Ord. 185, passed 4- -2006)

§ 53.144 DESCRIPTION OF USER PREMISES.

Each industrial user shall provide to the POTW a sketch of the user's plant building(s), including the location of pretreatment equipment, process and chemical storage areas, floor drains located near process and storage areas, manhole or other control structures, and sewer locations at the user's point of discharge into the POTW.

(Ord. 185, passed 4- -2006)

§ 53.145 SEGREGATION OF WASTEWATERS REQUIRING PRETREATMENT.

Industrial users shall segregate wastewaters requiring pretreatment (including, without limitation, spent concentrates, toxics, and high strength organic wastes) as necessary to prevent pollutants from interfering with or passing through the POTW. All sludges generated by pretreatment shall be used and disposed of only as permitted by applicable local, state and federal laws and regulations.

(Ord. 185, passed 4- -2006)

§ 53.146 SECONDARY CONTAINMENT REQUIREMENTS.

Each industrial user must provide and maintain at the user's expense secondary spill containment structures (including diking, curbing or other appropriate structures) adequate to protect all floor drains from accidental spills and discharges to the POTW of any pollutants or discharges regulated by this chapter. The containment or curbing shall be sufficient to hold not less than 150% of the total process area tank volume and not less than 150% of liquid polluting material stored or used, unless a lesser containment area or alternate control measures are approved in advance by the WWTP Superintendent. The containment area shall be constructed so that no liquid polluting material can escape from the area by gravity through the building sewers, drains, or otherwise directly or indirectly into the POTW. All floor drains found within the containment area must be plugged and sealed. Spill troughs and sumps within process areas must discharge to appropriate pretreatment tanks. Emergency containment shall also be provided for storage tanks that may be serviced by commercial haulers and for chemical storage areas. Solid pollutants shall be located in security areas designed to prevent the loss of the materials to the POTW. Detailed plans showing facilities and operating procedures to provide the protection required by this Section shall be submitted to the WWTP Superintendent for review, and shall be approved by the Superintendent before construction. Construction of approved containment for existing sources shall be completed within the time period specified by the WWTP Superintendent. No new source shall be permitted to discharge to the POTW until emergency containment facilities have been approved and constructed as required by this Section. The WWTP Superintendent may order an industrial user to take interim measures for emergency containment as determined necessary by the Superintendent under the circumstances.

(Ord. 185, passed 4- -2006)

§ 53.147 SUBMISSION OF POLLUTION INCIDENT PREVENTION PLAN.

Each industrial user required to develop a pollution incident prevention (PIP) plan as provided by Part 5 of the Michigan Water Resources Commission Rules, 1979 ACR 323.1151 *et seq.*, as amended (promulgated pursuant to Part 31 of Act 451 of the Public Acts of Michigan of 1994, M.C.L.A. §§ 324.3101 *et seq.*, as amended), shall submit a copy of that plan to the WWTP Superintendent. The PIP Plan shall be submitted to the Superintendent within 60 days of the effective date of this chapter for an existing source, or 30 days prior to the date of discharge for a new source.

(Ord. 185, passed 4- -2006)

§ 53.148 POSTING OF ACCIDENTAL DISCHARGE INFORMATION.

All industrial users shall post a clearly legible set of instructions in the area where the user manages wastewater so that the applicable reporting and notice requirements are made known and are available to the user's employees. In addition, all industrial users shall instruct their employees on the applicable reporting and notice requirements of this section.

(Ord. 185, passed 4- -2006)

§ 53.149 NOTICE OF ACCIDENTAL DISCHARGE.

In the case of an accidental discharge, an industrial user shall immediately notify the WWTP Superintendent of the incident by telephone. The notification shall include available information regarding the location of the discharge, its volume, duration, constituents, loading and concentrations, corrective actions taken and required, and other available information as necessary to determine what impact the discharge may have on the POTW. A detailed written report providing the same and any additional available information (including specifying the measures that will be taken by the user to prevent similar future discharges) shall also be provided by the user to the WWTP Superintendent within five days of the incident.

(Ord. 185, passed 4- -2006)

§ 53.150 SLUG CONTROL PLAN.

(A) Each significant industrial user shall prepare and implement an individualized slug control plan. Existing significant industrial users shall submit a slug control plan to the WWTP Superintendent for approval within 90 days of the effective date of this chapter. New sources that are significant industrial users shall submit a slug control plan to the WWTP Superintendent for approval before beginning to discharge. Upon written notice from the WWTP Superintendent, industrial users that are not significant industrial users may also be required to prepare and implement a slug control plan, and the plan shall be submitted to the WWTP Superintendent for approval as specified in the notice. All slug control plans shall contain at least the following elements:

- (1) A description of discharge practices, including non-routine batch discharges;
- (2) A description of stored chemicals;
- (3) The procedures for immediately notifying the POTW of slug discharges, including any discharge that would violate any discharge prohibition, limitation or requirement under this subchapter, and procedures for follow-up written notification within five days of the discharge;
- (4) The procedures to prevent adverse impact from accidental spills, including inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site run-off, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants (including solvents), and measures and equipment for emergency response.

(B) If a user has submitted to the WWTP Superintendent plans or documents pursuant to other requirements of local, state or federal laws and regulations which meet all applicable requirements of § 53.150(A), the WWTP Superintendent may in the Superintendent's discretion determine that the user has satisfied the slug plan submission requirements of this section.

(Ord. 185, passed 4- -2006)

UPSET AND ADDITIONAL AFFIRMATIVE DEFENSES

§ 53.165 UPSET.

An upset shall constitute an affirmative defense to an action brought for noncompliance with categorical pretreatment standards if all of the requirements of division (A), below, are met. However, in the event of an upset, the user may still be liable for surcharges for exceeding applicable discharge limitations as provided by this chapter. In any enforcement proceeding, the user seeking to establish the occurrence of an upset shall have the burden of proof.

(A) *Conditions necessary to demonstrate upset.* A user seeking to establish the affirmative defense of upset must demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence, all of the following:

- (1) An upset occurred and the user can identify the cause(s) of the upset;
- (2) The facility was at the time being operated in a prudent and workmanlike manner and in compliance with applicable operation and maintenance procedures;
- (3) The user has submitted the following information to the POTW within 24 hours of becoming aware of the upset (if this information is provided orally, a written submission containing the same information must be provided within five days of becoming aware of the upset):
 - (a) A description of the discharge and cause of non-compliance;
 - (b) The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the non-compliance is expected to continue; and
 - (c) The steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the noncompliance.

(B) *User responsibility in case of upset.* The user shall control production or all discharges to the extent necessary to maintain compliance with categorical pretreatment standards and other applicable limits upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost, or fails.

(Ord. 185, passed 4- -2006)

§ 53.166 ADDITIONAL AFFIRMATIVE DEFENSES.

A user shall have an affirmative defense in any action brought against it alleging a violation of the general prohibitions under § 53.050(A) and specific prohibitions under § 53.050(B)(5), (6), (7) or (8) if the user can demonstrate that all of the conditions necessary to establish the defense under MAC R 323.2303(3)(a) and (b) are met. However, even if the affirmative defense is established, the user may still be liable for surcharges for exceeding applicable discharge limitations as provided by this chapter. In any enforcement proceeding, the user seeking to establish the affirmative defenses provided by MAC R 323.2303(3) shall have the burden of proof.

(Ord. 185, passed 4- -2006)

BYPASS

§ 53.180 BYPASS NOT VIOLATING APPLICABLE PRETREATMENT STANDARDS OR REQUIREMENTS.

An industrial user may allow any bypass to occur that does not cause pretreatment standards or requirements to be violated, but only if the bypass is for essential maintenance to assure efficient operation. A bypass that meets the requirements of the preceding sentence of this section is not subject to the provisions in §§ 53.181, 53.182 and 53.183. However, nothing in this section shall be construed to authorize a discharge that exceeds a discharge prohibition or limitation under this chapter or other applicable laws or regulations; nor to relieve a user for any expense, loss, damage, or liability that may be incurred as a result of the bypass, such as damage to the POTW, fish kills, or any other damage to person or property; nor to relieve the user of any fines, penalties or other liability that may be imposed by applicable laws or regulations as a result of the bypass.

(Ord. 185, passed 4- -2006)

§ 53.181 BYPASS PROHIBITED.

Except as provided by § 53.180, the bypass of industrial wastes from any portion of an industrial user's facility is prohibited, and shall be subject to enforcement action, unless all of the following apply:

(A) Bypass was 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 waste, or maintenance during normal periods of equipment downtime. (This condition is not satisfied if adequate backup equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass that occurred during normal periods of equipment downtime or preventative maintenance.)

(C) The industrial user submitted the notices as required under § 53.182.

(Ord. 185, passed 4- -2006)

§ 53.182 REQUIRED NOTICES.

(A) *Anticipated bypass.* If an industrial user knows in advance of the need for a bypass, it must submit prior notice of the bypass to the WWTP Superintendent. Such notice shall be submitted to the WWTP Superintendent as soon as the user becomes aware of the need for the bypass, and if possible, at least ten days before the date of the bypass.

(B) *Unanticipated bypass.* An industrial user shall submit oral notice of an unanticipated bypass that exceeds applicable pretreatment standards to the WWTP Superintendent within 24 hours from the time the industrial user becomes aware of the bypass. A written submission shall also be provided within five days of the time the industrial 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 times, 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 WWTP Superintendent may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.

(Ord. 185, passed 4- -2006)

§ 53.183 POTW APPROVED BYPASS.

The WWTP Superintendent may approve an anticipated bypass after considering its adverse effects, if the Superintendent determines that it meets the conditions set forth in § 53.181(A), (B) and (C). It shall be a violation of this chapter for a user to allow an anticipated bypass to occur without the prior approval of the Superintendent.

(Ord. 185, passed 4- -2006)

CONFIDENTIAL INFORMATION

§ 53.200 CONFIDENTIAL INFORMATION.

The following provisions shall apply regarding the treatment by the POTW of confidential information submitted to or obtained by the POTW in the administration of this chapter:

(A) Information and data regarding a user obtained from reports, questionnaires, permit applications, permits and monitoring programs, and from inspections shall be available to the public or other governmental agency without restriction unless the user specifically requests at the time of submission and is able to demonstrate to the satisfaction of the WWTP Superintendent that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets of the user.

(B) Information submitted by a user for which confidentiality is requested shall be clearly marked on each page as to the portion or portions considered by the user to be confidential and shall be accompanied by a written explanation of why the user considers the information to be confidential or why the release of the information would divulge information, processes or methods of production entitled to protection as trade secrets of the user.

(C) Information that may disclose trade secrets or trade secret processes, and for which the user has requested confidentiality as provided by this section, shall not be made available for inspection by the general public; however, that information shall be made available upon written request to governmental agencies for uses related to matters regulated by this chapter and shall be made available for use by the state, any state agency, the local unit or the POTW in judicial review or enforcement proceedings that involve the user that furnished the information. The POTW shall notify the user ten days in advance if it intends to release confidential information to another

governmental agency as authorized by this Section.

(D) Information furnished to the POTW on the volume or characteristics of wastewater or pollutants discharged or proposed to be discharged into the POTW shall be available to the public or other governmental agency without restriction.

(E) If a user has mass-based limits as allowed by certain categorical pretreatment standards on a production basis, the production data necessary to determine compliance must also be provided by the user to the POTW, and shall be available to the public. If application of the combined waste stream formula is necessary to apply categorical pretreatment standards to a user, the flow measurements and other data used in the calculation must be provided by the user to the POTW, and shall be available to the public.

(F) Observations made by POTW inspectors shall be subject to the confidentiality provisions of this section as if they were in writing if the user specifies to the inspectors in writing for which particular observations made by the inspector the user seeks confidentiality.

(Ord. 185, passed 4- -2006)

RECORDS RETENTION

§ 53.210 MAINTENANCE OF RECORDS.

All industrial users shall retain and preserve records, including, without limitation, all books, documents, memoranda, reports, correspondence and similar materials, related to matters regulated by this chapter as provided by the minimum requirements of this section or as provided by a permit or order issued pursuant to this chapter.

(A) *Discharge records.* An industrial user shall retain, preserve, and make available to the POTW for inspection and copying, for the period specified in division (C) below, all records related to matters regulated by this chapter, including, without limitation, all documents, memoranda, correspondence and similar materials; copies of all required reports and notifications; all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation; copies of results of all sampling, monitoring, measurements and analyses; and records of all data used to complete the application for a permit. Any industrial user subject to the sampling, monitoring, analysis, or reporting requirements of this chapter shall maintain copies of all records and information pertaining to those requirements or resulting from any monitoring activities (whether or not such monitoring activities are required by this chapter). For all samples, the records shall include, at a minimum, the information required to be recorded by § 53.121 of this chapter.

(B) *Hazardous or solid waste.* An industrial user shall retain and preserve all records regarding its generation, treatment, storage, or disposal of hazardous waste or solid waste for the period specified in division (C) below, and shall make them available to the POTW for inspection and copying, subject to the provisions in this chapter regarding confidential information. (The terms “hazardous waste” and “solid waste” shall have the same definition as provided in the state hazardous waste management act, Part 111 of Act 451 of the Public Acts of Michigan of 1994, M.C.L.A. §§ 324.11101 *et seq.*, as amended, and the rules promulgated under that act.)

(C) *Retention period.* Users subject to the reporting requirements of this chapter (or of any permit or order issued pursuant to this chapter) shall retain the records specified in divisions (A) and (B) above for a period of at least three years from (a) the date the record was created or (b) the date the record was first used or relied upon by the user, whichever is later. The three-year retention period shall be extended during any administrative or judicial action, enforcement proceeding or litigation regarding matters regulated by this chapter (or regarding discharges of the POTW under its NPDES permit), until all such actions, proceedings, or activities have concluded and all periods of limitation with respect to any and all appeals have expired. The three-year retention period may also be extended at any time at the request of the POTW, the local unit, the Michigan Department of Environmental Quality, or the U.S. EPA.

(Ord. 185, passed 4- -2006)

ADMINISTRATION OF THE POTW

§ 53.220 OPERATION AND MANAGEMENT OF POTW.

Except as otherwise expressly provided by this chapter, the operation, maintenance, alteration, repair and management of the POTW shall be under the supervision and control of the WWTP Superintendent. The WWTP Superintendent is charged with the duty of investigating, preventing and abating violations and enforcing the provisions of this chapter, and may establish any rules, regulations and procedures as determined necessary to assure the efficient management and operation of the POTW.

(Ord. 185, passed 4- -2006)

§ 53.221 POWERS OF WWTP SUPERINTENDENT.

The WWTP Superintendent is empowered, either directly, through authorized representatives, or in conjunction with the local unit, to take the following actions:

(A) Supervise the implementation of this chapter.

(B) Review plans submitted by users for pretreatment equipment.

(C) Make inspections and tests of existing and newly installed, constructed, reconstructed, or altered sampling, metering, or pretreatment equipment to determine compliance with the provisions of this chapter.

(D) Verify the completeness, accuracy and representativeness of self-monitoring data submitted and/or maintained by users.

(E) Investigate complaints of violations of this chapter, make inspections and observations of discharges, and maintain a record of the investigations, complaints, inspections and observations.

(F) Issue orders and notices of violation and take other actions as necessary to require compliance with this chapter.

(G) Assess civil administrative fines for violations of this chapter or of any permit, order, decision or determination promulgated, issued or made under this chapter.

(H) Develop and implement a Control Authority Enforcement Response (CAER) Plan as required by 40 C.F.R. § 403.8(f)(5). The CAER Plan shall provide procedures for the POTW to investigate and respond to instances of noncompliance by industrial users. The CAER Plan and any associated regulations developed by the WWTP Superintendent shall become effective upon approval by the Director.

(I) With the approval of the Director and notice to the local unit, and, as necessary, in conjunction with the POTW's legal counsel and/or the local unit and the local unit's legal counsel, institute necessary civil or criminal judicial legal actions and proceedings in a court of competent jurisdiction against all users violating this chapter to prosecute violations of this chapter, to compel the abatement or prevention of violations, to compel compliance with this chapter and any order, determination, permit or agreement issued or entered into under this chapter, and to pursue other necessary or advisable judicial relief or remedies with respect to violations of this chapter.

(J) Issue municipal civil infraction citations and municipal civil infraction violation notices for violations of this chapter.

(K) Perform any other actions authorized by this chapter, or as necessary or advisable for the supervision, management and operation of the POTW and the enforcement of this chapter and other applicable laws and regulations (subject to the rights, powers and duties in respect thereto that are reserved by law to the other officials or governmental bodies).

(Ord. 185, passed 4- -2006)

OPERATION AND MAINTENANCE OF USER POLLUTION CONTROLS

§ 53.235 PROVISION BY USERS OF NECESSARY PRETREATMENT FACILITIES.

Users shall provide necessary wastewater treatment as required to comply with all applicable pretreatment standards and requirements within the time limitations specified by applicable law or regulation. All facilities required to pretreat wastewater shall be provided, operated, and maintained at the user's sole expense. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the WWTP Superintendent for review, and shall be acceptable to the WWTP Superintendent before construction of the facility. The review of such plans and operating procedures does not in any way relieve the user from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the WWTP Superintendent under the provisions of this chapter. Any subsequent changes in the pretreatment facilities or method of operation shall be reported to and be approved by the WWTP Superintendent prior to the user's initiation of the changes. (Users shall notify the WWTP Superintendent regarding the installation of new pretreatment facilities as provided by § 53.097 of this chapter.)

(Ord. 185, passed 4- -2006)

§ 53.236 PROPER OPERATION AND MAINTENANCE.

A user shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) that are installed or used by the user to comply with the requirements of this chapter, as determined necessary by the WWTP Superintendent. Proper operation and maintenance includes, without limitation, effective performance, adequate funding, adequate operator staffing, and adequate quality assurance/quality control (QA/QC) procedures for sampling and analysis.

(Ord. 185, passed 4- -2006)

§ 53.237 REMOVED SUBSTANCES.

Solids, sludges, filter backwash, or other pollutants removed in the course of treatment or control of wastewaters shall be disposed of in accordance with § 405 of the Clean Water Act and Subtitles C and D of the Resource Conservation and Recovery Act, and other applicable local, state, and federal laws and regulations.

(Ord. 185, passed 4- -2006)

§ 53.238 DUTY TO HALT OR REDUCE ACTIVITY.

Upon reduction of efficiency of operation, or loss, or failure of all or part of a user's pretreatment equipment or facility, the user shall, to the extent necessary to maintain compliance with categorical pretreatment standards and other applicable standards, requirements, and limits, control its production and all discharges until operation of the equipment or facility is restored or an alternative method of treatment is provided. This requirement applies in situations, including, without limitation, where the primary source of power for the pretreatment equipment or facility is reduced, lost, or fails. It shall not be a defense for a user in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this chapter.

(Ord. 185, passed 4- -2006)

§ 53.239 DUTY TO MITIGATE.

A user shall take all reasonable steps to minimize or correct any adverse impact to the POTW or the environment resulting from noncompliance with this chapter, including such accelerated or additional monitoring as necessary to determine the nature and impact of the noncomplying discharge.

(Ord. 185, passed 4- -2006)

§ 53.240 DUTY TO PRETREAT PRIOR TO DISCHARGE TO POTW.

Except as otherwise expressly required by this chapter, by a wastewater discharge permit or order pursuant to this chapter, or other applicable law or regulation, the prohibitions and limitations provided by this chapter or a wastewater discharge permit shall apply at the point where wastewater and pollutants are discharged or caused to be discharged into the POTW and any required pretreatment shall, at a minimum, be completed before that point of discharge is reached.

(Ord. 185, passed 4- -2006)

ENFORCEMENT

§ 53.255 INSPECTION, SURVEILLANCE AND MONITORING AUTHORITY; RIGHT OF ENTRY.

(A) *In general.* The POTW is authorized to carry out all inspection, surveillance, sampling and monitoring activities and procedures, as necessary to determine, independent of information supplied by industrial users or any other persons, compliance or noncompliance with applicable pretreatment standards and requirements, with this chapter, and with other applicable laws and regulations. This authority includes, without limitation, the authority, either directly, or in conjunction with the local unit:

- (1) To verify the completeness, accuracy and representativeness of self-monitoring data submitted by users.
- (2) To determine compliance with the requirements of this chapter or with wastewater discharge permits.
- (3) To support enforcement actions taken by the POTW against non-compliant users.
- (4) To determine if users have corrected problems identified in previous inspections.
- (5) To identify which (and to what degree) users influence the quality of the POTW's influent, effluent and sludge quality.
- (6) To evaluate the impacts of the POTW's influent on its treatment processes and receiving stream.
- (7) To evaluate the need for revised local limits.
- (8) To maintain current data on each user.
- (9) To assess the adequacy of each user's self-monitoring program and wastewater discharge permit.
- (10) To provide a basis for establishing sampling and monitoring requirements for users.
- (11) To evaluate the adequacy of each user's operation and maintenance activities on its pretreatment system.
- (12) To assess the potential for spills and/or slug discharge control measures, and evaluate the effectiveness of spill and slug discharge control measures.
- (13) To gather information for industrial user permit development.
- (14) To evaluate compliance with existing enforcement actions.
- (15) To require any user to submit one or more representative samples of the wastewater discharged or that the user proposes to discharge into the POTW.

(B) *Right of entry.* The WWTP Superintendent and other authorized representatives of the POTW or the local unit bearing proper credentials and identification are authorized to enter a user's premises to conduct inspection, surveillance and monitoring activities as necessary to determine compliance with this chapter, and in that regard shall have, without limitation, the following minimum authority:

- (1) To enter into any premises of any user in which a discharge source, treatment system or activity is located or in which records are required to be kept as provided by this chapter, for the purpose of inspecting, observing, measuring, sampling and testing the wastewater discharge, removing samples of wastewater for analysis, and inspecting and making copies of required records.
- (2) To set up and maintain on the discharger's property such devices as are necessary to conduct sampling, inspection, compliance monitoring and/or metering operations, or to require the discharger to do so, at the discharger's sole expense.
- (3) To randomly sample and analyze the effluent from users and conduct surveillance activities to identify occasional and continuing noncompliance with applicable standards and requirements. The POTW shall inspect and sample the effluent from each significant industrial user at least once a year.
- (4) To inspect any production, manufacturing, fabrication, or storage area where pollutants, subject to regulation under this chapter, could originate, be stored, or be discharged to the POTW.
- (5) To enter all private properties through which the local unit, POTW, or other governmental agency holds an easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair, and maintenance of any portion of the POTW or wastewater transmission facilities lying within the easement.

(C) *Compliance with user's plant safety requirements.* Representatives of the POTW entering a user's premises for purposes authorized by this chapter shall comply with the user's plant safety requirements regarding such matters as entry into confined spaces, use of safety glasses, and hearing protection requirements, as requested by the user.

(D) *Access without delay required.* Users shall allow POTW representatives ready access at all reasonable times to all parts of the user's facility where wastewater governed by this chapter is created, handled, conveyed, treated or discharged, or where any production,

manufacturing, fabrication, or storage area where pollutants regulated under this chapter could originate, be stored, or be discharged to the POTW, or where wastewater records are kept, for the purposes of inspection, sampling, records examination, or in the performance of any of the POTW's duties. If a user has security measures in force that would require proper identification and clearance before entry into the premises by the POTW, the user shall make necessary arrangements in advance with its security guards so that upon presentation of suitable identification, authorized representatives of the POTW (or authorized state or federal personnel) will be permitted to enter, without delay, for the purposes of performing their specific responsibilities.

(E) *Refusal to allow entry.* If a user refuses to permit access to an authorized POTW representative or to permit the representative to obtain, take, and remove samples or make copies of documents or undertake other authorized inspection, surveillance and monitoring activities as provided by this chapter, the WWTP Superintendent may order the termination of the discharge of wastewater to the POTW; order the user to permit access within a time certain; issue the user a notice of violation of this section; or take other appropriate action as provided by this chapter and other applicable laws and regulations.

(Ord. 185, passed 4- -2006)

§ 53.256 NOTICE OF VIOLATION.

Any person found to be violating a provision of this chapter may be served with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction of the violation. The person shall, within the period of time stated in notice, permanently cease all violations. The notice of violation shall be served and shall contain the information as provided by § 53.258 of this chapter.

(Ord. 185, passed 4- -2006)

§ 53.257 ORDERS.

The WWTP Superintendent may, either directly or in conjunction with the local unit, issue an order to any user as determined by the Superintendent to be appropriate under the circumstances, as provided by this section. Multiple orders may be issued simultaneously or in combination as a single order with respect to a single discharger.

(A) *Service.* An order shall be served upon a user and shall contain the information as provided by § 53.258 of this chapter. However, orders to immediately cease and desist discharge, or to terminate sewer services, or other emergency orders where delay might endanger human health, the environment or the POTW, may be oral and may be served by telephone (to be followed within five days by written confirmation of the order by the WWTP Superintendent).

(B) *Types of orders.* The WWTP Superintendent may issue the following types of orders:

(1) *Order to immediately cease and desist discharge.* The WWTP Superintendent may issue an order to cease and desist from discharging any wastewater, incompatible pollutant, or discharge not in compliance with this chapter. The order shall have immediate effect if the actual or threatened discharge of pollutants to the system presents, or may present, imminent or substantial endangerment to the health or welfare of persons, to the environment, or causes, or may cause, interference or pass through. The WWTP Superintendent shall implement whatever action is necessary to halt the illegal discharge. The user shall be assessed for any penalties, fines, charges, surcharges, expenses, or losses incurred due to the actual or threatened discharge of pollutants as provided by this chapter.

(2) *Order to cease discharge within a time certain.* The WWTP Superintendent may issue an order to cease and desist from discharging any wastewater, incompatible pollutant, or discharge not in compliance with this chapter by a certain time and date. The proposed time for remedial action shall be specified in the order. In addition to other circumstances as determined appropriate by the WWTP Superintendent, the failure to pay applicable permit fees or to comply with any term of a wastewater discharge permit constitutes sufficient cause to issue an order under this section.

(3) *Order to effect pretreatment.* The WWTP Superintendent may issue an order to a user requiring the user to pretreat its discharge in accordance with this chapter. Any user subject to an order to pretreat shall prepare a plan to pretreat its discharge so that the discharge complies with the requirements of the order and this chapter. The plan shall be submitted to the WWTP Superintendent within a reasonable period as specified in the order. The plan shall be prepared in accordance with good engineering practice and shall state whether construction is necessary, as well as identify measures that can be completed without construction. The plan shall contain a schedule of compliance for completion of each of the various phases necessary to implement full pretreatment. The schedule of compliance must be approved by the WWTP Superintendent. The schedule of compliance shall consist of one or more remedial measures, including enforceable timetables for a sequence of actions or operations leading to compliance with an effluent standard, or other prohibition or standard. The following steps or phases shall be included in the schedule of compliance as determined necessary by the WWTP Superintendent:

(a) Retain a qualified engineer and/or consultant.

(b) Obtain any engineering or scientific investigation or surveys deemed

necessary.

(c) Prepare and submit a preliminary plan to achieve pretreatment.

(d) Prepare plans and specifications, working drawings, or other engineering or architectural documents that may be necessary to effect pretreatment.

(e) Establish a time to let any contract necessary for any construction.

(f) Establish completion times for any construction necessary.

(g) Establish a time limit to complete full pretreatment pursuant to the final order.

(h) If a phase or unit of construction or implementation may be effected independently of another phase or unit, establish separate timetables for the phases or unit.

(4) *Order to perform affirmative action.* The WWTP Superintendent may issue an order requiring a user to perform any action required under this chapter, including, without limitation, requiring a user to submit samples; to install sampling, metering and monitoring equipment; to submit reports; to permit access for inspection, sampling, testing, monitoring and investigations; to reduce or eliminate a discharge or pollutants in a discharge; or to pay permit fees or other applicable charges.

(5) *Order to terminate sewer services.* The WWTP Superintendent may issue an order to terminate the sewer services of a user, including physical blockage of the user's sewer connection, for reasons including, without limitation, the following:

(a) A discharge that violates any general or specific discharge prohibition, including any pretreatment standard or requirement, and that reasonably appears to present an imminent endangerment to human health, the environment or the POTW.

(b) Failure of a user to notify the POTW of any discharge as described in division (B)(5)(a) of which the user was aware or reasonably should have been aware.

(c) Failure of a user to sample, monitor, pretreat or report, or failure to install monitoring or pretreatment facilities, as required by an order of the WWTP Superintendent.

(d) A knowing, willful violation of any term, condition or requirement of an order or wastewater discharge permit, or any provision of this chapter.

(e) A negligent violation of any major term, condition or requirement of an order or wastewater discharge permit. For purposes of this Section, a "major" term, condition or requirement is one the violation of which is reasonably likely to endanger human health, the environment or the POTW.

(C) *Immediate response to order by user may be required.* Any user issued an order as provided by this section to immediately suspend its discharge to the POTW shall immediately stop or eliminate the discharge using whatever means are necessary to do so, or take any other action as required by the order. If the user fails to comply voluntarily with the order to immediately suspend its discharge, the POTW shall take any action determined necessary as authorized by this chapter, including, without limitation, immediate suspension of water service and/or severance of the sewer connection or commencement of judicial proceedings, to prevent or minimize damage to the POTW or endangerment to public health, safety or the environment. The POTW may reinstate the wastewater treatment service and terminate any judicial proceedings, as applicable, upon satisfactory proof or other demonstration by the user that the noncomplying discharge has been eliminated or will not reoccur. A detailed written statement submitted by the user describing the causes of the noncomplying discharge and the measures taken to prevent any further occurrence shall be submitted to the WWTP Superintendent within 15 days of the occurrence.

(D) *Noncompliance due to factors beyond user's control.* If noncompliance with an order is unintentional and temporary and due to factors beyond the reasonable control of a user, and the user can demonstrate the conditions necessary for demonstration of an upset as provided by § 53.165(A), the WWTP Superintendent may modify the order or take other actions as determined appropriate. However, a user shall not be relieved of liability for noncompliance with an order to the extent caused by operational error, improperly designed or inadequate treatment facilities, lack of preventative maintenance, or careless or improper operation.

(E) *Amendment, suspension and revocation of orders.* An order shall be subject to amendment, suspension or revocation as determined appropriate by the WWTP Superintendent. Notice of the amendment, suspension or revocation shall be served upon the user in the same manner as notice was provided for the original order. An amendment, suspension or revocation of an order shall be subject to the same procedures for review and appeal as the original issuance of the order, as provided by this chapter.

(F) *Consent orders and agreements.* The WWTP Superintendent may enter into a consent order or agreement with a user to resolve disputed claims and address identified and potential deficiencies in the user's compliance status. The order or agreement shall be in the form of a written agreement with the user and may contain appropriate provisions, including, without limitation, compliance schedules and stipulated fines and remedial actions.

(G) *POTW authority to require financial assurances.* The POTW may require a noncompliant industrial user to post a performance bond (or other form of surety acceptable to the POTW) sufficient to cover expenses that might reasonably be incurred as a result of future violations. Industrial users that have in the prior two years been responsible for causing interference or pass through at the POTW may be required to obtain liability insurance sufficient to cover the reasonable costs of responding or restoring the POTW in the event of a second such incident. These requirements may also be made conditions of an industrial user's permit.

(Ord. 185, passed 4- -2006)

§ 53.258 SERVICE OF NOTICES OF VIOLATIONS, ORDERS AND NOTICES OF ASSESSMENTS.

Except as otherwise expressly provided by this chapter, all orders, notices of violations and notices of assessments shall be served upon persons and shall contain the information as provided by this section.

(A) *Service.* Service shall be by personal delivery or certified mail (return receipt requested), addressed to the user, alleged violator or other person, as applicable. The person served shall sign and date the order or notice and shall return the signed original copy to the POTW; provided, that the failure to do so shall not affect the person's obligation to comply with the order or notice.

(B) *Contents.* All orders and notices shall contain at least the following information, as applicable to the situation and to the extent known by the POTW or the local unit:

- (1) The name and address of the violator.
- (2) The location and time that the violation occurred or was observed, and the duration of the violation.
- (3) The nature of the violation, including the provisions of this chapter or of any permit, order, decision, determination or agreement violated.
- (4) The basis for determining that a violation has occurred (personal observation, pollutant analysis, or other basis).
- (5) The amount of the fine, penalty or charge assessed or due, if any.
- (6) The manner in which, and time and date by which, any fine, penalty or charge must be paid, including any penalty or charge for late payment.
- (7) The remedial action ordered, the time within which required actions must be taken, and any consequences for failure to do so.
- (8) The right to appeal the issuance of the order or notice and a summary of the procedures for appeal, or other applicable administrative procedures.
- (9) The date and time the order or notice was issued.

(C) *Request for additional information.* A person served may request additional information from the WWTP Superintendent regarding the contents or requirements of any order or notice. However, a request for additional information shall not extend the time for compliance with an order or notice.

(Ord. 185, passed 4- -2006)

§ 53.259 PUBLICATION OF USERS IN SIGNIFICANT NONCOMPLIANCE.

The POTW shall publish once per year in the largest daily newspaper in the County, a list of users that, at any time during the previous 12 months, were in significant noncompliance with applicable pretreatment standards or requirements. For the purposes of this section, a user shall be considered to be in significant noncompliance if its violations meet one or more of the following criteria:

- (A) Chronic violation of discharge limits, defined as results of analyses in which 66% or more of all of the measurements taken during a six-month period exceed (by any magnitude) the daily maximum limit or the average limit for the same pollutant parameter;
- (B) Technical review criteria (TRC) violations, defined as results of analyses in which 33% or more of all of the measurements for each pollutant parameter taken during a six-month period equal or exceed the product of the daily maximum limit or the average limit times the applicable TRC (TRC = 1.4 for BOD, TSS, fats, oil and grease, and 1.2 for all other pollutants, except pH);
- (C) Any other violation of a pretreatment effluent limit (instantaneous maximum concentration, daily maximum, or longer-term average) that the POTW determines has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of POTW personnel or the general public);
- (D) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare, or to the environment, and has resulted in the POTW's exercise of its emergency authority to halt or prevent the discharge;
- (E) Failure to meet, within 90 days after the schedule date, a compliance schedule milestone contained in a permit or enforcement order, for starting construction, completing construction, or attaining final compliance;
- (F) Failure to provide any required reports within 30 days after the due date;
- (G) Failure to accurately report noncompliance; or
- (H) Any other violation or group of violations that the WWTP Superintendent determines will adversely affect the POTW or the operation or implementation of the POTW's pretreatment program.

(Ord. 185, passed 4- -2006)

§ 53.260 MUNICIPAL CIVIL INFRACTIONS.

(A) *Violation; municipal civil infraction.* Except as provided by § 53.999, and notwithstanding any other provision of the local unit's ordinances to the contrary, a person who violates any provision of this chapter (including, without limitation, any notice, order, permit, decision or determination promulgated, issued or made by the POTW and/or the local unit under this chapter) is responsible for a municipal civil infraction, subject to payment of a civil fine of not less than \$1,000 per day for each infraction and not more than \$10,000 per day for each infraction, plus costs and other sanctions.

(B) *Repeat offenses; increased fines.* Increased fines may be imposed for repeat offenses. As used in this section, **REPEAT OFFENSE** means a second (or any subsequent) municipal civil infraction violation of the same requirement or provision of this chapter (i) committed by a person within any 12-month period and (ii) for which the person admits responsibility or is determined to be responsible. The increased fine for a repeat offense under this chapter shall be as follows:

- (1) The fine for any offense that is a first repeat offense shall be not less than \$2,500, plus costs.
- (2) The fine for any offense that is a second repeat offense or any subsequent repeat offense shall be not less than \$5,000, plus costs.

(C) *Amount of fines.* Subject to the minimum fine amounts specified in divisions (A) and (B), the following factors shall be considered by a court in determining the amount of a municipal civil infraction fine following the issuance of a municipal civil infraction citation for

a violation of this chapter: the type, nature, severity, frequency, duration, preventability, potential and actual effect, and economic benefit to the violator (such as delayed or avoided costs or competitive advantage) of a violation; the violator's recalcitrance or efforts to comply; the economic impacts of the fine on the violator; and such other matters as justice may require. A violator shall bear the burden of demonstrating the presence and degree of any mitigating factors to be considered in determining the amount of a fine. However, mitigating factors shall not be considered unless it is determined that the violator has made all good faith efforts to correct and terminate all violations.

(D) *Authorized local official.* Notwithstanding any other provision of the local unit's laws, ordinances and regulations to the contrary, the following persons are designated as the authorized local officials to issue municipal civil infraction citations for violations of this chapter: the WWTP Superintendent; any representative of the local unit designated by the Superintendent; and any police officer.

(E) *Other requirements and procedures.* Except as otherwise provided by this section, the requirements and procedures for commencing municipal civil infraction actions; issuance and service of municipal civil infraction citations; determination and collection of court-ordered fines, costs and expenses; appearances and payment of fines and costs; failure to answer, appear or pay fines; disposition of fines, costs and expenses paid; and other matters regarding municipal civil infractions shall be as set forth in Act No. 236 of the Public Acts of 1961, as amended.

(Ord. 185, passed 4- -2006)

§ 53.261 CONTINUING VIOLATION.

Each act of violation, and each day or portion of a day that a violation of this chapter, or of any permit, order, notice or agreement issued or entered into under this chapter is permitted to exist or occur, constitutes a separate violation and shall be subject to fines, penalties and other sanctions as provided by this chapter.

(Ord. 185, passed 4- -2006)

§ 53.262 NUMBER OF VIOLATIONS.

The number of violations resulting from a user's noncompliance with applicable discharge prohibitions or effluent limitations shall be determined as follows:

(A) Applicable concentration limitations and mass (or loading) limitations shall be treated as separate limitations, and a user may be liable and penalized separately for exceeding any of those limitations for a single pollutant or sampling parameter.

(B) Each violation of a daily maximum limit for a single pollutant or sampling parameter shall constitute a single violation for each day on which the violation occurs or continues.

(C) Each violation of an instantaneous maximum limit for a single pollutant or sampling parameter shall constitute a single violation for each such exceedence, and there may be multiple violations for each day on which such a violation occurs or continues.

(D) Each violation of a monthly average limit for a single pollutant or sampling parameter shall constitute a violation for each day of the month during which the violation occurred, regardless of the number of days on which samples were actually taken. (For example, in a month with 31 days, a violation of the monthly average limit for that month constitutes 31 violations for each pollutant parameter for which the monthly average limit was exceeded during the month.)

(E) If a wastewater discharge permit regulates more than one outfall, each outfall shall be considered separately in computing the number of violations as provided by this section.

(Ord. 185, passed 4- -2006)

§ 53.263 NUISANCE.

A violation of this chapter, or of any permit, order, notice or agreement issued or entered into under this chapter, is deemed to be a public nuisance.

(Ord. 185, passed 4- -2006)

§ 53.264 REIMBURSEMENT OF POTW AND/OR LOCAL UNIT.

(A) (1) Any person who violates any provision of this chapter; or who discharges or causes a discharge that produces a deposit or obstruction or otherwise damages or impairs the POTW, or causes or contributes to a violation of any federal, state or local law governing the POTW; or whose discharge (or proposed discharge) to the POTW requires the POTW and/or the local unit to incur any expenses, costs, losses or damages over and above amounts covered by standard fees and charges provided by this chapter, shall be liable to and shall fully reimburse the POTW and/or the local unit, as applicable, for all expenses, costs, losses or damages (direct or indirect) payable or incurred by the POTW and/or the local unit as a result of any such discharge, violation, exceedence or noncompliance. The costs that must be reimbursed to the POTW and/or the local unit shall include, but shall not be limited to, all of the following:

(a) All costs incurred by the POTW and/or the local unit in responding to the violation or discharge, including, expenses for any cleaning, repair or replacement work, and the costs of sampling, monitoring, and treatment, as a result of the discharge, violation, exceedence or noncompliance.

(b) All costs to the POTW and/or the local unit of monitoring, surveillance, and enforcement in connection with investigating, verifying, and prosecuting any discharge, violation, exceedence or noncompliance.

(c) The full amount of any fines, assessments, penalties, and claims, including natural resource damages, levied against the POTW and/or the local unit by any governmental agency or third party as a result of a violation of the POTW's NPDES permit (or other applicable law or regulation) that is caused by or contributed to by any discharge, violation, exceedance or noncompliance.

(d) The full value of any POTW and/or local unit staff time (including any required overtime), consultant and engineering fees, and actual attorney fees and defense costs (including the POTW's attorney, the local unit's attorney, and any special legal counsel), associated with responding to, investigating, verifying, and prosecuting any discharge, violation, exceedance or noncompliance or otherwise enforcing the requirements of this chapter.

(2) Further, the POTW and/or the local unit are authorized to correct any violation of this chapter or damage or impairment to the POTW caused by a discharge and to bill the person causing the violation or discharge for the amounts to be reimbursed. The costs reimbursable under this section shall be in addition to fees, amounts or other costs and expenses required to be paid by users under other applicable regulations and requirements.

(B) In determining the amounts to be reimbursed, the POTW and/or the local unit, as applicable, may consider factors such as, but not limited to, the following:

(1) The volume of the discharge.

(2) The length of time the discharge occurred.

(3) The composition of the discharge.

(4) The nature, extent, and degree of success the POTW and/or the local unit may achieve in minimizing or mitigating the effect of the discharge.

(5) The toxicity, degradability, treatability and dispersal characteristics of the discharges.

(6) The direct and indirect costs incurred by the POTW and/or the local unit, or imposed upon the POTW and/or the local unit to treat the discharges, including sludge handling and disposal costs.

(7) Fines, assessments, levies, charges, expenses and penalties imposed upon and/or incurred by the POTW and/or the local unit, including the costs of defense of actions, or suits brought or threatened against the POTW and/or the local unit by governmental agencies or third parties.

(8) Such other factors, including but not limited to the amount of any attorney's fees, consultant and expert fees, expenses, costs, sampling and analytical fees, and repairs, as the POTW and/or the local unit deem appropriate under the circumstances.

(C) The failure by any person to pay any amounts required to be reimbursed to the POTW and/or the local unit as provided by this section shall constitute an additional violation of this chapter.

(Ord. 185, passed 4- -2006)

§ 53.265 JUDICIAL RELIEF.

With the approval of the Director and notice to the local unit, and, as necessary, in conjunction with the POTW's legal counsel and/or the local unit and the local unit's legal counsel, the WWTP Superintendent may institute legal proceedings in a court of competent jurisdiction to seek all appropriate relief for violations of this chapter or of any permit, order, notice or agreement issued or entered into under this chapter. The action may seek temporary or permanent injunctive relief, damages, penalties, costs, and any other relief, at law or equity, that a court may order. The WWTP Superintendent or the local unit, as applicable, may also seek collection of surcharges, fines, penalties and any other amounts due to the POTW or the local unit, as applicable, that a user has not paid. The local unit may also institute legal proceedings and seek all appropriate legal relief for violations of this chapter as provided by this section.

(Ord. 185, passed 4- -2006)

§ 53.266 CUMULATIVE REMEDIES.

The imposition of a single penalty, fine, order, damage, or surcharge upon any person for a violation of this chapter, or of any permit, order, notice or agreement issued or entered into under this chapter, shall not preclude the imposition by the POTW, the local unit, or a court of competent jurisdiction of a combination of any or all of those sanctions and remedies or additional sanctions and remedies with respect to the same violation, consistent with applicable limitations on penalty amounts under state or federal laws or regulations. A criminal citation and prosecution of a criminal action against a person shall not be dependent upon and need not be held in abeyance during any civil, judicial, or administrative proceeding, conference, or hearing regarding the person.

(Ord. 185, passed 4- -2006)

ADMINISTRATIVE HEARINGS AND APPEALS

§ 53.280 PROCEDURES AVAILABLE.

Any person aggrieved by any action taken by the WWTP Superintendent under this chapter may request an informal hearing before the Superintendent or an appeal to the WWTP Board of Appeals as provided by this subchapter. If an informal hearing or appeal is not properly and timely requested as provided by this subchapter, the WWTP Superintendent's action shall be deemed final.

(Ord. 185, passed 4- -2006)

§ 53.281 INFORMAL HEARING BEFORE THE WWTP SUPERINTENDENT.

A request for an informal hearing before the WWTP Superintendent must be made in writing within seven days from the date of the Superintendent's action in question. The request must state the reasons for the appeal and shall include all supporting documents and dates. The informal hearing shall be scheduled at the earliest practicable date, but not later than seven days after receipt by the WWTP Superintendent of the request, unless the seven-day time period is extended by the mutual written agreement of the aggrieved party and the WWTP Superintendent. The hearing shall be conducted on an informal basis at the waste water treatment plant or at another location designated by the WWTP Superintendent. Following the informal hearing, the WWTP Superintendent may affirm or reverse, in whole or in part, the action appealed from, or may make any order, requirement, decision or determination as, in the Superintendent's opinion, ought to be made in the case under consideration. The decision of the Superintendent may be appealed to the WWTP Board of Appeals as provided by § 53.282.

(Ord. 185, passed 4- -2006)

§ 53.282 APPEAL TO WWTP BOARD OF APPEALS.

A WWTP Board of Appeals shall be established as provided by this section to consider appeals from final decisions of the WWTP Superintendent and to determine, in particular cases, whether any deviation from strict compliance will violate the purposes and intent of this chapter or endanger public health, safety or welfare, the environment, or the POTW. The WWTP Board of Appeals shall consist of the Engineer/Manager of the Bay County Road Commission and one representative from each local unit as appointed by resolution of each local unit's legislative body to serve on the Board of Appeals. The Engineer/Manager may vote only to break a tie. A tie vote shall defeat the pending motion unless broken by the Engineer/Manager. The following provisions shall govern appeals of final decisions of the WWTP Superintendent made to the WWTP Board of Appeals under this chapter:

(A) An appeal from any final action of the WWTP Superintendent must be made to the WWTP Board of Appeals within seven days from the date of the action appealed. The appeal may be taken by any person aggrieved by the action. The appellant shall file a notice of appeal with the WWTP Superintendent and with the Board of Appeals. The notice of appeal shall specify the grounds for the appeal. Failure to file a timely notice of appeal shall be deemed to be a waiver of the right to appeal.

(B) Prior to a hearing before the WWTP Board of Appeals regarding an appeal, the WWTP Superintendent shall transmit to the Board of Appeals a written summary of all previous action taken in connection with the action being appealed. The Board of Appeals may, at the Board's discretion, request the WWTP Superintendent to provide further information regarding the action that is the subject of the appeal.

(C) The WWTP Board of Appeals shall fix a reasonable time for the hearing of the appeal. Notice of the hearing shall be provided to require the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in the hearing. Any testimony taken at the hearing shall be under oath and recorded. A copy of the transcript of the hearing shall be made available at cost to any person upon payment of applicable charges for the transcript. The Board of Appeals shall decide the appeal within a reasonable time.

(D) The WWTP Board of Appeals may reverse or affirm, in whole or in part, the action appealed from, or may make any order, requirement, decision or determination as, in its opinion, ought to be made in the case under consideration. To that end, the Board of Appeals shall have all the powers of the official from whom the appeal is taken.

(E) The final disposition of the appeal shall be in the form of a ruling by the WWTP Board of Appeals, either reversing, modifying, or affirming, in whole or in part, the action of the WWTP Superintendent. The action of the WWTP Superintendent shall not be reversed or modified, in whole or in part, and the WWTP Board of Appeals shall not otherwise find in favor of the appellant except by a majority vote of the Board of Appeals. The decision of the Board of Appeals shall be final.

(Ord. 185, passed 4- -2006)

§ 53.283 PAYMENT PENDING OUTCOME OF APPEAL.

All service charges, penalties, fines, fees, surcharges, costs or expenses outstanding during any appeal process shall remain due and payable to the POTW and/or the local unit, as applicable. Upon resolution of any appeal, the amounts due and payable shall be adjusted accordingly. The POTW may terminate wastewater treatment services if a corrective course of action is not taken by a user or if service charges, penalties, fines, fees, surcharges, costs or expenses are not paid by a user.

(Ord. 185, passed 4- -2006)

§ 53.284 FINALITY OF ADMINISTRATIVE ACTION.

If an appeal is not demanded as provided by this Division within the periods specified by this Division, the administrative action shall be deemed final. If an appeal is properly demanded, the action appealed shall be suspended until a final determination has been made by the WWTP Board of Appeals, except for orders to immediately cease and desist discharge; orders to terminate sewer services; other emergency orders or actions where a suspension or delay might endanger human health, the environment, or the POTW; and as otherwise expressly provided by this chapter (such as for permit appeals, § 53.077).

(Ord. 185, passed 4- -2006)

§ 53.285 APPEALS FROM DETERMINATION OF WWTP BOARD OF APPEALS.

Appeals from the determination of the WWTP Board of Appeals may be made to a state court of appropriate jurisdiction as provided by law. All findings of fact made by the WWTP Board of Appeals, if supported by the evidence, shall be deemed conclusive.

(Ord. 185, passed 4- -2006)

IPP FEES

§ 53.295 PURPOSE.

It is a purpose of this chapter to provide for the recovery from users of the POTW of all costs incurred by the POTW for the administration and implementation by the POTW of the industrial pretreatment program (IPP) established by this chapter. The IPP fees provided for by this Division are separate from, and in addition to, amounts chargeable to users for sewage disposal services by the local unit, extra-strength surcharges, and costs required to be reimbursed to the POTW and/or the local unit under any other provisions of this chapter or other laws and regulations.

(Ord. 185, passed 4- -2006)

§ 53.296 IPP FEES.

The POTW may adopt IPP fees including, without limitation, fees for reviewing and processing wastewater discharge permit applications, processing permit renewal applications, and processing permit transfer requests; fees for performing compliance monitoring, sampling, analysis, inspections and surveillance (scheduled or unscheduled); fees for reviewing accidental discharge procedures and construction; fees for filing appeals; fees for consistent removal by the POTW of pollutants subject to state and federal pretreatment standards and requirements; and other fees as deemed necessary by the WWTP Superintendent to carry out the IPP requirements of this chapter.

(Ord. 185, passed 4- -2006)

§ 53.297 IPP FEE AMOUNTS.

IPP fees shall be paid by users to the POTW in amounts determined necessary by the POTW from time to time to reimburse the POTW for all expenses incurred by the POTW in administering the IPP. To the extent practical, the fees shall be set in an amount to include at least the POTW's average total costs for that purpose. With regard to IPP activities undertaken by the POTW with regard to particular users, the fees shall be charged to the users on a time and materials basis, plus general administrative expenses, based on the nature and requirements of the IPP activities undertaken.

(Ord. 185, passed 4- -2006)

§ 53.298 BILLING AND COLLECTION OF IPP FEES.

All fees shall be due and payable as specified by this chapter or as otherwise specified by the POTW, but in no case later than within 30 days of the date of the IPP activity for which the fee is required. For fees not paid at the time of service, the amount of the fee shall be added to the user's waste service charge or billed separately.

(Ord. 185, passed 4- -2006)

§ 53.299 NO FREE SERVICE PERMITTED.

No free service shall be rendered by the POTW to any person, firm or corporation, public or private, or any public agency or instrumentality.

(Ord. 185, passed 4- -2006)

MUNICIPAL LIABILITY

§ 53.310 LIABILITY.

Neither the POTW nor the local unit shall be responsible for interruptions of service due to natural calamities, equipment failures, or actions of the system users. It shall be the responsibility of the user that all connected equipment remain in good working order so as not to cause disruption of service of any sewer or treatment plant equipment.

(Ord. 185, passed 4- -2006)

§ 53.999 PENALTY.

Any person who:

(A) At the time of a violation knew or should have known that a pollutant or substance was discharged contrary to any provision of this chapter, or contrary to any notice, order, permit, decision or determination promulgated, issued or made by the POTW and/or the local unit under this chapter; or

(B) Intentionally makes a false statement, representation, or certification in an application for, or form pertaining to a permit, or in a notice, report, or record required by this chapter, or in any other correspondence or communication, written or oral, with the POTW and/or the local unit regarding matters regulated by this chapter; or

(C) Intentionally falsifies, tampers with, or renders inaccurate any sampling or monitoring device or record required to be maintained by this chapter; or

(D) Maliciously or willfully breaks, damages, destroys, uncovers, defaces or tampers with any structure, appurtenance, or equipment

that is part of the POTW; or

(E) Commits any other act that is punishable under state law by imprisonment for more than 93 days;

shall, upon conviction, be guilty of a misdemeanor punishable by a fine of \$500 per violation, per day, or imprisonment for up to 90 days, or both in the discretion of the court.

(Ord. 185, passed 4- -2006)

TITLE VII: TRAFFIC CODE

Chapter

70. MOTOR VEHICLE CODE

71. PARKING VIOLATIONS BUREAU

CHAPTER 70: MOTOR VEHICLE CODE

Section

- 70.01 Title
- 70.02 Michigan Vehicle Code adopted
- 70.03 References to governmental unit
- 70.04 All night parking
- 70.05 Notice to be published
- 70.06 Conflicting provisions repealed

§ 70.01 TITLE.

This chapter shall be known as the “Auburn Vehicle Code”, and may be cited as such and will be referred to herein as “this code”.

(Ord. 182, passed 1-24-2003; Ord. 198, passed 10-21-2013)

§ 70.02 MICHIGAN VEHICLE CODE ADOPTED.

(A) Pursuant to M.C.L.A. § 117.3, as amended, and Art. V, § 11, of the Charter of Auburn, the Michigan Vehicle Code, being Public Act 300 of 1949, being M.C.L.A. §§ 257.1 to 257.923, inclusive, and as amended from time to time, is hereby adopted by reference as if set forth herein word for word and paragraph for paragraph, unless otherwise modified within this chapter.

(B) Reference to the code adopted shall be identified on citations by using the letters “AN” as a prefix to the section violated.

(C) The city does not have authority to enforce any provision adopted by reference herein for which the maximum period of imprisonment is greater than 93 days.

(Ord. 182, passed 1-24-2003; Ord. 198, passed 10-21-2013)

§ 70.03 REFERENCES TO GOVERNMENTAL UNIT.

References in the Michigan Vehicle Code referring to *GOVERNMENTAL UNIT* shall mean the City of Auburn, Michigan.

(Ord. 182, passed 1-24-2003; Ord. 198, passed 10-21-2013)

§ 70.04 ALL NIGHT PARKING.

(A) No person shall park a motor vehicle, between the hours of 2:00 a.m. and 6:00 a.m., from November 1 to April 1, on the streets in the city. Proper signs shall be erected therefor.

(B) A person who violates this section is responsible for a civil infraction.

(Ord. 198, passed 10-21-2013)

§ 70.05 NOTICE TO BE PUBLISHED.

The City Clerk shall publish this chapter in the manner required by law and shall at the same time publish a supplementary notice setting forth the purpose of the Michigan Vehicle Code and of the fact that a complete copy of the code is available at the office of the Clerk for inspection by the public.

(Ord. 182, passed 1-24-2003; Ord. 198, passed 10-21-2013)

§ 70.06 CONFLICTING PROVISIONS REPEALED.

All ordinances inconsistent with the provisions of the Michigan Vehicle Code are, to the extent of such inconsistency, hereby repealed.
(Ord. 182, passed 1-24-2003; Ord. 198, passed 10-21-2013)

CHAPTER 71: PARKING VIOLATIONS BUREAU

Section

- 71.01 Bureau established
- 71.02 Clerk's duties
- 71.03 Violations handled
- 71.04 Option of violators
- 71.05 Issuing tickets
- 71.06 Schedule of penalties for Uniform Traffic Code violations

§ 71.01 BUREAU ESTABLISHED.

(A) Pursuant to § 8395 of the Revised Judicature Act, State of Michigan, as added by Public Act 154 of 1968, being M.C.L.A. §§ 600.8101 *et seq.*, 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 City Clerk.

(1991 Code, § 10.51)

§ 71.02 CLERK'S DUTIES.

The City Clerk shall, subject to the approval of the City Commission, 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, not inconsistent herewith.

(1991 Code, § 10.52)

§ 71.03 VIOLATIONS HANDLED.

(A) No violation not scheduled in § 71.06 shall be disposed of by the Parking Violations Bureau.

(B) The fact that a particular violation is scheduled shall not entitle the alleged violator to disposition of the violation at the Bureau; and in any case, the person in charge of such Bureau may refuse to dispose of such violation, in which case any person having knowledge of the facts may make a sworn complaint before any court having jurisdiction of the offense as provided by law.

(1991 Code, § 10.53)

§ 71.04 OPTION OF VIOLATORS.

(A) No violation may be settled at the Parking Violations Bureau except at the specific request of the alleged violator.

(B) No penalty for any violation shall be accepted from any person who denies having committed the offense, and in no case shall the person who is in charge of the Bureau determine or attempt to determine the truth or falsity of any fact or matter relating to such alleged violation.

(C) 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.

(D) 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.

(1991 Code, § 10.54)

§ 71.05 ISSUING TICKETS.

(A) The issuance of a traffic ticket or notice of violation by a police officer of the city shall be deemed an allegation of a parking violation.

(B) Such traffic ticket or notice of violation shall indicate the length of time in which the person to whom the same was issued must respond before the Parking Violations Bureau.

(C) It 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 limited.

(1991 Code, § 10.55)

§ 71.06 SCHEDULE OF PENALTIES FOR UNIFORM TRAFFIC CODE VIOLATIONS.

(A) The City Commission shall set the penalty for violation of the Uniform Traffic Code, from time to time.

(B) The penalty shall be established, and amended, by resolution adopted by the City Commission.

(C) The penalty shall become effective upon publication in a newspaper of general circulation.

(1991 Code, § 10.56) (Ord. 139, passed 10-22-1990)

TITLE IX: GENERAL REGULATIONS

Chapter

90. ANIMALS

91. INOPERABLE MOTOR VEHICLES

92. FIRE PREVENTION AND PROTECTION; OPEN BURNING

93. PARKS AND RECREATION

94. PUBLIC NUISANCES

95. STREETS AND SIDEWALKS

CHAPTER 90: ANIMALS

Section

90.01 Keeping farm animals

90.02 Running at large

90.03 Animal noise

90.04 Bees

90.05 Dead or injured animals

§ 90.01 KEEPING FARM ANIMALS.

(A) No person shall harbor or keep any swine or cattle in the city.

(B) Farm animals, such as horses, ponies, goats, poultry, but no swine, or cattle, may be harbored and kept on a noncommercial basis when adequately housed and fenced on a parcel of land not less than five acres in area with all fences and buildings therefor, at least 150 feet from all property lines.

(C) It shall be the duty of all persons who harbor or keep animals or fowl to maintain the premises in a clean and sanitary condition, devoid of rodents and vermin and free from objectionable odor.

(1991 Code, § 9.61) Penalty, see § 10.99

§ 90.02 RUNNING AT LARGE.

No person shall permit animals or fowl to run at large to the injury or annoyance of others, nor shall such animals or fowl be permitted at large upon the streets or other ways or places of the city. Violations of this section are hereby declared to be a nuisance and dangerous to the public health and safety.

(1991 Code, § 9.62) Penalty, see § 10.99

§ 90.03 ANIMAL NOISE.

No person shall harbor or keep any animal or bird that causes constant annoyance in the neighborhood either in barking, howling, crowing or by any other sounds common to its species.

(1991 Code, § 9.63) Penalty, see § 10.99

§ 90.04 BEES.

Honeybees may be kept according to the following conditions:

(A) The beekeeper must present a copy of the letter of compliance from the State of Michigan stating the beekeeper is in compliance with the Michigan's Right To Farm Act and is adhering to the State of Michigan Care of Farm Animal's Generally Accepted Agricultural Management Practices (GAAMP) to the City Clerk's Office. The City Clerk's Office shall notify the abutting property owners that all conditions of this section have been met.

(B) A maximum of two hives may be kept per parcel.

(C) A flyway barrier at least six feet in height shall shield any part of a property line that is within 25 feet of a hive. The flyway barrier shall consist of a solid wall, solid fence, dense vegetation or a combination thereof.

(D) A constant supply of water shall be provided for all hives.

(E) Hive enclosures shall be located in the rear or side yard at least 25 feet from any dwelling on a neighboring parcel and at least 15 feet from any sidewalk, roadway or alley.

(F) Hives must be located in a quiet area of the lot, not placed directly against a neighboring property. Hive entrances should face in such a direction that bees fly across the owner's property. Hives should be positioned so the hive opening does not face the neighbor's property.

(G) Hives should not be placed within 100 feet of schools, recreation areas, picnic grounds, or other locations that may result in adverse honey bee/public interactions. Exception would be, if requested by schools for education purposes.

(H) The beekeeper must comply with the State of Michigan's Care of Farm Animal's Generally Accepted Agricultural Management Practices and must become GAAMP compliant with the Michigan Right to Farm Act.

(I) The right to keep honeybees on one's property may be revoked if the GAAMP compliance letter is revoked and the bees become a public nuisance. A ten-day grace period may be granted to allow the property owner to correct the issues.

(Ord. passed - -)

§ 90.05 DEAD OR INJURED ANIMALS.

(A) No person shall deposit, place or throw any dead, fatally sick or injured animal or bird on any public or private property or into any stream, lake, pond, well or other body of water.

(B) Any dead animal lying upon any street or any public place shall be removed by the Department of Public Works forthwith. If any dead animal is upon private property, the owner or person in charge of such animal at the time of death shall lawfully dispose of the same, or immediately report the fact to Department of Public Works, and if the Department of Public Works must remove this animal from private property, a fee shall be charged the animal owner for such removal.

(1991 Code, § 9.65) (2012 amendment)

CHAPTER 91: INOPERABLE MOTOR VEHICLES

Section

- 91.01 Definitions
- 91.02 Abandoned motor vehicles
- 91.03 Prohibition on streets
- 91.04 Outdoor storage
- 91.05 Permits
- 91.06 Nuisance

§ 91.01 DEFINITIONS.

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

ABANDONED MOTOR VEHICLE. Includes without limitation, any vehicle which has remained on private property for a period of 18 continuous hours or more, without the consent of the owner or occupant of the property, or for a period of 48 continuous hours or more after the consent of the owner or occupant has been revoked.

DISMANTLED MOTOR VEHICLES. Includes dismantled and partially dismantled motor vehicles from which some part or parts which are ordinarily a component of such motor vehicle, have been removed or is missing.

INOPERATIVE MOTOR VEHICLES. Includes motor vehicles which by reason of dismantling, disrepair or other cause, are incapable of being propelled under their own power; or any motor vehicle not licensed for use upon the highways of the State of Michigan, for a period in excess of 60 days, excepting unlicensed, but operative vehicles which are kept as a stock in trade of a regularly

licensed and established new or used car dealer or licensed junk dealer.

MOTOR VEHICLE. Includes any wheeled vehicle which is self-propelled, or intended to be self-propelled.

(1991 Code, § 6.84)

§ 91.02 ABANDONED MOTOR VEHICLES.

No person shall abandon any motor vehicle in the rights-of-way of streets, alleys or highways within the city, nor upon any public or private property within the limits of the city.

(1991 Code, § 6.85) Penalty, see § 10.99

§ 91.03 PROHIBITION ON STREETS.

Dismantled, or inoperative motor vehicles shall not be permitted in the right-of-way of streets, alleys or highways within the city; provided, however, this shall not apply to towing or similar transporting of such vehicles; and further provided, that reasonable time (not to exceed 48 hours from the time of disability in the case of inoperative vehicles) shall be permitted for the removal or servicing of a disabled vehicle in an emergency caused by accident or sudden breakdown of the vehicle.

(1991 Code, § 6.86) Penalty, see § 10.99

§ 91.04 OUTDOOR STORAGE.

The outdoor storage of dismantled, abandoned or inoperative motor vehicles shall not be permitted or allowed on any platted or unplatted parcel of land in the city, unless said motor vehicle shall be kept in a wholly enclosed garage or other wholly enclosed structure; provided, however, that any bona fide owner, co-owner, tenant or co-tenant, may store, permit to be stored, or allow to remain on the premises of which he or she is the owner, co-owner, tenant or co-tenant, any dismantled or inoperative motor vehicle for a period of not to exceed 48 hours if such motor vehicle is registered in his or her name, and provided further that any such owner, co-owner, tenant or co-tenant may in the event of hardship, secure a permit from the City Administrator, or such agent as he or she shall appoint, to extend such period for an additional period of not to exceed two weeks, for any such dismantled or inoperative motor vehicle if such motor vehicle is registered in his or her name; provided, however, that no permit shall be granted or construed to allow parking of such dismantled or inoperative vehicle on any street, alley or highway within the city.

(1991 Code, § 6.87)

§ 91.05 PERMITS.

Upon application duly made by the registered owner of a vehicle and upon showing of hardship, the City Administrator, or his or her duly appointed agent, is hereby authorized to issue the permit provided for in § 91.04. A fee of \$1 for each such permit issued shall be collected upon issuance and shall be paid into the General Fund.

(1991 Code, § 6.88)

§ 91.06 NUISANCE.

The presence of a dismantled, abandoned or inoperative motor vehicle or parts of a motor vehicle on any platted or un-platted parcel of land in violation of the terms of this chapter is hereby declared to be a public nuisance.

(1991 Code, § 6.89)

CHAPTER 92: FIRE PREVENTION AND PROTECTION; OPEN BURNING

Section

Fire Prevention Regulations Generally

92.01 Adoption of code by reference

92.02 Code on file

92.03 Limits of districts; storage of flammable/combustible liquids in outside above-ground tanks prohibited

92.04 Limits in which bulk storage of liquefied petroleum gases is to be restricted

92.05 Limits of districts in which storage of explosives and blasting agents is to be prohibited

92.06 Appeals

92.07 New materials, processes or occupancies which may require permits

Open Rubbish Fires; Open Burning

92.20 Title and purpose

- 92.21 Applicability
- 92.22 Definitions
- 92.23 General prohibition on outdoor burning and open burning
- 92.24 Open burning of refuse
- 92.25 General prohibition on burning trees, leaves, grass clippings and the like
- 92.26 Outdoor wood-fired boilers
- 92.27 Patio wood-burning units
- 92.28 Fire suppression training
- 92.29 Liability
- 92.30 Right of entry and inspection
- 92.31 Enforcement

- 92.99 Penalty

Cross-references:

Public Nuisances, see Chapter 94

Streets and Sidewalks, see Chapter 95

FIRE PREVENTION REGULATIONS GENERALLY

§ 92.01 ADOPTION OF CODE BY REFERENCE.

Pursuant to the provisions of § 3(k) of Public Act 279 of 1909, State of Michigan, being M.C.L.A. §§ 117.1 through 117.38, as amended, the Uniform Fire Code, 1988 Edition, including the appendices listed under Division I through Division V inclusive, as promulgated and published by International Conference of Building Officials, 5360 S. Workman Mill Rd., Whittier, California, 90601, is hereby adopted by reference by the city for the purpose of prescribing regulations consistent with nationally recognized good practice for the safeguarding to a reasonable degree of life and property from the hazards of fire and explosion arising from the storage, handling and use of hazardous substances, materials and devices, and from conditions hazardous to life or property in the use or occupancy of buildings or premises.

(1991 Code, § 9.91)

§ 92.02 CODE ON FILE.

Complete printed copies of the Uniform Fire Code, herein adopted, are available for public use and inspection at the office of the City Clerk.

(1991 Code, § 9.92)

§ 92.03 LIMITS OF DISTRICTS; STORAGE OF FLAMMABLE/COMBUSTIBLE LIQUIDS IN OUTSIDE ABOVE-GROUND TANKS PROHIBITED.

The limits in which storage of flammable or combustible liquids in outside above-ground tanks is prohibited are hereby established as follows: the storage of flammable or combustible liquids in outside above-ground tanks is prohibited within the limits of the city.

(1991 Code, § 9.93)

§ 92.04 LIMITS IN WHICH BULK STORAGE OF LIQUEFIED PETROLEUM GASES IS TO BE RESTRICTED.

The limits referred to in § 82.105(a) of the Uniform Fire Code, in which bulk storage of liquefied petroleum gas is restricted, are hereby established as follows: the bulk storage of liquefied petroleum gas is prohibited within the city, except where specifically permitted by Chapter 154 (zoning) of the city code.

(1991 Code, § 9.94)

§ 92.05 LIMITS OF DISTRICTS IN WHICH STORAGE OF EXPLOSIVES AND BLASTING AGENTS IS TO BE PROHIBITED.

The limits referred to in § 77.196(b) of the Uniform Fire Code, in which storage of explosives and blasting agents is prohibited, are hereby established as follows: the storage of explosives and blasting agents is prohibited within the limits of the city.

(1991 Code, § 9.95)

§ 92.06 APPEALS.

Whenever the Fire Chief shall disapprove or refuse to grant a permit applied for, or when it is claimed that the provisions of the code do not apply or that the true intent and meaning of the code have been misconstrued or wrongly interpreted, the applicant may appeal from the decision of the Chief to the Zoning Board of Appeals within 30 days from the date of the decision appealed.

(1991 Code, § 9.96)

§ 92.07 NEW MATERIALS, PROCESSES OR OCCUPANCIES WHICH MAY REQUIRE PERMITS.

The City Administrator, the Fire Chief and the Building Inspector shall act as a committee to determine and specify, after giving affected persons an opportunity to be heard, any new materials, processes or occupancies, which shall require permits, in addition to those now enumerated in said code. The Fire Chief shall post such list in a conspicuous place in his or her office, and distribute copies thereof to interested persons.

(1991 Code, § 9.97)

OPEN RUBBISH FIRES; OPEN BURNING

§ 92.20 TITLE AND PURPOSE.

(A) The title of this subchapter is “Outdoor and Open Burning Ordinance for the City of Auburn”.

(B) This subchapter is intended to promote the public health, safety and welfare and to safeguard the health, comfort, living conditions, safety and welfare of the citizens of the city due to the air pollution and fire hazards of open burning and outdoor burning.

(2012 amendment, § 9.101)

§ 92.21 APPLICABILITY.

This subchapter applies to all outdoor burning and open burning within the city.

(A) This subchapter does not apply to grilling or cooking using charcoal, wood, propane or natural gas in cooking or grilling appliances.

(B) This subchapter does not apply to burning in a stove, furnace, fireplace or other heating device within a building used for human or animal habitation.

(C) This subchapter does not apply to the use of propane, acetylene, natural gas, gasoline or kerosene in a device intended for heating, construction or maintenance activities.

(2012 amendment, § 9.102)

§ 92.22 DEFINITIONS.

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

CAMPFIRE. A small outdoor fire intended for recreation or cooking, but not including a fire intended for disposal of waste wood or refuse.

CLEAN WOOD. Natural wood which has not been painted, varnished or coated with a similar material; has not been pressure treated with preservatives; and does not contain resins or glues as in plywood or other composite wood products.

CONSTRUCTION AND DEMOLITION WASTE. Building waste materials, including, but not limited to, waste shingles, insulation, lumber, treated wood, painted wood, wiring, plastics, packaging and rubble that results from construction, remodeling, repair and demolition operations on a house, commercial or industrial building, or other structure.

FIRE CHIEF. The Chief of the City of Auburn/Williams Fire Department or other person designated by the Fire Chief.

MUNICIPALITY. A county, township, city or village.

NUISANCE. A hazard or other noticeable irritation that is created to adjoining persons or property owners by reason of heat, flame, fly-ash, sparks or odor.

OPEN BURNING. Kindling or maintaining a fire where the products of combustion are emitted directly into the ambient air without passing through a stack or a chimney. This includes burning in a burn barrel.

OUTDOOR BURNING. Open burning or burning in an outdoor wood-fired boiler or patio wood burning unit.

OUTDOOR WOOD-FIRED BOILER. A wood-fired boiler, stove or furnace that is not located within a building intended for habitation by humans or domestic animals.

PATIO WOOD-BURNING UNIT. A chimnea, patio warmer or other portable wood-burning device used for outdoor recreation and/or heating.

REFUSE. Any waste material except trees, logs, brush, stumps, leaves, grass clippings and other vegetative matter.

(2012 amendment, § 9.104)

§ 92.23 GENERAL PROHIBITION ON OUTDOOR BURNING AND OPEN BURNING.

Open burning and outdoor burning are prohibited in the city, unless the burning is specifically permitted by this subchapter.

(2012 amendment, § 9.105) Penalty, see § 92.99

§ 92.24 OPEN BURNING OF REFUSE.

(A) Open burning of refuse is prohibited.

(B) Open burning of refuse from and at a one- or two-family dwelling is allowed if all of the following conditions are met:

(1) The burning does not create a nuisance;

(2) The burning is conducted in a container constructed of metal or masonry that has a metal covering device that does not have an opening larger than three-quarter inch;

(3) The material being burned is not prohibited under division (C) below; and

(4) A permit issued in accordance with § 92.30 has been obtained.

(C) Open burning of the following materials is prohibited:

(1) Construction and demolition waste;

(2) Hazardous substances including, but not limited to, batteries, household chemicals, pesticides, used oil, gasoline, paints, varnishes and solvents;

(3) Furniture and appliances;

(4) Tires;

(5) Any plastic materials including but not limited to nylon, PVC, ABS, polystyrene or urethane foam and synthetic fabrics, plastic films and plastic containers;

(6) Newspaper;

(7) Corrugated cardboard, container board, office paper; and

(8) Treated or painted wood including but not limited to plywood, composite wood products or other wood products that are painted, varnished or treated with preservatives.

(2012 amendment, § 9.106) Penalty, see § 92.99

§ 92.25 GENERAL PROHIBITION ON BURNING TREES, LEAVES, GRASS CLIPPINGS AND THE LIKE.

Open burning of trees, logs, brush, stumps, leaves and grass clippings is prohibited.

(2012 amendment, § 9.107) Penalty, see § 92.99

§ 92.26 OUTDOOR WOOD-FIRED BOILERS.

No person shall install, use or maintain an outdoor wood-fired boiler in the city.

(2012 amendment, § 9.108) Penalty, see § 92.99

§ 92.27 PATIO WOOD-BURNING UNITS.

A patio wood-burning unit may be installed and used in the city only in accordance with all of the following provisions.

(A) The patio wood-burning unit shall not be used to burn refuse.

(B) The patio wood-burning unit shall burn only clean wood.

(C) The patio wood-burning unit shall be located at least 25 feet from the nearest structure which is not on the same property as the patio wood burning unit.

(D) The patio wood-burning unit shall not cause a nuisance to neighbors.

(2012 amendment, § 9.109) Penalty, see § 92.99

§ 92.28 FIRE SUPPRESSION TRAINING.

Notwithstanding §§ 92.23 and 92.24, structures and other materials may be burned for fire prevention training only in accordance with all of the following provisions.

(A) The burn must be exclusively for fire prevention training. The burning shall not be used as a means to dispose of waste material including tires and other hazardous materials.

(B) Any standing structure that will be used in a fire suppression training must be inspected and should be inspected by a licensed

asbestos inspector. A notification of this inspection must be submitted to the State Department of Environmental Quality, Air Quality Division at least ten business days prior to burning a standing structure. The notification must be submitted using Form EQP 5661 "Notification of Intent to Renovate/Demolish".

(C) All asbestos must be removed prior to conducting the fire suppression training. If the structure is a residential dwelling, the owner may remove the asbestos or have it removed by a licensed abatement contractor. If it is a commercial building, all asbestos must be removed by a licensed abatement contractor.

(D) All ash shall be disposed of in an approved landfill or at an alternate location approved by the State Department of Environmental Quality and all successor groups in or to the Department of Environmental Quality or any organizations with which the Department of Environmental Quality may be merged.

(E) Asphalt shingles and asphalt or plastic siding shall be removed prior to the practice burn unless the Fire Chief determines that they are necessary for the fire practice.

(F) At least seven days before a planned practice burn, all residents within 2,000 feet of the site of the proposed burn shall be notified by the city, in writing, and by public posting at City Hall.

(G) All fire suppression training shall conform to the guidelines established by the National Fire Protection Association (NFPA) Standard on Live Fire Training Evolutions (NFPA 1403).

(2012 amendment, § 9.110) Penalty, see § 92.99

§ 92.29 LIABILITY.

A person utilizing or maintaining an outdoor fire shall be responsible for all fire suppression costs and any other liability resulting from damage caused by the fire.

(2012 amendment, § 9.111) Penalty, see § 92.99

§ 92.30 RIGHT OF ENTRY AND INSPECTION.

The Fire Chief or any authorized officer, agent, employee or representative of the city who presents credentials may inspect any property for the purpose of ascertaining compliance with the provisions of this subchapter may enter upon the premises for purpose of suppressing and extinguishing fire and its remnants.

(2012 amendment, § 9.112)

§ 92.31 ENFORCEMENT.

The Fire Chief, Fire Chief's designee, City Administrator or other persons designated by the City Administrator are authorized to enforce the provisions of this subchapter.

(2012 amendment, § 9.113(a))

§ 92.99 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99.

(B) Any person, firm, association, partnership, corporation or governmental entity who violates any of the provisions of this subchapter or fails to comply with the duly authorized order issued pursuant to this subchapter shall be deemed to be responsible for a municipal civil infraction as defined by the state statute which shall be punishable by a civil fine determined in accordance with the following schedule:

	<i>Minimum Fine</i>	<i>Maximum Fine</i>
First offense within 3-year period*	\$75	\$500
Second offense within 3-year period*	\$150	\$500
Third offense within 3-year period*	\$325	\$500
Four or more offenses within 3-year period*	\$500	\$500
*Determined on the basis of the date of commission of the offense(s)		

(C) The violator shall pay costs which may include all expenses, direct and indirect, which the city has incurred in connection with the municipal infraction. In no case, however, shall costs of less than \$250 nor more than \$1,000 be ordered.

(1) In addition, the city shall have the right to proceed in any court of competent jurisdiction for the purpose of obtaining an injunction, restraining order or other appropriate remedy to compel compliance with this subchapter.

(2) Each day that a violation of this subchapter exists shall constitute a separate violation of this subchapter.

(2012 amendment, § 9.113(b) and (c))

CHAPTER 93: PARKS AND RECREATION

Section

- 93.01 Prohibited activities
- 93.02 Activities requiring a written permit or contract
- 93.03 Motor vehicle operation
- 93.04 Reservation rules and procedures

§ 93.01 PROHIBITED ACTIVITIES.

Within any city park, no person shall:

- (A) Injure, remove or otherwise mutilate or disturb any plant or wildlife;
- (B) Deface, mar or in any way damage any building, structure, sign, equipment or other physical feature;
- (C) Build an open fire, except in the places or facilities provided for that purpose;
- (D) Dispose of garbage, rubbish or refuse on park lands or in adjoining waters, other than in the appropriate receptacles provided. Refuse disposed should be that normally generated by the direct use of the park, i.e., accumulated household or business refuse is not to be deposited in park containers;
- (E) Use threatening, abusive or obscene language, which by its very use inflicts injury or tends to incite a breach of the peace;
- (F) Conduct themselves in a disorderly or indecent manner; or
- (G) Fail to keep dog or dogs or other animal or animals owned by him or her under control, or fail to assume the responsibility for damage caused by such animals.

(1991 Code, § 3.1) Penalty, see § 10.99

Cross-references:

Open rubbish fires, see §§ 92.20 through 92.31

Public place, defined as including park for purposes of regulation of disorderly conduct, see § 130.01

§ 93.02 ACTIVITIES REQUIRING A WRITTEN PERMIT OR CONTRACT.

- (A) Any person undertaking any of the following activities shall make application for and obtain prior approval and/or a written permit from the city office.
- (B) Any person or organization to whom a written permit is issued shall exhibit same upon request.
- (C) Any person or organization to whom a written permit is issued shall be subject to the provisions of this code and shall be liable for any loss, damage or injury caused by its violation.
- (D) Activities requiring prior approval or written permit: conduct of one of the following:
 - (1) Parade, drill, exhibition, political or religious meeting or sporting event;
 - (2) Temporary lodging in a trailer or tent;
 - (3) Entering, wading or swimming in any pond, pool or other water adjacent to a park, unless such pond, pool or other water is specifically authorized for such purposes by sign or general notification;
 - (4) Carrying or using firearms of any description, including air rifles, slingshots or bows and arrows;
 - (5) Advertising, canvassing, soliciting, vending or renting any service, merchandise or object, and shall be limited to civic and nonprofit organizations; and
 - (6) Scheduled league sporting events.

(1991 Code, § 3.2) Penalty, see § 10.99

§ 93.03 MOTOR VEHICLE OPERATION.

No person shall:

- (A) Fail to drive or operate vehicles with caution at all times; or
- (B) Drive or park a vehicle anywhere except on established drives or in designated parking areas.

(1991 Code, § 3.3) Penalty, see § 10.99

§ 93.04 RESERVATION RULES AND PROCEDURES.

No person or organization shall be allowed use of the city park building without first obtaining a written permit issued by the city, under the following conditions.

- (A) Auburn/Williams nonprofit groups can obtain a permit from January 1 until January 31, on a first-come, first-serve basis.
- (B) Auburn residents can obtain a permit beginning on February 1 until February 15, on a first-come, first-serve basis.
- (C) Auburn/Williams residents can obtain a permit beginning on February 16 until March 31, on a first-come, first-serve basis.
- (D) All other parties can obtain a permit beginning on April 1, on a first-come, first-serve basis.
- (E) The city reserves the right to deny a permit if an activity is deemed to be an overburden on the facility and/or the resources of the city.
- (F) The permittee shall exhibit the permit upon request.
- (G) The permittee shall hold the city harmless and be responsible for liability of any damages, loss or injury sustained by any person.
- (H) The permittee shall be bound to the park's rules and regulations, as adopted by the city.
- (I) The permittee will be held liable for all damages over and above those which may be considered normal wear and which occur during occupancy.
- (J) The permittee may be required to obtain liability insurance of \$1,000,000 with the city named as an additional insured. The city administration shall recommend the obtaining of the insurance. The City Commission shall have the authority to enforce the insurance requirement.
- (K) The permittee shall be responsible for policing the park and for clean-up of the facilities.
- (L) Concession stands and vending shall only serve nonalcoholic refreshments, without a written permit from the City Clerk.
- (M) A fee shall be required for park usage and/or equipment. The fee is payable at the time reservation is made. The fee/fees shall be established by the City Commission.
- (N) The permittee shall be limited to use of the park building no more than two times per calendar year.
- (O) The city reserves the right to waive any of the requirements.
- (P) The funds collected by the city park building use shall be restricted in use to improvements to the city park.
- (Q) A violation of any provisions of the park's rules and regulations or the city code is hereby declared to be a nuisance per se and shall be subject to applicable criminal and civil infraction ordinances.

(1991 Code, § 3.4) Penalty, see § 10.99

CHAPTER 94: PUBLIC NUISANCES

Section

General Nuisances

- 94.01 Nuisances defined
- 94.02 Nuisances, in general, prohibited
- 94.03 Nuisances per se

Noise Control

- 94.15 Excessive noise declared nuisance
- 94.16 Specific offense
- 94.17 Exceptions

Abandoned Refrigerators

- 94.30 General prohibition
- 94.31 Lock removal

Weed Control

- 94.45 Weed growth prohibited
- 94.46 Duty of occupant or owner

94.47 When to do work

94.48 Exemptions

GENERAL NUISANCES

§ 94.01 NUISANCES DEFINED.

(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, highway or navigable stream; 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 provision of this subchapter.

(1991 Code, § 6.1)

§ 94.02 NUISANCES, IN GENERAL, PROHIBITED.

No person shall commit, create or maintain any nuisance, or permit any nuisance to be committed, created or maintained on any property owned, occupied or possessed by him or her. Each day a nuisance shall remain unabated shall be construed as a separate violation.

(1991 Code, § 6.2) Penalty, see § 10.99

§ 94.03 NUISANCES PER SE.

The following acts, services, 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 throwing, placing, depositing or leaving in any street, highway, lane, alley, public place, square or sidewalk, or in any private place or premises where such throwing, placing, depositing or leaving is dangerous or detrimental to public health, or likely to cause sickness or attract flies, insects, rodents and/or vermin, by any person of any animal or vegetable substance, dead animal, fish, shell, tin cans, bottles, glass or other rubbish, dirt, excrement, filth, unclean or nauseous water, or fluids, hay, straw, soot, garbage, swill, animal bones, hides or horns, rotten soap, grease or tallow, offal or any other offensive article or substance whatever;

(C) 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;

(D) Any vehicle used for any illegal purpose;

(E) Betting, bookmaking and all apparatus used in such occupations;

(F) All 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 such 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 statute of the state;

(J) Any use of the public streets and/or sidewalks which causes large crowds to gather, obstructing the free use of the streets and/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 or 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; however, under circumstances determined by the City Administrator 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 such 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; but this prohibition shall not extend to official traffic violation notices.

(1991 Code, § 6.7) Penalty, see § 10.99

NOISE CONTROL

§ 94.15 EXCESSIVE NOISE DECLARED NUISANCE.

All loud or unusual noises or sounds and annoying vibrations which offend the peace and quiet of persons of ordinary sensibilities are hereby declared to be public nuisances.

(1991 Code, § 6.10) Penalty, see § 10.99

§ 94.16 SPECIFIC OFFENSE.

Each of the following acts is declared unlawful and prohibited, but this enumeration shall not be deemed to be exclusive.

(A) *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.

(B) *Construction noises.* The erection (including excavating therefor), demolition, alteration or repair of any building, and the excavation of streets and highways, on Sundays, and other days, except between the hours of 7:00 a.m. and 6:00 p.m., unless a permit be first obtained from the City Administrator.

(C) *Sound amplifiers.* Use of any loudspeaker, amplifier or other instrument or device, whether stationary or mounted on a vehicle for any purpose except one which is noncommercial in character and when so used shall be subject to the following restrictions.

(1) The only sounds permitted are music or human speech.

(2) Operations are permitted for four hours each day, except on Sundays and legal holidays, when no operations shall be authorized. The permitted four hours of operation shall be between the hours of 11:30 a.m. and 1:30 p.m., and between the hours of 4:30 p.m. and 6:30 p.m.

(3) Sound-amplifying equipment mounted on vehicles shall not be operated unless the sound truck upon which such equipment is mounted is operated at a speed of at least ten mph, except when the truck is stopped or impeded by traffic.

(4) Sound shall not be issued within 100 yards of hospitals, schools or churches.

(5) The volume of sound shall be controlled so that it will not be audible for a distance in excess of 100 feet from the sound-amplifying equipment and so that the volume is not unreasonably loud, raucous, jarring, disturbing or a nuisance to persons within the area of audibility.

(6) No sound-amplifying equipment shall be operated with an excess of 15 watts of power in the last stage of amplification.

(D) *Engine exhausts.*

(1) 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.

(2) Further it shall be unlawful to operate any motor vehicle within the city using exhaust breaks, engine brakes, compression release engine brakes (also known as Jake brakes or Jacobs brakes) or similar devices.

(E) *Handling merchandise.* The creation of a loud and excessive noise in connection with loading or unloading any vehicle or the opening and destruction of bales, boxes, crates and containers.

(F) *Blowers.* The discharge into the open air of air from any noise-creating blower or power fan, unless the noise from such blower or fan is muffled sufficiently to deaden such noise.

(G) *Hawking.* The hawking of goods, merchandise or newspapers in a loud and boisterous manner.

(H) *Horns and signal devices.* The sounding of any horn or signal device on any automobile, motorcycle, bus or other vehicle while not in motion, except as a danger signal if 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 such device for an unnecessary and unreasonable period of time.

(I) *Radio and musical instruments.* The playing of any radio, television set, phonograph 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., 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.

(J) *Shouting and whistling.* Yelling, shouting, hooting, whistling or singing, or the making of any other loud noise on the public streets between the hours of 11:00 p.m. and 7:00 a.m., or the making of any such noise at any time 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.

(K) *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.

(1991 Code, § 6.11) Penalty, see § 10.99

§ 94.17 EXCEPTIONS.

None of the terms or prohibitions of §§ 94.15 and 94.16 shall apply to or be enforced against:

(A) *Emergency vehicles.* Any police or fire vehicle or any ambulance, while engaged upon emergency business; or

(B) *Highway maintenance and construction.* Excavations or repairs of bridges, streets or highways by or on behalf of the city, county or the state, during the night, when the public safety, welfare and convenience renders it impossible to perform such work during the day.

(1991 Code, § 6.12)

ABANDONED REFRIGERATORS

§ 94.30 GENERAL PROHIBITION.

It shall be unlawful for any person to leave outside of any building or dwelling in a place accessible to children any abandoned, unattended or discarded icebox, refrigerator or container having air-tight doors which when closed cannot be opened from the inside.

(1991 Code, § 6.21) Penalty, see § 10.99

§ 94.31 LOCK REMOVAL.

It shall be unlawful for any person to leave outside of any building or dwelling in a place accessible to children any abandoned, unattended or discarded icebox, refrigerator or any other container of any kind which has an air-tight snap lock or other device thereon without first removing the snap lock or doors from the icebox, refrigerator or container.

(1991 Code, § 6.22) Penalty, see § 10.99

WEED CONTROL

§ 94.45 WEED GROWTH PROHIBITED.

No person occupying any premises and no person owning any unoccupied premises shall permit or maintain on any such premises any growth of noxious weeds; nor any growth of grass or other rank vegetation to a greater height than 16 inches on the average; nor any accumulation of dead weeds, grass or brush. **NOXIOUS WEEDS** shall include Canada thistle (*Cirsium arvense*), dodders (any species of *Cuscuta*), mustards (charlock, black mustard and Indian mustard, species of *Brassica* or *Sina-pis*), wild carrot (*Daucus carota*), bindweed (*Convolvulus arvensis*), perennial sow-thistle (*Sonchus arvensis*), hoary alyssum (*Berteroa incana*), ragweed (*Ambrosia elatior* 1) and poison ivy (*Rhus toxicodendron*), poison sumac (*Toxicodendron vernix*).

(1991 Code, § 6.41) Penalty, see § 10.99

§ 94.46 DUTY OF OCCUPANT OR OWNER.

It shall be the duty of the occupant of every premises and the owner of unoccupied premises within the city to cut and remove or destroy by lawful means all such noxious weeds and grass, as often as may be necessary to comply with the provisions of § 94.45; provided, that the cutting, removing or destroying of such weeds and grass at least once in every three weeks between May 15 and September 15 of each year, shall be deemed to be compliance with this subchapter.

(1991 Code, § 6.42) Penalty, see § 10.99

§ 94.47 WHEN TO DO WORK.

If the provisions of §§ 94.45 and 94.46 are not complied with, the City Administrator shall notify the occupant or owner of unoccupied premises to comply with the provisions of those sections within a time to be specified in the notice, which notice shall be given in accordance with § 10.21. The notice shall require compliance with this subchapter within five days after service of such notice; and if such notice is not complied with within the time limited, the City Administrator shall cause such weeds, grass and other vegetation to be removed or destroyed; and the actual cost of such cutting, removal or destruction shall be a lien against the premises and collected as a single lot assessment as provided in Chapter 33 (Special Assessments). The rate shall be established by the City Commission. The City Administrator shall be Commissioner of Noxious Weeds of the city, and shall serve as such without additional compensation.

(1991 Code, § 6.43) (Ord. 138, passed 8-20-1990) Penalty, see § 10.99

§ 94.48 EXEMPTIONS.

Exempted from the provisions of this subchapter are flower gardens, plots of shrubbery, vegetable gardens and small grain plots. An exemption under the terms of this section cannot be claimed unless the land has been cultivated and cared for in a manner appropriate to such exempt categories.

(1991 Code, § 6.44)

CHAPTER 95: STREETS AND SIDEWALKS

Section

Streets and Sidewalks Generally

- 95.001 Definitions
- 95.002 Damage and obstruction prohibited
- 95.003 Permits
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STREETS AND SIDEWALKS GENERALLY

§ 95.001 DEFINITIONS.

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

DEPARTMENT. The Department of Engineering of the city.

ENGINEER. The City Administrator or his or her duly authorized assistant or deputy.

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.

(1991 Code, § 4.1)

§ 95.002 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 subchapter.

(B) No person shall place any article, thing or obstruction in any street, except under the conditions and in the manner permitted in this subchapter, but this provision shall not be deemed to prohibit the following:

- (1) Such temporary obstructions as may be incidental to the expeditious movement of articles and things to and from abutting premises;
- (2) The lawful parking of vehicles within the part of the street reserved for vehicular traffic;
- (3) The parking of any disabled vehicles, outside the traveled portion of any street for a period of not to exceed 48 hours; or
- (4) The planting of trees and shrubs as permitted by the Engineer.

(1991 Code, § 4.2)

§ 95.003 PERMITS.

(A) Where permits are authorized in this subchapter, they shall be obtained upon application to the Engineer, upon such forms as he or she shall prescribe, and there shall be a charge of \$10 for each such permit, except as otherwise provided by resolution of the City Commission.

(B) Such permit shall be revocable by the Engineer for failure to comply with this subchapter, rules and regulations adopted pursuant thereto, and the lawful orders of the Engineer or his or her duly authorized representative, and shall be valid only for the period of time endorsed thereon.

(C) Application for a permit under the provisions of this subchapter 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 such 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.

(D) Where liability insurance policies are required to be filed in making application for a permit, they shall be in not less than the following amounts, except as otherwise specified in this subchapter.

- (1) On account of injury to, or death of, any person in any one accident: \$1,000,000.
- (2) On account of any one accident resulting in injury to, or death of, more than one person: \$1,000,000.
- (3) On account of damage to property in any one accident: \$100,000.

(E) A duplicate executed copy or photostatic copy of the original of such insurance policy, approved as to form by the City Attorney, shall be filed with the City Clerk.

(F) Where cash deposits are required with the application for any permit hereunder, such deposit shall be in the amount of \$50, except as otherwise specified by City Commission resolution, and such 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.

(G) Six months after the completion of the work done under the permit, any balance of such cash deposit unexpended 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.

(1991 Code, § 4.3)

§ 95.004 STREET OPENINGS.

No person shall make any excavation or opening in or under any street without first obtaining a written permit from the Engineer. No permit shall be granted until the applicant shall post a cash deposit and file a liability insurance policy as required by § 95.003.

(1991 Code, § 4.4) Penalty, see § 10.99

§ 95.005 EMERGENCY OPENINGS.

The Engineer may, if the 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 subchapter shall be complied with.

(1991 Code, § 4.5)

§ 95.006 BACKFILLING.

All trenches in a public street or other public place, except by special permission, shall be backfilled in accordance with regulations adopted pursuant to this subchapter. Any settlement shall be corrected within eight hours after notification to do so.

(1991 Code, § 4.6)

§ 95.007 SIDEWALK VAULTS.

(A) Openings through the sidewalk for the delivery of fuel, when lawfully in existence, shall not be greater than 30 inches in diameter, shall be circular in form and shall be effectually closed when not in actual use by an iron cover set flush within the surface of the sidewalk, level with the sidewalk and securely locked in place.

(B) All openings in the sidewalk for the admission of light and air shall be closed and protected either by substantial iron gratings or illuminating pavement of a design and so placed as to be satisfactory to the Engineer.

(1991 Code, § 4.7)

§ 95.008 UTILITY POLES.

Utility poles may be placed in such streets as the Engineer shall prescribe and shall be located thereon in accordance with the directions of the Engineer. Such poles shall be removed or relocated as the Engineer shall from time to time direct.

(1991 Code, § 4.8)

§ 95.009 MAINTENANCE OF INSTALLATIONS IN STREET.

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, 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 such 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 such excavation or structure being under, over, in or upon the street, or being unfastened, out of repair or defective during such ownership or control.

(1991 Code, § 4.9)

CURBS AND CURB CUTS

§ 95.020 CONSTRUCTION OF CURBS.

It shall be unlawful for any person to build or construct, or cause to be built or constructed, any curb or gutter, or curb and gutter, upon any street, alley or public highway of the city, unless the same shall be built or constructed according to plans and specifications and of a material approved by the City Engineer.

(1991 Code, § 4.17) Penalty, see § 10.99

§ 95.021 CURB CUTS.

(A) No opening in or through any curb or any street shall be made without first obtaining a written permit from the Department.

(B) Curb cuts and sidewalk driveway crossings to provide access to private property shall comply with the following.

(1) The minimum width of a driveway approach at the sidewalk line shall be ten feet, and the maximum width of a single driveway approach at the sidewalk line shall be 30 feet.

(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 feet 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.

(6) All construction shall be in accordance with plans and specifications approved by the Engineer.

(7) In cases of practical difficulty or unnecessary hardship, the Zoning Board of Appeals is authorized to grant variances from the requirements of this section.

(1991 Code, § 4.18) Penalty, see § 10.99

SIDEWALK OBSTRUCTIONS

§ 95.035 SIDEWALK OBSTRUCTIONS.

No person shall occupy any street with any materials or machinery incidental to the construction, demolition or repair of any building adjacent to said street, or for any other purpose, without first obtaining a permit from the Engineer and posting a cash deposit and filing an insurance policy as required by § 95.003.

(1991 Code, § 4.26) Penalty, see § 10.99

§ 95.036 PEDESTRIAN PASSAGE.

At least four feet of sidewalk space shall be kept clean and clear for the free passage of pedestrians and if the building operations are such that such free passageway is impracticable, a temporary plank sidewalk with substantial railings or sidewalk shelter built in accordance with Chapter 151 of this code, shall be provided around such obstruction.

(1991 Code, § 4.27) Penalty, see § 10.99

SAFETY REQUIREMENTS

§ 95.050 SAFEGUARDS.

All openings, excavations and obstructions shall be properly and substantially barricaded and railed off, and at night shall be provided with prescribed 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.

(1991 Code, § 4.31) Penalty, see § 10.99

§ 95.051 SHORING EXCAVATIONS.

All openings and excavations shall, where necessary, 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 subsurface structure of the street.

(1991 Code, § 4.32) Penalty, see § 10.99

HOUSE MOVING

§ 95.065 MOVING OF BUILDINGS AND THE LIKE.

(A) No person shall move, transport or convey any building, machinery, truck or trailer, more than eight feet eight inches wide or higher than 13 feet six inches above the surface of the roadway, or longer than 50 feet, into, across or along any street, or other public place in the city without first obtaining a permit from the Building Department.

(B) The applicant shall file the written clearances from the light, telephone, gas and water utilities, stating that all connections have been properly cut off and, where necessary, all obstructions along the proposed route of moving will be removed without delaying moving operations.

(C) In addition, clearance shall be obtained from the Police Agency and Fire Department approving the proposed route through the city streets and the time of moving, together with an estimated cost to the Police Department due to the moving operations.

(D) The applicant shall deposit with the city the total estimated cost to the City Treasurer, and shall file with the city a liability insurance policy in the amount of \$1,000,000 for injury to one or more persons and property damage insurance in the amount of \$100,000.

(1991 Code, § 4.34) Penalty, see § 10.99

ADDITIONAL REGULATIONS

§ 95.080 ADDITIONAL REGULATIONS.

The City Administrator may make additional regulations pertaining to openings and excavations in the streets, curb cuts, street obstructions and house moving, which regulations shall be subject to the approval of the City Commission. No person shall fail to comply with any such regulations.

(1991 Code, § 4.36) Penalty, see § 10.99

§ 95.081 REMOVAL OF ENCROACHMENT.

(A) Encroachments and obstructions in the street or in the sidewalk may be removed and excavations refilled with the expense of such removal or refilling charge to the abutting land owner when made or permitted by him or her or suffered to remain by him or her, otherwise and in accordance with the terms of the conditions of this chapter.

(B) Chapter 33 (Special Assessments) describes the method of collection of expenses.

(1991 Code, § 4.37) (2012 amendment)

§ 95.082 DUMPING SNOW.

The pushing, dumping or depositing of snow or ice from any privately owned premises into or upon any street or sidewalk in the city shall constitute a violation of this code and shall be deemed an encroachment subject to the provisions of § 95.081.

(1991 Code, § 4.38) (2012 amendment) Penalty, see § 10.99

§ 95.083 TEMPORARY STREET CLOSINGS.

(A) The City Administrator shall have authority to temporarily close any street, or portion thereof, when he or she shall deem such street to be unsafe or temporarily unsuitable for use for any reason.

(B) He or she shall cause suitable barriers and signs to be erected on said street, indicating that the same is closed to public travel.

(C) When any street or portion thereof shall have been closed to public travel, no person shall drive any vehicle upon or over said 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.

(D) No person shall move or interfere with any sign or barrier pursuant to this section without authority from the Chief of Police.

(1991 Code, § 4.39) Penalty, see § 10.99

PUBLIC WORKS CONSTRUCTION

§ 95.095 CLASSIFICATIONS OF PUBLIC IMPROVEMENTS.

For the purpose of this subchapter, public works shall be divided into four classifications as follows:

(A) Sidewalks;

(B) Streets;

(C) Water lines; and

(D) Driveway culverts.

(1991 Code, § 4.81)

§ 95.096 FINANCING THE COST OF PUBLIC IMPROVEMENTS.

Construction of public works improvements in the streets of the city in excess of the amount provided for in the annual appropriation resolution shall be paid for by one or more of the following methods:

(A) Federal or state participation individually or combined with any or all other methods of financing with the city;

(B) Special assessment bond issue;

(C) Revenue bond issue; and/or

(D) Advance financing by property owners.

(1991 Code, § 4.82)

§ 95.097 CITY TO CONSTRUCT PUBLIC IMPROVEMENTS.

The city shall construct and repair (or cause to be constructed and repaired) all public works improvements hereafter deemed necessary for the public health and safety.

(1991 Code, § 4.83)

§ 95.098 SPECIAL ASSESSMENT PROCEDURE.

Except as otherwise provided in this subchapter, special assessments to finance the construction of public improvements shall be levied in accordance with Chapter 33 (Special Assessments).

(1991 Code, § 4.84)

§ 95.099 ADVANCE FINANCING BY PROPERTY OWNERS.

(A) After determining the estimated cost and the proportion thereof to be defrayed by the city at large, the Commission may order any public improvement, not included in the current year's construction program, to be made or constructed, in any case when the same has been petitioned for by all of the owners of property within the district to be affected or which shall constitute a special assessment district for the payment of the cost of such improvement; provided that, prior to the commencement of work on the improvement petitioned for, 100% of the total estimated cost and expense of such improvement according to the estimates of the cost thereof and the special assessment roll based thereon, shall have been deposited with the City Treasurer by the property owners, within the district to be affected or constituting such special assessment district.

(B) In all cases where the total cost of any improvement has been deposited with the City Treasurer prior to commencement of work thereon, the assessment roll and each assessment appearing thereon shall immediately, upon confirmation of such roll, be marked paid.

(C) In doing any work, authorized and financed under the provisions of this section, the City Clerk shall keep an accurate record of the cost and expense thereof, and, upon completion of the work, shall report the same to the Commission which shall, thereupon, authorize and direct that the amount, if any, of such money, so deposited with the City Treasurer, which is in excess of the actual cost and expense of the improvement made, shall be repaid by the City Treasurer to those persons making such deposit, pro rata according to the several amounts deposited by them.

(D) The Commission shall report to the City Treasurer the city's share, if any, of the cost and expense of such improvements, as

determined by the Commission under the provisions of Chapter 33 (Special Assessments), and shall direct that repayment of said city's share shall be made in one lump sum, or in five equal annual installments to the person or persons making such deposits. Such lump sum payments or the first of such installments shall be paid on or before the ninetieth day of the fiscal year following the completion of the work.

(1991 Code, § 4.85)

§ 95.100 SIDEWALKS.

(A) A certificate of occupancy shall not be issued until a sidewalk is constructed in compliance with the grade and specifications hereinafter set forth in this section.

(B) All sidewalks hereafter laid, constructed or repaired shall be of concrete and in strict conformity with grades and specifications pertaining thereto as adopted or approved by the city; provided that, where it is determined that new sidewalk construction abuts or extends on either side of existing asphalt roadway, entry ramp, entry lane or other existing asphalt surface, the city may determine that it is not necessary to install concrete sidewalk over or through that portion of existing asphalt surface. This determination may be made without resorting to the provisions of division (L) below.

(C) No sidewalk shall be laid, constructed or repaired until a written permit for the same shall have been obtained from the City Clerk.

(D) The owner of property adjacent to a proposed sidewalk may construct said sidewalk upon obtaining a permit from the City Clerk for which permit he or she shall pay a fee as established by resolution of the City Commission. Such sidewalk shall be inspected and approved by the city.

(E) Wherever sidewalks are ordered constructed on any street or any part thereof, or where a permit has been issued for the construction of a sidewalk, it shall be the duty of the city to indicate the sidewalk line and grade by setting stakes, and a record of the same shall be kept in the City Clerk's office.

(F) The city may accept a sidewalk as part of a public right-of-way where such a sidewalk is constructed in a street shown on a tentative plat given tentative approval by the city, but not, at that time, put on public record; provided that, a special permit is given by the city, and, the city shall be paid for the services of a City Inspector to inspect the same or to supervise the construction thereof insofar as is necessary to assure that such construction is according to plans and specifications adopted or approved by the city.

(G) Sidewalk repair as used in this subchapter shall be held to include any reconstruction work of existing concrete sidewalks including replacement, relaying, patching, filling to grade or grading that may be required to bring the existing sidewalk to a condition satisfactory for public use.

(H) The repair of any sidewalk may be initiated by a resolution adopted by the Commission ordering the work done or by a written request of the owner or owners of the property affected.

(I) All sidewalk repairs shall be made by the city, either by force account or by contract, and the cost thereof, including engineering and inspection, shall be borne equally by the city and the owner or owners of the property abutting the work.

(J) Any program of sidewalk repair shall be set up in advance of the adoption of the annual city budget and the city's share of the work included therein.

(K) Proceedings for the construction of sidewalks within the city may be commenced by resolution of the Commission, on its own initiative, as appears more fully in Chapter 33 of this code (Special Assessments).

(L) Variations, exceptions, modifications to the sidewalk program may be made by the Zoning Board of Appeals where, in its opinion, practical difficulty or unnecessary hardship may result from strict compliance.

(1) In granting any variance, the Zoning Board of Appeals shall prescribe only conditions that it deems necessary to or desirable for the public interest.

(2) In making its findings, the Zoning Board of Appeals shall take into account the nature of the proposed use of land and the existing use of land in the vicinity, the number of persons who reside or work in the area, and the probable effects upon traffic conditions in the vicinity.

(3) No variance shall be granted unless the Zoning Board of Appeals finds:

(a) That there are special circumstances or conditions affecting said property such that strict compliance would deprive the owner of the reasonable use of his or her land;

(b) That the variance is necessary for the preservation and enjoyment of a substantial property right of the owner; and

(c) That the granting of the variance will not be detrimental to the public welfare or injurious to other property in the territory in which said property is located.

(M) The cost of construction or repairing sidewalks which are ordered by resolution of the City Commission or upon the written request of the property owner and to be borne by the property owner shall be billed and assessed as follows.

(1) In the case of sidewalk construction, the total estimated cost and expense of such work, as determined by the Commission, shall be charged to such owner. If the owner fails to pay the same within 30 days from the date of invoice, the Commission shall cause the amount unpaid, together with a penalty of 10% in addition thereto, to be reported to the City Assessor, to be levied by him or her as a

special tax or assessment upon the lot or premises adjacent to and abutting upon such sidewalk, which special assessment shall be subject to review, after proper notice is given as in all other cases of special assessments, and such tax, when confirmed, shall be a lien upon such lot or premises the same as other special assessments, and shall be spread, together with such penalty upon the tax roll as a special assessment upon such lot or premises, and the same shall be collected in the same manner as other city taxes; or the city may collect such amount, together with the penalty aforesaid, from the owner of such premises in an action of assumpsit together with costs of suit.

(2) On a special assessment basis as provided for in Chapter 33 (Special Assessments).

(3) In the case of sidewalk repairs, the property owner's share of the cost shall be charged to the property owner. If the owner fails to pay the same within 30 days from the date of the invoice, the Commission shall cause the amount unpaid, together with a penalty of 10% in addition thereto, to be reported to the City Assessor, to be levied by him or her as a special tax or assessment upon the lot or premises adjacent to and abutting upon such sidewalk, which special assessment shall be subject to review, after proper notice is given as in all other cases of special assessments, and such tax, when confirmed, shall be a lien upon such lot or premises, the same as other special assessments, and shall be spread, together with such penalty, upon the tax roll as a special assessment upon such lot or premises and the same shall be collected in the same manner as other city taxes, or the city may collect such amount, together with the penalty aforesaid, from the owner of such premises in an action of assumpsit together with costs of suit.

(1991 Code, § 4.86) (2012 amendment)

§ 95.101 STREETS.

(A) Proceedings for the construction of streets, courts or alleys and the financing thereof within the city may be commenced by resolution of the City Commission or by an initiatory petition signed by the property owners in accordance with Chapter 33 (Special Assessments).

(B) The Commission may cause a street, court or alley to be improved and the cost thereof financed in accordance with the provisions of § 95.099.

(C) The cost and expense of a street improvement may be made up of the following items:

- (1) Preparation of subgrade;
- (2) Excavation;
- (3) Fine grading;
- (4) Outlawn;
- (5) Curb and gutter;
- (6) Base;
- (7) Pavement;
- (8) Landscaping;
- (9) Sidewalk approaches;
- (10) Necessary replacement or repair of existing improvements;
- (11) Headers;
- (12) Driveways;
- (13) Catch basins moved or taken out;
- (14) New catch basins;
- (15) Water service;
- (16) Storm sewers;
- (17) General engineering expense;
- (18) Legal expense;
- (19) Accounting;
- (20) Financing;
- (21) Printing; and
- (22) Advertising.

(D) In case of recessed parking construction, the adjacent property owner shall pay his or her share of the cost of a 28-foot street plus 100% of the cost of the recessed construction.

(E) In all street construction within a currently dedicated easement, the city shall pay from its Street Fund 100% of the cost of intersection construction, which is the area consisting of 20 feet from centerline of said intersection in all road directions. The city shall

also pay 100% of repair or regrading of sidewalks, regrading of manholes, moving of water hydrants, transplanting of trees, planting of new trees and placement of storm sewer drainage structures within the intersection area.

(F) In all street construction within a currently dedicated city easement, the city shall pay from its street fund 100% of the cost of building that part of the roadway in excess of 28 feet in width.

(G) A contract for the construction of a street where such street is a part of a tentative plat not yet put on public record may be let by the owners of such street provided that a special permit is given by the city and provided that the city shall be paid for the services of a City Inspector to properly supervise the construction according to plans and specifications approved by the city. Thereafter, the city may accept any such street as a public right-of-way and allow the curb of the intersecting street to be cut and curb returns built.

(H) In all street or alley construction taking place within a currently dedicated city easement, the city shall pay from its Street Fund 75 feet of the construction cost for properties designated as corner lots. This footage shall only be credited to one side of the designated lot. Measurement of footage shall commence at the termination point of the designated 20-foot intersection as identified in division (E) above.

(I) Improvements to streets, alleys or public easements currently dedicated to the city in order to provide enhancements or access to proposed developments shall be financed as outlined in Chapter 33 (Special Assessments). Assessments for said improvements shall be determined on a linear foot basis corresponding to the properties adjacent to the designated project area.

(1991 Code, § 4.87) (2012 amendment)

§ 95.102 WATERWORKS EXTENSIONS.

Proceedings for the laying and installing of extensions to the waterworks system and the financing thereof shall be governed by the provisions of Chapter 33 (Special Assessments) and Chapter 51 of this Code.

(1991 Code, § 4.88)

§ 95.103 DRIVEWAY CULVERTS.

(A) All pipe culverts, hereafter, where deemed necessary for the public health and safety, shall be laid, constructed and repaired by the city, excepting as may be hereinafter provided for. Culverts may be ordered under private driveway approaches where deemed necessary by resolution of the City Commission.

(B) All pipe culverts for private driveway approaches hereafter laid, constructed and repaired, shall be of corrugated iron pipe, cast iron pipe or concrete culvert pipe.

(C) The cost of a ten-inch pipe and materials necessary to install said culvert shall be paid for by the owner. If a size larger than ten inches is required, the city shall pay the difference in cost between the larger size required and the cost of a ten-inch culvert.

(1991 Code, § 4.89)

TITLE XI: BUSINESS REGULATIONS

Chapter

110. CABLE TELEVISION

111. PEDDLERS AND SOLICITORS

112. TELECOMMUNICATIONS PROVIDERS

CHAPTER 110: CABLE TELEVISION

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CABLE TELEVISION TRANSMISSION

§ 110.01 SHORT TITLE.

This subchapter shall be known and may be cited as the “City of Auburn Cable Antenna Television Service Ordinance”.

(Prior Code, § 2.151)

§ 110.02 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning. When not inconsistent with the context, words used in the present tense include the future, words in the plural include the singular number, and words in the singular number include the plural number. The word “shall” is always mandatory and not merely directory.

COMMUNITY ANTENNA TELEVISION or **CATV**. The business of transmission and distribution of television signals, including radio signals, by means of cable to private subscribers and does not include the operation of a master television antenna system, the distribution system of which is confined to private property.

PERMITTEE. The holder of a permit issued pursuant to this chapter.

STREET. A street, alley or other public way in the city.

(Prior Code, § 2.152)

§ 110.03 PERMIT REQUIRED.

No person shall provide CATV service within the limits of the city without first obtaining a permit as provided in this chapter.

(Prior Code, § 2.153) Penalty, see § 10.99

§ 110.04 APPLICATION.

Permits to provide CATV service hereunder will be granted by the Commission and shall be applied for by written application in form approved by the City Commission and filed with the City Clerk, which application shall include, but not be limited to the following:

- (A) Name of applicant;
- (B) Local business address;
- (C) Principal officers or owners;
- (D) Principal stockholders of a corporation;
- (E) Location of antenna tower or towers;

(F) General description of proposed distribution system in the city, showing area proposed to be served and indicating whether the applicant will require poles in the city streets or whether cables and appliances to be utilized by it in city streets will be located on existing poles of utility companies; and

(G) Service to be provided and rates to be charged, including installation charge per location, service charge for one receiver and for each additional receiver on the same premises.

(Prior Code, § 2.154)

§ 110.05 FINANCIAL STATEMENT.

Each applicant shall attach to his or her application an authenticated statement of financial condition and net worth, sufficient in form and content so that the Commission may readily determine its financial responsibility and its ability to finance the proposed undertaking.

(Prior Code, § 2.155)

§ 110.06 INDEMNIFICATION.

The permittee shall save the city harmless from all loss sustained by the city on account of any suit, judgment, execution, claim or demand whatsoever resulting from the construction, operation or maintenance of its television system in the city. The city shall notify the permittee within 30 days after the presentation of any claim or demand, either by suit or otherwise, made against the city under which the permittee would be liable as set forth above. Such notice shall be given in writing to the person and at the place indicated in the application for the permit.

(Prior Code, § 2.156)

§ 110.07 INSURANCE.

The permittee shall provide insurance in such form as shall protect the city and itself from and against any and all claims for injury or damage to persons or property, both real and personal, resulting from the construction, erection, operation or maintenance of the television system pursuant to the authority of the permit granted hereunder, in limits of not less than \$500,000 for personal injury or death of any one person, \$1,000,000 for personal injury or death of two or more persons in any one occurrence, and \$25,000 for damage to property resulting from any one occurrence. Each policy shall provide for ten days' notice in writing to city of change in the policy or cancellation, and said policy shall name the city, its officers, employees and agents as additional insureds.

(Prior Code, § 2.157)

§ 110.08 RIGHTS OF PERMITTEE IN STREETS.

(A) The permittee shall have the right, so long as its permit is in force and effect, to utilize the streets of the city to the extent set forth in its application, or as otherwise provided by the Commission in its permit for the transmission of television and radio signals as herein authorized from its antenna location or locations to the premises of subscribers.

(B) The permittee may erect all such wires, cables and appurtenances in the said streets, subject to the written approval of the City Engineer of the placement of any such poles, or permittee may, at its option, authorize, subject to the same conditions as to the placement of poles, the installation of such cables and appurtenances by others on a lease, rental, fee or other basis, and all such wires, cables, conduits, appurtenances and poles placed or installed by others for the use of permittee shall exist and continue to exist solely by authority of the permission granted to said permittee.

(Prior Code, § 2.158)

§ 110.09 CONDITIONS OF STREET OCCUPANCY.

(A) *Use.* All transmission and distribution structures, lines and equipment erected by the permittee or on its behalf within the city shall be so located as to cause minimum interference with the reasonable use of streets, and to cause minimum interference with the rights and reasonable convenience of property owners who adjoin any of said streets.

(B) *Restoration.* In case of any disturbance of pavement, sidewalk, driveway or other surfacing, the permittee shall, at its own cost and expense and in a manner approved by the City Engineer, replace and restore all paving, sidewalk, driveway or surfacing of any street or alley disturbed, in as good condition as before said work was commenced, and shall maintain the restoration in an approved condition for a period of 15 years.

(C) *Relocation.* In the event that any time during the existence of a permit granted hereunder, the city shall lawfully widen, realign or otherwise alter the street right-of-way, or construct, reconstruct, realign, change the grade of or otherwise alter pavement or any water main, fire hydrant, sewer or appurtenance, the permittee and anyone acting for it in connection with the use of the streets, upon reasonable notice by the city, shall remove, relay and relocate its poles, wires, cables, underground conduits, manholes and other fixtures at its own expense.

(D) *Conduit districts.* In areas of the city in which telephone lines and electric utility lines are underground, all the permittee's lines, cables and wires shall be underground.

(E) *Construction standards.* The permittee's distribution system in the public streets shall comply with all applicable laws and regulations and ordinances and all its wires and cables suspended from poles in the streets shall comply with the minimum clearances above ground required for telephone lines, cables, wires and conduits.

(F) *Permit fee.* The permittee shall pay to the city for the privilege of operating a CATV system under the permit granted pursuant to this chapter a sum equivalent, to 5% of the annual gross operating revenues received by it, and not refunded, in fees from service charges to subscribers, not including installation or drop line charges, located within the city payable quarterly. This percentage figure shall be subject to review at the end of the 15-year term. Nothing in this chapter shall exempt any permittee from the payment of ad valorem taxes on its property or equipment or on the income earned by it or from any other tax which it might be validly obligated to pay if it were not subject to the permit fee herein imposed.

(G) *Annual financial statement.* The permittee shall file with the City Clerk annually, an audited statement of revenues received from its operations under its permit issued pursuant to this chapter within 60 days after the close of its fiscal year, shall make its financial records relating thereto available to the city for inspection at a place designated by it within the city, at any reasonable time, and shall maintain separate records as to its business conducted pursuant to its permit issued hereunder.

(Prior Code, § 2.159)

§ 110.10 OPERATION OF CATV SYSTEM.

(A) The permittee's receiving and distribution equipment and facilities shall be constructed, operated and maintained so as to provide usable signals at subscribers' television receivers essentially of the same quality as received at the antenna site.

(B) The permittee shall, in the operation of its CATV system, comply with all applicable laws, ordinances, and rules, regulations and requirements of regulatory agencies.

(C) The permittee shall not, without prior approval of the Commission, utilize the streets of the city for the furnishing of the service commonly known as "Pay TV". Nothing herein contained shall be deemed to prohibit, as incidental to the transmission of television signals, the origination and transmission of weather, time, local civic events and civil defense announcements or programs for which no additional charge is made.

(D) The permittee shall not repair, service or sell television or radio receiving sets, parts or accessories to its CATV subscribers.

(Prior Code, § 2.160)

§ 110.11 DUTY TO PROVIDE SERVICE.

The permittee shall make its CATV service available to all residents of the city who can be reached by its distribution system as mutually agreeable between the Commission and the permittee.

(Prior Code, § 2.161)

§ 110.12 PRELIMINARY REQUIREMENT TO GRANTING PERMIT.

No permit shall be granted hereunder until the applicant has established that it has obtained any permit, license or order required by any rule, order or regulation of the Federal Communications Commission which has been promulgated prior to Commission action on its application; or an opinion letter of the permittee's counsel that such permit, license or order is not required.

(Prior Code, § 2.162)

§ 110.13 GRANTING OF PERMIT.

The Commission shall grant a CATV permit hereunder to each applicant who makes proper application, establishes its qualifications as herein set forth, furnishes the required insurance and assurances and who establishes that its operations will not impose an unreasonable burden on city streets. No permit granted hereunder shall be exclusive.

(Prior Code, § 2.163)

§ 110.14 TERM OF PERMIT.

Each permit granted hereunder shall be for the term of 15 years and shall be renewed automatically for successive additional 15-year period, unless notice is given by the city or the permittee more than 180 days prior to the end of any 15-year period that the said permit shall not be renewed.

(Prior Code, § 2.164)

§ 110.15 RATE AND FEE CHANGES.

The schedule of rates and changes filed with the city as part of the permit application shall not be increased except upon approval of the City Commission.

(Prior Code, § 2.165)

§ 110.16 SUPPLYING SERVICE TO THE CITY.

The permittee shall, at the option of the city, provide free CAT service to buildings owned by the city. Free drop installation to also be included excepting where, due to unusual installation conditions, the cost of such would considerably exceed a usual CATV drop installation. In such case, the excess cost shall be paid by the city. The installation referred to above does not include interior of building CATV distribution systems or TV sets.

(Prior Code, § 2.166)

§ 110.17 TRANSFER.

Permits granted hereunder are not transferable except upon approval of the Commission. The proposed transferee shall file an application in form approved by the City Commission and shall satisfy all other requirements of this chapter.

(Prior Code, § 2.167)

§ 110.18 TERMINATION.

(A) The permittee may surrender its permit at any time, in which event it shall refund to subscribers all prepaid and unearned service and other charges collected from subscribers.

(B) The Commission may terminate the permit or any permittee who shall default in any of its obligations hereunder, except for causes beyond the reasonable control of the permittee, provided that the permittee shall be given 60 days written notice to correct any such default or noncompliance before the Commission may proceed to terminate the permit under this section.

(C) The permittee shall be entitled to a hearing before the Commission to determine the propriety of termination of the permit by it pursuant to this section, and the decision of the Commission shall be final. Notwithstanding the provisions hereinbefore made, the Commission may terminate the permit of any permittee in accordance with the franchise requirements of the Constitution and statutes of the state.

(D) Upon termination of its permit, the permittee shall at its own expense remove from the city streets all its facilities and equipment therein utilized by it in its CATV operation, unless the Commission shall specifically authorize it to leave all or part of such facilities and equipment in place.

(Prior Code, § 2.168)

§ 110.19 VIOLATIONS DECLARED NUISANCES.

The violation of any provision of this chapter is hereby declared to be a nuisance per se and any court of competent jurisdiction may order such nuisance abated and the owner and the operator guilty of maintaining a nuisance per se.

(Prior Code, § 2.169)

§ 110.20 FEDERAL LAW.

This chapter shall be construed and administered in compliance with federal law and regulations.

(Prior Code, § 2.170)

CABLE TELEVISION RATE REGULATION

§ 110.35 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning. All other words and phrases used in this chapter shall have the same meaning as defined in the Act and FCC rules.

ACT. The Communications Act of 1934, being 47 U.S.C. §§ 201 and 521 *et seq.*, as amended (and specifically as amended by the Cable Television Consumer Protection and Competition Act of 1992, Pub. L. No. 102-385), and as may be amended from time to time.

ASSOCIATED EQUIPMENT. All equipment and services subject to regulation pursuant to 47 C.F.R. § 76.923.

BASIC CABLE SERVICE. As defined in the FCC rules, and any other cable television service which is subject to rate regulation by the city pursuant to the Act and the FCC rules.

FCC. The Federal Communications Commission.

FCC RULES. All rules of the FCC promulgated from time to time pursuant to the Act.

INCREASE IN RATES. An increase in rates or a decrease in programming or customer services.

(Prior Code, § 2.231) (Ord. 153, passed 10-18-1993)

§ 110.36 PURPOSE; INTERPRETATION.

(A) The purpose of this chapter is to:

- (1) Adopt regulations consistent with the Act and the FCC rules with respect to basic cable service rate regulation; and
- (2) Prescribe procedures to provide a reasonable opportunity for consideration of the views of interested parties in connection with basic cable service rate regulation by the city.

(B) This chapter shall be implemented and interpreted consistent with the Act and FCC rules.

(Prior Code, § 2.232) (Ord. 153, passed 10-18-1993)

§ 110.37 RATE REGULATIONS PROMULGATED BY FCC.

In connection with the regulation of rates for basic cable service and associated equipment, the city shall follow all FCC rules.

(Prior Code, § 2.233) (Ord. 153, passed 10-18-1993)

§ 110.38 FILING; ADDITIONAL INFORMATION; BURDEN OF PROOF.

(A) A cable operator shall submit its schedule of rates for the basic service tier and associated equipment or a proposed increase in such rates in accordance with the Act and the FCC rules. The cable operator shall include as part of its submission such information as is necessary to show that its schedule of rates or its proposed increase in rates complies with the Act and the FCC rules. The cable operator shall file ten copies of the schedule or proposed increase with the City Clerk. For purposes of this chapter, the filing of the cable operator shall be deemed to have been made when at least ten copies have been received by the City Clerk. The City Commission may, by resolution or otherwise, adopt rules and regulations prescribing the information, data and calculations which must be included as part of the cable operator's filing of the schedule of rates or a proposed increase.

(B) In addition to information and data required by rules and regulations of the city pursuant to division (A) above, a cable operator shall provide all information requested by the City Administrator or city attorney in connection with the city's review and regulation of existing rates for the basic service tier and associated equipment or a proposed increase in these rates. The City Administrator or city attorney may establish deadlines for submission of the requested information, and the cable operator shall comply with such deadlines.

(C) A cable operator has the burden of proving that its schedule of rates for the basic service tier and associated equipment or a proposed increase in such rates complies with the Act and the FCC rules, including, without limitation, 47 U.S.C. § 543 and 47 C.F.R. §§ 76.922 and 76.923.

(Prior Code, § 2.234) (Ord. 153, passed 10-18-1993)

§ 110.39 PROPRIETARY INFORMATION.

(A) If this chapter, any rules or regulations adopted by the city pursuant to § 110.38(A), or any request for information pursuant to § 110.38(B) requires the production of proprietary information, the cable operator shall produce the information; however, at the time the allegedly proprietary information is submitted, a cable operator may request that specific, identified portions of its response be treated as confidential and withheld from public disclosure.

- (1) The request must state the reason why the information should be treated as proprietary and the facts that support those reasons.
- (2) The request for confidentiality will be granted if the city determines that the preponderance of the evidence shows that non-disclosure is consistent with the provisions of the Freedom of Information Act, 5 U.S.C. § 552.
- (3) The city shall place in a public file for inspection any decision that results in information being withheld. If the cable operator requests confidentiality and the request is denied:
 - (a) Where the cable operator is proposing a rate increase, it may withdraw the proposal, in which case the allegedly proprietary information will be returned to it; or
 - (b) The cable operator may seek review within five working days of the denial in any appropriate forum. Release of the information will be stayed pending review.

(B) Any interested party may file a request to inspect material withheld as proprietary with the city. The city shall weigh the policy considerations favoring non-disclosure against the reasons cited for permitting inspection in light of the facts of the particular case. It will then promptly notify the requesting entity and the cable operator that submitted the information as to the disposition of the request. It may grant, deny or condition a request. The requesting party or the cable operator may seek review of the decision by filing an appeal with any appropriate forum. Disclosure will be stayed pending resolution of any appeal.

(C) The procedures set forth in this section shall be construed as analogous to and consistent with the rules of the FCC regarding requests for confidentiality including, without limitation, 47 C.F.R. § 0.459.

(Prior Code, § 2.235) (Ord. 153, passed 10-18-1993)

§ 110.40 PUBLIC NOTICE; INITIAL REVIEW OF RATES.

(A) Upon the filing of ten copies of the schedule of rates or the proposed increase in rates pursuant to § 110.38(A), the City Clerk shall publish a public notice in a newspaper of general circulation in the city which shall state that:

(1) The filing has been received by the City Clerk and (except those parts which may be withheld as proprietary) is available for public inspection and copying; and

(2) Interested parties are encouraged to submit written comments on the filing to the City Clerk not later than seven days after the public notice is published.

(B) The City Clerk shall give notice to the cable operator of the date, time and place of the meeting at which the City Commission shall first consider the schedule of rates or the proposed increase.

(C) This notice shall be mailed by first class mail at least three days before the meeting.

(D) In addition, if a written staff or consultant's report on the schedule of rates or the proposed increase is prepared for consideration of the City Commission, then the City Clerk shall mail a copy of the report by first class mail to the cable operator at least three days before the meeting at which the City Commission shall first consider the schedule of rates or the proposed increase.

(Prior Code, § 2.236) (Ord. 153, passed 10-18-1993)

§ 110.41 TOLLING ORDER.

After a cable operator has filed its existing schedule of rates or a proposed increase in these rates, the existing schedule of rates will remain in effect or the proposed increase in rates will become effective after 30 days from the date of filing under § 110.38(A) above unless the City Commission (or other properly authorized body or official) tolls the 30-day deadline pursuant to 47 C.F.R. § 76.933 by issuing a brief written order, by resolution or otherwise, within 30 days of the date of filing. The City Commission may toll the 30-day deadline for an additional 90 days in cases not involving cost-of-service showings and for an additional 150 days in cases involving cost-of-service showings.

(Prior Code, § 2.237) (Ord. 153, passed 10-18-1993)

§ 110.42 PUBLIC NOTICE; HEARING ON BASIC CABLE SERVICE RATES FOLLOWING TOLLING OF 30-DAY DEADLINE.

(A) If a written order has been issued pursuant to § 110.41 and 47 C.F.R. § 76.933 to toll the effective date of existing rates for the basic service tier and associated equipment or a proposed increase in these rates, the cable operator shall submit to the city any additional information required or requested pursuant to § 110.38.

(B) In addition, the City Commission shall hold a public hearing to consider the comments of interested parties within the additional 90-day or 150-day period, as the case may be.

(C) The City Clerk shall publish a notice of the public hearing in a newspaper of general circulation within the city which shall state:

(1) The date, time and place at which the hearing shall be held;

(2) Interested parties may appear in person, by agent, or by letter at such hearing to submit comments on or objections to the existing rates or the proposed increase in rates; and

(3) Copies of the schedule of rates or the proposed increase in rates and related information (except those parts which may be withheld as proprietary) are available for inspection or copying from the office of the City Clerk.

(D) The public notice shall be published not less than 15 days before the hearing.

(E) In addition, the City Clerk shall mail by first class mail a copy of the public notice to the cable operator not less than 15 days before the hearing.

(Prior Code, § 2.238) (Ord. 153, passed 10-18-1993)

§ 110.43 STAFF OR CONSULTANT REPORT; WRITTEN RESPONSE.

Following the public hearing, the City Administrator shall cause a report to be prepared for the City Commission which shall (based on the filing of the cable operator, the comments or objections of interested parties, information requested from the cable operator and its response, staff or consultant's review, and other appropriate information) include a recommendation for the decision of the City Commission pursuant to § 110.44. The City Clerk shall mail a copy of the report to the cable operator by first class mail not less than 20 days before the City Commission acts under § 110.44. The cable operator may file a written response to the report with the City Clerk. If at least ten copies of the response are filed by the cable operator with the City Clerk within ten days after the report is mailed to the cable operator, the City Clerk shall forward it to the City Commission.

(Prior Code, § 2.239) (Ord. 153, passed 10-18-1993)

§ 110.44 RATE DECISIONS AND ORDERS.

The City Commission shall issue a written order, by resolution or otherwise, which, in whole or in part, approves the existing rates for basic cable service and associated equipment or a proposed increase in such rates, denies the existing rates or proposed increase, orders a rate reduction, prescribes a reasonable rate, allows the existing rates or proposed increase to become effective subject to refund, or orders other appropriate relief, in accordance with the FCC rules. If the City Commission issues an order allowing the existing rates or proposed increase to become effective subject to refund, it shall also direct the cable operator to maintain an accounting pursuant to 47 C.F.R. § 76.933. The order specified in this section shall be issued within 90 days of the tolling order under § 110.41 in all cases not involving a cost-of-service showing. The order shall be issued within 150 days after the tolling order under § 110.41 in all cases involving a cost-of-service showing.

(Prior Code, § 2.240) (Ord. 153, passed 10-18-1993)

§ 110.45 REFUNDS; NOTICE.

The City Commission may order a refund to subscribers as provided in 47 C.F.R. § 76.942. Before the City Commission orders any refund to subscribers, the City Clerk shall give at least seven days' written notice to the cable operator by first class mail of the date, time and place at which the City Commission shall consider issuing a refund order and shall provide an opportunity for the cable operator to comment. The cable operator may appear in person, by agent or by letter at such time for the purpose of submitting comments to the City Commission.

(Prior Code, § 2.241) (Ord. 153, passed 10-18-1993)

§ 110.46 WRITTEN DECISIONS; PUBLIC NOTICE.

(A) Any order of the City Commission pursuant to §§ 110.44 or 110.45 shall be in writing, shall be effective upon adoption or such other date specified by the City Commission, and shall be deemed released to the public upon adoption.

(B) The City Clerk shall publish a public notice of any such written order in a newspaper of general circulation within the city which shall:

- (1) Summarize the written decision; and
- (2) State that copies of the text of the written decision are available for inspection or copying from the office of the City Clerk.

(C) In addition, the City Clerk shall mail a copy of the text of the written decision to the cable operator by first class mail.

(Prior Code, § 2.242) (Ord. 153, passed 10-18-1993)

§ 110.47 RULES AND REGULATIONS.

In addition to rules promulgated pursuant to § 110.38, the City Commission may, by resolution or otherwise, adopt rules and regulations for basic cable service rate regulation proceedings (including, without limitation, the conduct of hearings), consistent with the Act and the FCC rules.

(Prior Code, § 2.243) (Ord. 153, passed 10-18-1993)

§ 110.48 FAILURE TO GIVE NOTICE.

The failure of the City Clerk to give the notices or to mail copies of reports as required by this chapter shall not invalidate the decisions or proceedings of the City Commission.

(Prior Code, § 2.244) (Ord. 153, passed 10-18-1993)

§ 110.49 ADDITIONAL HEARINGS.

In addition to the requirements of this chapter, the City Commission may hold additional public hearings upon such reasonable notice as the City Commission, in its sole discretion, shall prescribe.

(Prior Code, § 2.245) (Ord. 153, passed 10-18-1993)

§ 110.50 ADDITIONAL POWERS.

The city shall possess all powers conferred by the Act, the FCC rules, the cable operator's franchise and all other applicable law. The powers exercised pursuant to the Act, the FCC rules, and this chapter shall be in addition to powers conferred by law or otherwise. The city may take any action not prohibited by the Act and the FCC rules to protect the public interest in connection with basic cable service rate regulation.

(Prior Code, § 2.246) (Ord. 153, passed 10-18-1993)

§ 110.51 FAILURE TO COMPLY; REMEDIES.

The city may pursue any and all legal and equitable remedies against the cable operator (including, without limitation, all remedies provided under a cable operator's consent agreement with the city) for failure to comply with the Act, the FCC rules, any orders or determinations of the city pursuant to this chapter, any requirements of this chapter, or any rules or regulations promulgated hereunder.

Subject to applicable law, failure to comply with the Act, the FCC rules, any orders or determinations of the city pursuant to this chapter, any requirements of this chapter, or any rules and regulations promulgated hereunder shall also be sufficient grounds for revocation or denial of renewal of a cable operator's consent agreement.

(Prior Code, § 2.247) (Ord. 153, passed 10-18-1993)

§ 110.52 CONFLICTING PROVISIONS.

In the event of any conflict between this chapter and the provisions of any prior ordinance or any franchise, permit, consent agreement or other agreement with a cable operator, then the provisions of this chapter shall control.

(Prior Code, § 2.248) (Ord. 153, passed 10-18-1993)

§ 110.53 INTERGOVERNMENTAL COOPERATION.

Whenever a provision of this chapter requires the publication of a notice, a public hearing, the preparation of a staff or consultant report, other publication or similar act, the city may take such action jointly, in cooperation with any other local unit of government served by the same cable operator.

(Prior Code, § 2.249) (Ord. 153, passed 10-18-1993)

CHAPTER 111: PEDDLERS AND SOLICITORS

Section

- 111.01 Definitions
- 111.02 License required
- 111.03 License application
- 111.04 License fee and bond
- 111.05 Police investigation
- 111.06 Identification
- 111.07 Acceptance of license
- 111.08 Regulations
- 111.09 Exemptions

§ 111.01 DEFINITIONS.

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

PEDDLER. Includes any individual, whether a resident of the city or not, traveling either by foot, wagon, automobile, motor truck or any other type of conveyance, from place to place, from house to house, from street to street, carrying, conveying or transporting goods, wares, merchandise, baked goods, fruits or vegetables, offering, exposing the same for sale or making and delivering articles to purchasers.

SOLICITOR or CANVASSER. Includes any individual, whether a resident of the city or not, traveling either by foot, wagon, automobile, motor truck or any other type of conveyance, from place to place, from house to house, from street to street, taking or attempting to take orders for sale of goods, wares and merchandise, books or magazines, personal property of any nature whatsoever for future delivery, or for services to be furnished or performed in the future, whether or not such individual has, carries or exposes for sale a sample of the subject of such sales or whether he or she is collecting advance payments on such sales or not, and such definition shall include any person, who for himself or herself, or for another person, hires, leases, uses or occupies any building, structure, tent, railroad box car, boat, hotel room, lodging house, apartment, shop or any other place within the city for the sole purpose of exhibiting samples and taking orders for future delivery.

(Prior Code, § 7.71)

§ 111.02 LICENSE REQUIRED.

It shall be unlawful for any solicitor, canvasser or peddler to engage in said business in the city without first having obtained a license therefor from the City Clerk. No such license shall be granted except upon certification of the City Administrator.

(Prior Code, § 7.72)

§ 111.03 LICENSE APPLICATION.

The license application shall furnish the following information:

- (A) Name and description of the applicant;
- (B) Permanent home address and full local address of the applicant, and telephone number;
- (C) A brief description of the nature of the business and the goods to be sold;
- (D) If employed, the name, address and telephone number of the employer, together with credentials establishing the exact relationship;
- (E) The length of time for which the right to do business is desired;
- (F) The place where the goods or property proposed to be sold, or orders taken for sale thereof are manufactured or produced, where such goods or products are located at the time said application is filed, and the proposed method of delivery;
- (G) The applicant should be fingerprinted and provide a photograph taken within 60 days immediately prior to the date of the filing of the application;
- (H) A statement as to whether or not the applicant has been convicted of any felony, the nature of the offense, and the punishment assessed therefor;
- (I) Where applicant has done business in the previous six months; and
- (J) The applicant should swear to the information given on the application.

(Prior Code, § 7.73)

§ 111.04 LICENSE FEE AND BOND.

(A) *Fees; bonds; recovery for damages under bond.* For each license issued hereunder, the applicant shall pay to the City Clerk the sum of \$25 as a license fee, and the further sum of \$5 for the first day of the use of said license and \$3 for each day thereafter; and shall deposit with the City Clerk the sum of \$500 as a cash bond, or shall file a surety company bond in a like amount. Such cash bond or surety bond shall be conditioned for the faithful performance of his or her promises and contracts made during his or her course of business as a solicitor, canvasser or peddler within the city and for compliance with all ordinances of the city. Said bonds shall further provide that any person injured by the breach of any obligation which a bond is given to secure may sue upon such bond in his or her own name in any court of competent jurisdiction to recover any damages such person may have sustained by such breach and shall be for a term of not less than six months.

(B) *Disposition of bond.* Deposits of money or bonds made with the City Clerk as required by the provisions of this chapter shall be subject to the claims of creditors in all cases where a judgment has been obtained against such solicitor or peddler and the date for the appeal of the judgment has expired. In such cases garnishment proceedings may be commenced against the City Clerk. It shall be the duty of the City Clerk to remit to any court any balance of the cash deposit remaining in his or her hands not exceeding the amount of the judgment for the purpose of satisfying the same. Any balance of the cash deposit remaining in the hands of the City Clerk for a period of six months after the expiration of said license shall be remitted to said solicitor, canvasser or peddler.

(C) *Expiration of license.* Any license issued hereunder shall expire and be void as soon as the amount of the bond filed with the City Clerk as provided herein shall have been diminished or used in whole or in part because of suits as hereinbefore provided.

(Prior Code, § 7.74)

§ 111.05 POLICE INVESTIGATION.

(A) Upon receipt of application, the City Administrator shall have 24 hours to investigate the applicant.

(B) If the applicant has been found to violate statutes or ordinances of any state, city, village or township or the federal government, or is under investigation for consumer fraud, the application will be denied and the license fee shall serve to cover the cost of the application and investigation and shall not be returned.

(Prior Code, § 7.75)

§ 111.06 IDENTIFICATION.

Upon issuance of the license, an ID card will be provided to the applicant containing his or her name, the organization he or she represents, his or her picture and his or her signature.

(Prior Code, § 7.76)

§ 111.07 ACCEPTANCE OF LICENSE.

Each licensee, upon receipt of said license, in the presence of the City Clerk, shall affix his or her signature thereon, accepting the license and all conditions of its use as stated in this chapter, respecting the use of said license, and agreeing to the suspension and revocation of said license, should any of the conditions be violated.

(Prior Code, § 7.77)

§ 111.08 REGULATIONS.

The following conditions and regulations shall apply to the exercise of privileges granted by licenses issued under the provisions of this

chapter in addition to those set forth elsewhere in this code.

(A) *Approval of weights and measures device.* No licensee shall use any weighing or measuring device, unless said device shall have been examined and approved by the sealer of weights and measures.

(B) *Accuracy of weights and measures.* No licensee shall sell or offer for sale any article or commodity purporting to be in quantities of standard weight or measure, whether an original or other packages or not, unless the same shall be actually of the weight or measure purported.

(C) *Defective merchandise.* No licensee shall sell or offer for sale any unsound or unripe or unwholesome goods, or a defective, faulty, incomplete or deteriorated article of merchandise, unless the goods are so represented to the prospective customers.

(D) *Vehicle tags.* Every vehicle used for peddling or vending shall have a tag attached to each side thereof, bearing the same number as the license issued to the owner, said tag to be furnished by the City Clerk and to be marked "Peddler's License". Every owner licensed to sell or vend from a vehicle or vehicles, shall be entitled to one helper to each vehicle.

(E) *Inspection of merchandise.* The City Clerk may require that the goods, wares and merchandise of an applicant for a license hereunder be inspected by the Chief of Police or any inspector of the Department designated by the Chief to act for him or her, before issuing a license under this chapter. The City Clerk shall refuse a license to any applicant, and may revoke any license issued hereunder where the goods, wares or merchandise are found to be a fire hazard by the inspecting official.

(F) *Compliance with traffic rules.* Persons peddling or vending goods from a vehicle shall comply with traffic and parking provisions of the city code relative to vehicles and no vehicles shall be allowed to remain standing at one place on any of the streets, alleys or public places for a longer period than ten minutes at any one block while being used for peddling or vending purposes.

(G) *Displaying license.* The license shall be worn in full view on the person to whom issued, whenever he or she is actively engaged in soliciting or peddling.

(Prior Code, § 7.78)

§ 111.09 EXEMPTIONS.

The following solicitors, canvassers and peddlers shall be exempt from the license requirements of this chapter:

- (A) Those selling products, produced, grown or manufactured by their own labor;
- (B) Those representing charitable or non-profit organizations; and
- (C) Those involved in interstate commerce.

(Prior Code, § 7.79)

CHAPTER 112: TELECOMMUNICATIONS PROVIDERS

Section

- 112.01 Purpose
- 112.02 Conflict
- 112.03 Definitions
- 112.04 Permit required
- 112.05 Issuance of permit
- 112.06 Construction/engineering permit
- 112.07 Conduit or utility poles
- 112.08 Route maps
- 112.09 Repair of damage
- 112.10 Establishment and payment of maintenance fee
- 112.11 Modification of existing fees
- 112.12 Savings clause
- 112.13 Use of funds
- 112.14 Annual report
- 112.15 Cable television operators
- 112.16 Existing rights

- 112.17 Compliance
- 112.18 Reservation of police powers
- 112.19 Authorized city officials
- 112.20 Municipal civil infraction

§ 112.01 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, being M.C.L.A. §§ 484.3101 through 484.3120, (Public Act 48 of 2002) (“Act”) and other applicable law, and to ensure that the city qualifies for distributions under the Act by modifying the fees charged to providers and complying with the Act.

(2012 amendment)

§ 112.02 CONFLICT.

Nothing in this chapter shall be construed in such a manner as to conflict with the Act or other applicable law.

(2012 amendment)

§ 112.03 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), being M.C.L.A. §§ 484.3101 through 484.3120, as amended from time to time.

CITY. The City of Auburn.

CITY ADMINISTRATOR. The City Administrator or his or her designee.

CITY COMMISSION. The City Commission of the city, or its designee. This section does not authorize delegation of any decision or function that is required by law to be made by the City Commission.

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.

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, being 47 U.S.C. §§ 201 and 521 *et seq.*, Chapter 652, 48 Stat. 1064, 47 D.S.C. 332 and further defined as commercial mobile radio service in 47 C.F.R. § 20.3, and service provided by any wireless, two-way communication device.

TELECOMMUNICATIONS PROVIDER, PROVIDER and **TELECOMMUNICATIONS SERVICES.**

(a) Those terms as defined in § 102 of the Michigan Telecommunications Act, Public Act 179 of 1991, being M.C.L.A. § 484.2102.

(b) **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 D.S.C. 332 and further defined as commercial mobile radio service in 47 C.F.R. § 20.3, or service provided by any wireless, two-way communication device.

(c) For the purpose of the Act and this chapter only, a **PROVIDER** also includes all of the following:

1. A cable television operator that provides a telecommunications service;

2. Except as otherwise provided by the Act, a person who owns telecommunication facilities located within a public right-of-way; and

3. A person providing broadband internet transport access service.

(2012 amendment)

§ 112.04 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 Administrator 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.* 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, 1976 Public Act 442, 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 one-time non-refundable application fee in the amount of \$500.

(E) *Additional information.* The City Administrator may request an applicant to submit such additional information which the City Administrator deems reasonably necessary or relevant. The applicant shall comply with all such requests in compliance with reasonable deadlines for such additional information established by the City Administrator. 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, 1991 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 (G) is not required to pay the \$500 application fee required under division (D) above. A provider under this division (G) 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.

(2012 amendment)

§ 112.05 ISSUANCE OF PERMIT.

(A) *Approval or denial.* The authority to approve or deny an application for a permit is hereby delegated to the City Administrator. Pursuant to § 15(3) of the Act, the City Administrator 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 Administrator shall notify the MPSC when the City Administrator 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 Administrator shall not unreasonably deny an application for a permit.

(B) *Form of permit.* If an application for permit is approved, the City Administrator 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 Administrator may impose conditions on the issuance of a permit, which conditions shall be limited to the telecommunications provider's access and usage of the public right-of-way.

(D) *Bond requirement.* Pursuant to § 15(3) of the Act, and without limitation on division (C) above, the City Administrator may require that the telecommunications provider as a condition of the permit post a bond. 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.

(2012 amendment)

§ 112.06 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 as required under §§ 95.001 through 95.083, as amended, for construction within the public rights-of-way. No fee shall be charged for such a construction or engineering permit.

(2012 amendment)

§ 112.07 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.

(2012 amendment)

§ 112.08 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 format unless and until the MPSC determines otherwise, in accordance with § 6(8) of the Act.

(2012 amendment)

§ 112.09 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.

(2012 amendment)

§ 112.10 ESTABLISHMENT AND PAYMENT OF MAINTENANCE FEE.

In addition to the non-refundable application fee paid to the city set forth in § 112.04(D), a telecommunications provider with telecommunications facilities in the city's public rights-of-way shall pay an annual maintenance fee to the Authority pursuant to § 8 of the Act.

(2012 amendment)

§ 112.11 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. 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.

(B) 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. To the extent any fees are charged telecommunications providers in excess of the amounts permitted under the Act, or which are otherwise inconsistent with the Act, such imposition is hereby declared to be contrary to the city's policy and intent, and upon application by a provider or discovery by the city, shall be promptly refunded as having been charged in error.

(2012 amendment)

§ 112.12 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 § 112.11 shall be void from the date the modification was made.

(2012 amendment)

§ 112.13 USE OF FUNDS.

Pursuant § 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 through 247.675.

(2012 amendment)

§ 112.14 ANNUAL REPORT.

Pursuant to § 10(5) of the Act, the City Administrator shall file an annual report with the Authority on the use and disposition of funds ally distributed by the Authority.

(2012 amendment)

§ 112.15 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.

(2012 amendment)

§ 112.16 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.

(2012 amendment)

§ 112.17 COMPLIANCE.

(A) 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.

(B) The city shall comply in all respects with the requirements of the Act, including, but not limited to, the following:

(1) Exempting certain route maps from the Freedom of Information Act, Public Act 442 of 1976, being M.C.L.A. §§ 15.231 to 15.246, as provided in § 112.04(C);

(2) Allowing certain previously issued permits to satisfy the permit requirements hereof, in accordance with § 112.04(F);

(3) Allowing existing providers additional time in which to submit an application for a permit, and excusing such providers from the \$500 application fee, in accordance with § 112.04(G);

(4) Approving or denying an application for a permit within 45 days from the date a telecommunications provider files an application for a permit for access to and usage of a public right-of-way within the city, in accordance with § 112.05(A);

(5) Notifying the MPSC when the city has granted or denied a permit in accordance with § 112.05(A);

(6) Not unreasonably denying an application for a permit, in accordance with § 112.05(A);

(7) Issuing a permit in the form approved by the MPSC, with or without additional or different permit terms, as provided in § 112.05(B);

(8) Limiting the conditions imposed on the issuance of a permit to the telecommunications provider's access and usage of the public right-of-way, in accordance with § 112.05(C);

(9) Not requiring a bond of a telecommunications provider which exceeds the reasonable cost to ensure that the public right-of-way is returned to its original condition during and after the telecommunication provider's access and use, in accordance with § 112.05(D);

(10) Not charging any telecommunications providers any additional fees for construction or engineering permits, in accordance with § 112.06;

(11) Providing each telecommunications provider affected by the city's right-of-way fees with a copy of this chapter, in accordance with § 112.11;

(12) Submitting an annual report to the Authority, in accordance with § 112.14; and

(13) Not holding a cable television operator in default for a failure to pay certain franchise fees, in accordance with § 112.15.

(2012 amendment)

§ 112.18 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.

(2012 amendment)

§ 112.19 AUTHORIZED CITY OFFICIALS.

The City Administrator 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.

(2012 amendment)

§ 112.20 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 the penalties provided in § 10.99. 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.

(2012 amendment)

TITLE XIII: GENERAL OFFENSES

Chapter

130. DISORDERLY CONDUCT

131. LITTER

132. FIREWORKS

CHAPTER 130: DISORDERLY CONDUCT

Section

130.01 Definition

130.02 Acts prohibited

130.03 Conduct on school property

130.04 Misappropriation of services

§ 130.01 DEFINITION.

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

PUBLIC PLACE. Any street, alley, park, public building, any place of business or assembly upon to or frequented by the public, and any other place which is open to the public view or hearing, or to which the public has access.

(1991 Code, § 9.1)

Cross-reference:

Certain acts prohibited in parks, see § 93.01

§ 130.02 ACTS PROHIBITED.

No person shall:

- (A) Commit an assault, or an assault and battery on any person;
- (B) Be intoxicated in a public place and either endangering directly the safety of another person or of property or acting in a manner that causes a public disturbance;
- (C) Be present in any public place with his ability to walk, talk or see significantly impaired by the use of any controlled substance as defined by the Michigan Public Health Code (Article 7), as amended, provided, however, that this division (C) shall not be construed to apply to a person whose faculties have been impaired by medication prescribed by a physician and taken as directed;
- (D) Engage in any indecent or obscene conduct in any public place;
- (E) Discharge any firearm, air rifle, air pistol or bow and arrow in the city, except when lawfully acting in the defense of persons or property or the enforcement of law or at a duly established range, the operation of which has been approved by the City Commission;
- (F) Fire, discharge, display or possess any fireworks except of the type and under the conditions permitted by Chapter 39 of the Penal Code of the State of Michigan, being M.C.L.A. §§ 750.243 through 750.243e, and (see Chapter 132, fireworks, of this code of ordinances);
- (G) Engage in peeping in the windows of any inhabited place in such a manner as would be likely to interfere with the occupant's reasonable expectation of privacy without the occupants express or implied consent;
- (H) Make any immoral exhibition or indecent exposure of his or her person in any public place;
- (I) Engage in any disturbance, fight or quarrel in a public place;
- (J) Collect or stand in crowds, or arrange, encourage or abet the collection of persons in crowds for illegal or mischievous purposes in any public place;
- (K) Jostle or roughly crowd persons in any street, alley, park, public building or any place open to or frequented by the public;
- (L) Loiter on any street or sidewalk or in any park or public building or conduct himself or herself in any public place so as to obstruct the free and uninterrupted passage of the public after having been asked to move by a peace officer;

(M) Play any ball game in any public street or sidewalk or otherwise obstruct traffic on any street or sidewalk by collecting in groups thereon, for any purpose;

(N) Engage in any act of prostitution;

(O) Knowingly attend, frequent, operate or be an occupant or inmate of any place where prostitution, illegal gambling, the illegal sale of intoxicating liquor, or where any other illegal business or occupation is permitted or conducted;

(P) Solicit or accost any person for the purpose of inducing the commission of any illegal act;

(Q) Knowingly transport any person to a place where prostitution is practiced, encouraged or allowed for the purpose of enabling such person to engage in any illegal act;

(R) Keep or maintain a gaming room, gaming tables or any policy or pool tickets, used for gaming; or knowingly suffer a gaming room, gaming tables or any policy or pool tickets to be kept, maintained, played or sold on any premises occupied or controlled by him or her, except where such activity is authorized by state law;

(S) Disturb the public peace and quiet by loud, boisterous or vulgar conduct;

(T) Permit or suffer any place occupied or controlled by him or her to be a resort of noisy, boisterous or disorderly persons;

(U) Obstruct, resist, hinder or oppose any member of the police force, or any peace officer in the discharge of his or her duties as such except that it is a defense to prosecution under this section that the obstruction, resistance, or interference alleged consisted of constitutionally-protected speech only;

(V) Prowl about any alley or the private premises of any person in the nighttime without authority or the permission of the owner of such premises;

(W) Spit on any street or sidewalk; or in any public carrier upon the floor, seat or walls thereof; or upon the floor, walls, stairs or seats of any public building or place of public assemblage;

(X) Willfully destroy, remove, damage, alter or in any manner deface any property not his or her own, or any public school building, or any public building, bridge, fire hydrant, alarm box, street light, street sign, traffic-control device, railroad sign or signal, parking meter or shade tree belonging to the city or located in the public places of the city; or mark or post handbills on, or in any manner mar the walls of, any public building, or fence, tree or pole within the city; or damage, destroy, take or meddle with any property belonging to the city, or remove the same from the building or place where it may be kept, placed or stored, without proper authority;

(Y) Wrongfully throw or propel any snowball, missile or object from any moving automobile;

(Z) Wrongfully throw or propel any snowball, missile or object toward any person or automobile, or on the private property of another person;

(AA) Harass, annoy or alarm or make or extend advances or invitations, by word or act, that are offensive to any person to whom he or she is unknown, in any public place;

(BB) Willfully make or assist in making any noise or diversion which disturbs or tends to disturb the peace, quiet or good order of any meeting, gathering or congregation lawfully assembled, whether religious, political or otherwise;

(CC) Summon, as a joke or prank or otherwise without any good reason therefor, by telephone or otherwise, the Police or Fire Department or any public or private ambulance to go to any address where the service called for is not needed; or

(DD) Enter or remain on the land, property or premises of another without the permission of the owner, occupant or agent after being notified to leave by the owner, occupant or agent or by an appropriate sign.

(1991 Code, § 9.2) Penalty, see § 10.99

§ 130.03 CONDUCT ON SCHOOL PROPERTY.

(A) No person shall mark with any substance, or in any other manner deface or do damage to any building owned, occupied or otherwise used as a school within the city.

(B) No person shall mark with any substance, or in any other manner deface or do damage to any fence, tree, lawn or other fixture situated on lands owned, occupied or otherwise used by a school within the city.

(C) No person, while on public or private grounds adjacent to any building in which a school or any class thereof is in session, shall willfully make or assist in the making of any noise or diversion which disturbs or tends to disturb the peace, quiet or good order of such school session or class thereof.

(D) No person while on public or private lands adjacent to any building or lands owned, occupied or otherwise used by a school within the city, in or on which any gathering or function is in progress, whether in the day or nighttime, shall willfully make or assist in the making of any noise or diversion which disturbs or tends to disturb the peace, quiet or good order of such gathering or function.

(E) No person, while in any building owned, occupied or otherwise used by a school within the city, shall utter any profane, indecent or immoral language towards any person or while within the hearing of any other person.

(F) No person, while on any lands owned, occupied or otherwise used by a school within the city, shall utter any profane, indecent or immoral language towards any person or while within the hearing of any other person.

(G) No person not a student or employee of any school located in the city, or parent or guardian of any student enrolled therein, shall remain within any school during normal school hours without securing the written permission of the principal or person in charge of said school.

(H) The term **STUDENT** as used herein is hereby defined as any person of school age and enrolled in the school at which he or she then is present.

(1991 Code, § 9.11) Penalty, see § 10.99

§ 130.04 MISAPPROPRIATION OF SERVICES.

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

FACILITIES. Any apparatus used by a person in furnishing services to the public, including, but not limited to, electric power lines and poles, wires, cables, pipes, mains or other conductors or conduits used for the supplying and/or transmission of services to the public.

PERSON. Any individual, partnership, corporation or other legal entity.

SERVICES. The furnishing to the public, by either a private or public person, any of the following: water, sanitary sewer, steam, electricity, gas, cable antenna radio or television communication and/or transmissions or telephone or telegraph communications and/or transmissions.

(B) It shall be unlawful for any person to appropriate for its own use any service, without paying for the service, the applicable fees, costs, rates or charges to the person furnishing such services.

(C) It shall be unlawful for any person to utilize the facilities of a person furnishing services to the public, unless prior consent from the owner of such facilities, or its authorized agent, has been obtained.

(D) It shall be unlawful for any person to damage, connect to or otherwise alter any facilities owned by a person furnishing services to the public unless prior consent from the owner of such facilities, or its authorized agent, has been obtained.

(1991 Code, § 9.21) Penalty, see § 10.99

CHAPTER 131: LITTER

Section

- 131.01 Definitions
- 131.02 Refuse collection
- 131.03 Disposal of litter
- 131.04 Depositing litter
- 131.05 Use of receptacles
- 131.06 Littering streets
- 131.07 Littering parks
- 131.08 Litter on private property
- 131.09 Owner's duty
- 131.10 Littering vacant property
- 131.11 Notice to violators
- 131.12 Failure to obey notice
- 131.13 Collection of costs
- 131.14 Nuisance per se

§ 131.01 DEFINITIONS.

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

LITTER. Garbage, refuse and rubbish and all other waste material which, if thrown or deposited as herein prohibited, tends to create a danger to public health, safety and welfare.

PARK. A park, reservation, playground, beach, recreation center or any other public area in the city, owned or used by the city and devoted to active or passive recreation.

PRIVATE PREMISES. Any dwelling, house, building or other structure, designed or used either wholly or in part for private residential purposes, whether inhabited or temporarily or continuously uninhabited or vacant, and shall include any yard, ground, walk, driveway, porch, steps, vestibule or mailbox belonging or appurtenant to such dwelling, house, building or other structure.

PUBLIC PLACE. Any and all streets, sidewalks, boulevards, alleys or other public ways and any and all public parks, squares, spaces, grounds and buildings.

(1991 Code, § 6.61)

§ 131.02 REFUSE COLLECTION.

It shall be unlawful for any person to interfere with or hinder the collection of garbage or refuse.

(1991 Code, § 6.62) Penalty, see § 10.99

§ 131.03 DISPOSAL OF LITTER.

No person shall dispose of litter, except at locations which have been approved and supervised by the city.

(1991 Code, § 6.63) Penalty, see § 10.99

§ 131.04 DEPOSITING LITTER.

No person shall throw or deposit litter in or upon any street, sidewalk or public place within the city, except in public receptacles, in authorized private receptacles for collection, or in official sanitary landfills.

(1991 Code, § 6.64) Penalty, see § 10.99

§ 131.05 USE OF RECEPTACLES.

Persons placing litter in public receptacles or in authorized private receptacles shall do so in such a manner as to prevent it from being carried or deposited by the elements upon any street, sidewalk or other public place, or upon private property.

(1991 Code, § 6.65) Penalty, see § 10.99

§ 131.06 LITTERING STREETS.

No person, while a driver or passenger in a vehicle, shall throw or deposit litter upon any street or other public place within the city, or upon private property nor shall any person drive or move any vehicle or truck within the city, the wheels or tires of which carry onto or deposit in any street, alley or other public place, mud, dirt, sticky substances, litter or foreign matter of any kind.

(1991 Code, § 6.66) Penalty, see § 10.99

§ 131.07 LITTERING PARKS.

(A) No person shall throw, deposit or cause to be deposited litter in any park within the city, except in public receptacles, and in such a manner that the litter shall be prevented from being carried or deposited by the elements upon any part of the park or upon any street or other public place.

(B) Where public receptacles are not provided, all such litter shall be carried away from the park by the person responsible for its presence and properly disposed of elsewhere.

(1991 Code, § 6.67) Penalty, see § 10.99

§ 131.08 LITTER ON PRIVATE PROPERTY.

No person shall throw, deposit or cause to be deposited litter on any occupied private property within the city, whether owned by such person or not. The owner or person in control of private property may maintain authorized private receptacles for collection in such a manner that litter will be prevented from being carried or deposited by the elements upon any street, sidewalk or other public place or upon any private property.

(1991 Code, § 6.68) Penalty, see § 10.99

§ 131.09 OWNER'S DUTY.

The owner or person in control of any private property shall at all times maintain the premises free of litter. This section shall not prohibit the storage of litter in authorized private receptacles for collection.

(1991 Code, § 6.69) Penalty, see § 10.99

§ 131.10 LITTERING VACANT PROPERTY.

No person shall throw, deposit or cause to be deposited litter on any open or vacant private property within the city, whether owned by such person or not.

(1991 Code, § 6.70) Penalty, see § 10.99

§ 131.11 NOTICE TO VIOLATORS.

(A) The City Administrator or his or her duly authorized representative is hereby authorized and empowered to notify the owner of any open or vacant private property within the city, or the agent of such owner, to properly dispose of litter located on such owner’s property which is dangerous to public health, safety or welfare.

(B) Such notice shall be by certified mail, addressed to said owner at his or her last known address.

(1991 Code, § 6.71)

§ 131.12 FAILURE TO OBEY NOTICE.

Upon the failure, neglect or refusal of any owner or agent so notified, to properly dispose of litter dangerous to the public health, safety or welfare within five days after receipt of written notice provided for herein or within five days after the date of such notice in the event the same is returned to the city by the Post Office Department because of its inability to make delivery thereof, provided the same was properly addressed to the last known address of such owner, or agent, the city is hereby authorized and empowered to pay for the disposing of such litter, or to order its disposal by the city.

(1991 Code, § 6.72)

§ 131.13 COLLECTION OF COSTS.

(A) When the city has effected the removal of such dangerous litter or has paid for its removal, the actual cost thereof shall be billed to the person or persons responsible for payment.

(B) If the full amount due the city is not paid within 30 days after the mailing of the bill therefor, a single lot assessment shall be levied against the premises in the manner provided in Chapter 33 (Special Assessments).

(1991 Code, § 6.73)

§ 131.14 NUISANCE PER SE.

The violation of any provision of this chapter is hereby declared to be a nuisance per se. Any court of competent jurisdiction may order such nuisance abated and the violator guilty of maintaining a nuisance per se.

(1991 Code, § 6.74)

CHAPTER 132: FIREWORKS

Section

- 132.01 Title
- 132.02 Definitions
- 132.03 Prohibition on use of all fireworks except as allowed
- 132.04 Prohibition on use of display fireworks; exception
- 132.05 Prohibition on use of consumer fireworks; exception
- 132.06 Use of low-impact or novelty fireworks
- 132.07 Enforcement

- 132.99 Penalty

§ 132.01 TITLE.

This chapter shall be known and may be cited as the “City of Auburn Fireworks Ordinance”.

(Ord. 196, passed 8-13-2012)

§ 132.02 DEFINITIONS.

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

CONSUMER FIREWORKS. Fireworks devices that are designed to produce visible effects by combustion that are required to comply with the construction, chemical composition and labeling regulations promulgated by the United States Consumer Product Safety Commission under 16 C.F.R. parts 1500 and 1507, and that are listed in APA standard 87-1, 3.1.2, 3.1.3 or 3.5. **CONSUMER FIREWORKS** do not include low-impact fireworks.

DISPLAY FIREWORKS. Large fireworks devices that are explosive material intended for use in fireworks displays and designed to produce visual or audible effects by combustion, deflagration or detonation, as provided in 27 C.F.R. § 555.11, 49 C.F.R. part 172, and APA standard 87-1, 4.1.

FIREWORK or FIREWORKS. Any composition or device, except for a starting pistol, a flare gun or flare, designated for the purpose of producing a visible or audible effect by combustion, deflagration or detonation. **FIREWORKS** consist of consumer fireworks, low-impact fireworks, articles pyrotechnic, display fireworks and special effects.

LOW-IMPACT FIREWORKS. Ground and handheld sparkling devices as that phrase is defined under APA standard 87-1, 3.1, 3.1.1.1 to 3.1.1.8 and 3.5.

NOVELTIES. The term as defined under APA standard 87-1, 3.2, 3.2.1, 3.2.2, 3.2.3, 3.2.4 and 3.2.5 and all of the following:

- (1) Toy plastic or paper caps for toy pistols in sheets, strips, rolls or individual caps containing not more than 0.25 of a grain of explosive content per cap, in packages labeled to indicate the maximum explosive content per cap;
- (2) Toy pistols, toy cannons, toy canes, toy trick noisemakers and toy guns in which toy caps are described in division (1) above are used, that are constructed so that the hand cannot come in contact with the cap when in place for the explosion, and that are not designed to break apart, or be separated so as to form a missile by the explosion;
- (3) Flitter sparklers in paper tubes not exceeding 1/8 inch in diameter; and
- (4) Toy snakes not containing mercury, if packed in cardboard boxes with not more than 12 pieces per box for retail sales and if the manufacturer's name and the quantity contained in each box are printed on the box; and toy smoke devices.

(Ord. 196, passed 8-13-2012)

§ 132.03 PROHIBITION ON USE OF ALL FIREWORKS EXCEPT AS ALLOWED.

No person shall ignite, discharge or use any fireworks within the city, except as specifically allowed by this chapter.

(Ord. 196, passed 8-13-2012) Penalty, see § 132.99

§ 132.04 PROHIBITION ON USE OF DISPLAY FIREWORKS; EXCEPTION.

No person shall ignite, discharge or use display fireworks within the city at any time without a permit issued by the Fire Marshal or Fire Chief.

(A) Application for a permit shall be on a written form provided by the State Department of Licensing and Regulatory Affairs. The permit application shall be accompanied by a fee set by resolution of the City Commission, the Fire Marshal or Fire Chief may grant a permit for display fireworks if applicable provisions of the Michigan Fireworks Safety Act, 2011 Public Act 256, being M.C.L.A. §§ 28.451 through 28.471, are complied with. After a permit has been granted, sales, possession or transportation of fireworks for the purposes described in the permit only may be made. A permit granted under this division (A) is nontransferable and shall not be issued to a minor.

(B) Before a permit authorized by this section is granted, the applicant shall furnish proof of financial responsibility in the form of a bond, or insurance deemed sufficient by the township to satisfy damage claims against the applicant, and to protect the public.

(C) A permit shall not be issued to a non-resident of the state applicant until the applicant has appointed in writing a member of the state bar, or a resident agent upon whom all process in an action against the applicant may be served.

(D) The Fire Marshal, or Fire Chief, shall rule on the competency and qualifications of display fireworks operators as required under NFPA 1123 and safety aspects of the display based upon the information provided in the application form before any permit is granted.

(Ord. 196, passed 8-13-2012) Penalty, see § 132.99

§ 132.05 PROHIBITION ON USE OF CONSUMER FIREWORKS; EXCEPTION.

No person shall ignite, discharge or use consumer fireworks within the city, except this prohibition shall not preclude any person from the ignition, discharge and use of consumer fireworks on the day preceding, the day of, or the day after a national holiday consistent with § 7(2) of 2011 Public Act 256. Consumer fireworks ignited, discharged or used on the dates allowed by this section shall strictly conform to the definition of consumer fireworks in this ordinance and state statute by only creating visual, but not audible, effects by their combustion and if not conforming shall be prohibited at all times.

(Ord. 196, passed 8-13-2012) Penalty, see § 132.99

§ 132.06 USE OF LOW-IMPACT OR NOVELTY FIREWORKS.

Low-impact fireworks shall be ignited, discharged or used so as to not cause injury or damage to any person or property but shall not be ignited, discharged or used inside any building or structure at any time without a license or permit issued by the Fire Marshal or Fire Chief. Novelty fireworks may be ignited, discharged or used without restriction, but only in a manner so as to not cause injury or damage to any person or property.

(Ord. 196, passed 8-13-2012) Penalty, see § 132.99

§ 132.07 ENFORCEMENT.

Any police officer with arrest powers in the city may enforce the provisions of this chapter. In addition, the City Fire Chief, Fire Marshal and Code Enforcement Officer may issue and serve an appearance ticket upon a person for a violation of this chapter where there is reasonable cause to believe that the person has committed an offense.

(Ord. 196, passed 8-13-2012)

§ 132.99 PENALTY.

A violation of any of the provisions of this chapter shall be a misdemeanor offense punishable by up to 90 days in jail, or a fine of up to \$500, or both such jail and fine.

(Ord. 196, passed 8-13-2012)

TITLE XV: LAND USAGE

Chapter

150. GENERAL PROVISIONS

151. BUILDING CODE

152. TRAILER COACH PARKING

153. SUBDIVISION REGULATIONS

154. ZONING CODE

CHAPTER 150: GENERAL PROVISIONS

Section

Site Condominium Projects and Regulations

- 150.01 Definitions
- 150.02 General requirements
- 150.03 Preliminary approval
- 150.04 Final approval
- 150.05 Appeals
- 150.06 Information required prior to occupancy
- 150.07 Revision of site condominium plan
- 150.08 Amendment of condominium documents
- 150.09 Performance bond

Floodplain Management Provisions

- 150.25 Agency designated
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- 150.27 Designation of regulated flood prone hazard areas

- 150.99 Penalty

SITE CONDOMINIUM PROJECTS AND REGULATIONS

§ 150.01 DEFINITIONS.

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

CONDOMINIUM ACT. Public Act 59 of 1978, being M.C.L.A. §§ 559.101 through 559.272, as amended.

CONDOMINIUM DOCUMENTS. The master deed, recorded pursuant to the Condominium Act, and any other instrument referred to in the master deed or bylaws which affects the rights and obligations of a co-owner in the condominium.

CONDOMINIUM LOT. The condominium unit, including the condominium unit and the contiguous limited common element

surrounding the condominium unit, and shall be the counter-part of “lot” as used in connection with a project developed under the Subdivision Control Act, Public Act 288 of 1967, being M.C.L.A. §§ 560.101 through 560.293, as amended.

CONDOMINIUM UNIT. The portion of a condominium project assigned and intended for separate ownership and use, as described in the master deed.

GENERAL COMMON ELEMENTS. A portion of the common elements reserved in the master deed for the use of all of the co-owners.

LIMITED COMMON ELEMENTS. A portion of the common elements reserved, in the master deed for the exclusive use of less than all of the co-owners.

MASTER DEED. The condominium documents recording the condominium project to which are attached as exhibits and incorporated by reference the bylaws for the project and the condominium subdivision plan for the project, and all other information required by § 8 of the Condominium Act.

SITE CONDO. A condominium development containing residential, commercial, office, industrial or other structures or improvements for uses permitted in the zoning district in which located, in which each co-owner owns exclusive rights to a volume of space within which a structure or structures may be constructed, herein defined as a condominium unit, as described in the master deed.

(Ord. 159, passed 1-12-1996)

§ 150.02 GENERAL REQUIREMENTS.

(A) Each condominium lot shall be located within a zoning district that permits the proposed use.

(B) Notwithstanding any other provision of any other city ordinance to the contrary, each condominium lot shall front on and have direct access to either a public street or a private street approved by the City Commission. A request for a private street shall be considered by the Planning Commission during preliminary site plan review. In considering the approval of a private road the Planning Commission shall consider the following conditions and standards:

- (1) The size and location of the proposed site condominium development;
- (2) The size of the condominium lots;
- (3) The uniqueness of the property;
- (4) Whether or not standards applicable to public roads, if required, would result in the imposition of practical difficulties or unnecessary hardship;
- (5) The maintenance of the proposed road;
- (6) The accessibility to structures within the proposed development by emergency vehicles;
- (7) The public’s health, safety and welfare; and
- (8) Installation of sidewalks.

(C) Any private roads proposed by the applicant shall include sidewalk installation and shall be reviewed and approved using accepted city standards regarding the following:

- (1) Width;
- (2) Existence and/or type of curb and gutter(or the absence thereof);
- (3) Construction material and depth; and
- (4) Exact locations.

(D) Final approval of any private road must be made by the City Commission, using the same standards set forth above, and in consideration of the Planning Commission’s recommendation regarding the project.

(Ord. 159, passed 1-12-1996)

§ 150.03 PRELIMINARY APPROVAL.

(A) *Site plan approval required.* Preliminary approval of the site plan by the Planning Commission and final approval of the site plan and condominium documents by the Planning Commission, and as a final step in this procedure approval by the City Commission of the Planning Commission’s recommendation shall be required before the construction, expansion or conversion of a site condominium project. Preliminary and final approval shall not be combined.

(B) *Preliminary approval.*

(1) A site plan pursuant to standards and procedures set forth in § 154.135 shall be submitted to the City Administrator.

(a) The City Administrator in consultation with other appropriate staff and consultants shall review the site plan.

(b) The review shall be conducted with regard to all matters subject to regulation by the city including, without limitation, ongoing preservation and maintenance of drainage, retention, wetland and other natural and/or common area; maintenance of private roads, if

any; application for private roads, if any; and maintenance of storm water, sanitary and water facilities and utilities.

(c) The City Administrator shall compile the findings of this review and provide them to the Planning Commission upon the Commission's request at either the preliminary approval stage or final approval stage or at both stages.

(2) If the site plan conforms in all respects to applicable laws, ordinances and design standards, preliminary approval shall be granted by the Planning Commission.

(3) If the site plan fails to conform, the Planning Commission shall either deny the application, or grant preliminary approval with conditions, provided such conditions are met before final approval.

(Ord. 159, passed 1-12-1996)

§ 150.04 FINAL APPROVAL.

(A) If directed by the Planning Commission, the City Administrator shall provide information in addition to that compiled pursuant to § 150.03(B).

(B) Following receipt of preliminary approval, the applicant shall also submit to the Building Inspector engineering plans in sufficient detail for the city, along with appropriate consultants, if necessary, to determine compliance with applicable laws, ordinances and design standards for construction of the project. All review comments shall be submitted to the City Administrator who shall compile the findings prior to consideration of the site plan for final approval by the Planning Commission.

(C) Upon completion of the review of the condominium documents and engineering plans and receipt of the recommendations and findings from city staff and consultants, the site plan shall be submitted to the Planning Commission.

(D) If the site plan, condominium documents and/or engineering plans conform in all respects to applicable laws, ordinances and design standards, final approval shall be granted by the Planning Commission.

(E) If the site plan, condominium documents and/or engineering plans fail to conform, final approval shall be denied by the Planning Commission.

(F) The final recommendation of the Planning Commission approving a condominium site plan shall be reviewed by the City Commission. The City Commission shall affirm, deny (in effect, reversing the Planning Commission recommendation) or request modification of the condominium site plan. The City Commission may direct that the Planning Commission reconsider the request for modification of the site plan and make recommendation to the City Commission on that issue or the City Commission may elect to conduct its own review of the requested modification.

(Ord. 159, passed 1-12-1996)

§ 150.05 APPEALS.

(A) Any interested party may appeal any decision of the Planning Commission made under the terms of this subchapter by filing with the City Clerk a written notice of appeal within ten days of the decision appealed from.

(B) The City Commission shall hear the appeal within 30 days of the date of filing of the notice of appeal and shall thereafter either affirm, reverse or modify the decision of the Planning Commission.

(C) The decision of the City Commission shall be final.

(Ord. 159, passed 1-12-1996)

§ 150.06 INFORMATION REQUIRED PRIOR TO OCCUPANCY.

Prior to the issuance of occupancy permits for any condominium units, the applicant shall submit the following to the city:

(A) A copy of the recorded condominium documents (excluding exhibits);

(B) A copy of any recorded restrictive covenants;

(C) A copy of the site plan on laminated photostatic copy or Mylar sheet; and

(D) Evidence of completion of improvements associated with the proposed use including two copies of an "as-built survey".

(Ord. 159, passed 1-12-1996)

§ 150.07 REVISION OF SITE CONDOMINIUM PLAN.

Any amendment to a master deed or bylaws that substantially affects the approved preliminary or final site plan, or any conditions of approval of the preliminary or final site plan, shall be reviewed and approved by the City Administrator, City Attorney and Planning Commission before any building permit may be issued, where such permit is required.

(Ord. 159, passed 1-12-1996)

§ 150.08 AMENDMENT OF CONDOMINIUM DOCUMENTS.

(A) Any amendment to a master deed or bylaws that substantially affects the approved preliminary or final site plan, or any

conditions of approval of a preliminary or final site plan, shall be reviewed and approved by the City Administrator, City Attorney and Planning Commission before any building permit may be issued, where such permit is required.

(B) The Building Inspector may require his or her review of an amended site plan if, in his or her opinion, such changes in the master deed or bylaws require corresponding changes in the earlier site plan.

(Ord. 159, passed 1-12-1996)

§ 150.09 PERFORMANCE BOND.

(A) Further, the Planning Commission is empowered to require and at its option may require a performance bond or certified check in an amount equal to the estimated cost of improvements associated with the project.

(B) Such performance guarantee shall be deposited with the City Clerk at the time of the issuance of the permit authorizing the activity or project to insure faithful completion of the improvements indicated with the approved site development plan; if not, the performance bond shall be forfeited.

(C) The city shall rebate a proportional share of the deposit, when requested by the depositor, based on the percent of improvements completed, as attested to by the depositor and verified by the City Administrator.

(D) The City Administrator may, at his or her discretion, call upon professional assistance from the City Engineer or Building Inspectors.

(E) In cases where the provisions above have not been met, the amount of the aforementioned performance guarantee shall be used by the city to return the property to a safe and healthy condition; and the balance, if any, shall be returned to the applicant.

(Ord. 159, passed 1-12-1996)

FLOODPLAIN MANAGEMENT PROVISIONS

§ 150.25 AGENCY DESIGNATED.

Pursuant to the provisions of the State Construction Code, in accordance with § 8b(6) of Public Act 230 of 1972, as amended, the Building Official of Williams Township, Bay County is hereby designated as the enforcing agency to discharge responsibility of the city under Public Act 230 of 1972, being M.C.L.A. §§ 125.1501 through 125.1531, as amended. Williams Township assumes responsibility for the administration and enforcement of said Act through out the corporate limits of the community adopting this subchapter.

(Ord. 191, passed 9-20-2010)

§ 150.26 CODE APPENDIX ENFORCED.

Pursuant to the provisions of the state construction code, in accordance with § 8b(6) of Public Act 230 of 1972, as amended, Appendix G of the Michigan Building Code shall be enforced by the enforcing agency within the city.

(Ord. 191, passed 9-20-2010)

§ 150.27 DESIGNATION OF REGULATED FLOOD PRONE HAZARD AREAS.

The Federal Emergency Management Agency (FEMA) flood insurance study (FIS) entitled "Bay County Michigan (all jurisdictions)", and dated September 17, 2010 and the flood insurance rate map (FIRMS) panel number of 26017C; 0325E ("no special flood hazard areas identified"), and dated September 17, 2010 are adopted by reference for the purposes of administration of the Michigan Construction Code, and declared to be a part of § 1612.3 of the Michigan Building Code, and to provide the content of the "flood hazards" section of Table R301.2(1) of the Michigan Residential Code.

(Ord. 191, passed 9-20-2010)

§ 150.99 PENALTY.

Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99.

CHAPTER 151: BUILDING CODE

Section

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GENERAL BUILDING REGULATIONS

§ 151.001 ADOPTION OF CODE BY REFERENCE.

Pursuant to the provisions of § 3(k) of Public Act 279 of 1909, and § 8 of Public Act 230 of 1972, being M.C.L.A. §§ 125.1501 through 125.1531 (State Construction Code Act of 1972), State of Michigan, as amended, the Michigan Building Code, 2000, as written and changed in the future, is hereby adopted by reference by the city, for the purpose of regulating the erection, construction, enlargement, alteration, repair, moving, removal, conversion, demolition, occupancy, equipment, use, height, area and maintenance of all buildings and structures in the city.

(1991 Code, § 8.1) (Ord. 148, passed 4-6-1992; Ord. 176, passed 8-20-2001)

§ 151.002 CODE ON FILE.

Complete printed copies of the Uniform Building Code, herein adopted, are available for public use and inspection at the office of the City Clerk.

(1991 Code, § 8.2)

§ 151.003 REFERENCES IN CODE.

References in the Uniform Building Code to “state” and “Michigan” shall mean the State of Michigan, references to “municipality” shall mean the City of Auburn, references to the “municipal charter” shall mean the Charter of the City of Auburn, and references to “local ordinances” shall mean the Auburn City Code.

(1991 Code, § 8.3)

§ 151.004 CHANGES IN CODE.

The following sections and subsections of the Uniform Building Code are hereby amended or deleted as set forth, and additional sections and subsections are added as indicated. Subsequent section numbers used in this subchapter shall refer to the like numbered sections of the Uniform Building Code. After § 2907 a new § 2907.1 is added to read as follows:

Section 2907.1.

(a) Frost line: Frost line shall in all cases be three feet and six inches below the adjacent grade.

(b) Accessory buildings: Detached accessory buildings, one story in height and wood frame constructed over 145 square feet in area but less than 1,000 square feet which are not used for human occupancy may be supported on foundations which extend from a point at least 12 inches below grade to a point at least six inches above grade. All detached accessory buildings with 145 square feet or less whether wood or metal frame construction may be supported on a four-inch slab only.

(c) Subsoil drainage: The ground around all buildings shall be so graded as to provide drainage away from the foundation walls and to prevent dampness due to seepage through the ground. In buildings and structures without basements, the enclosed portion beneath the floor or crawl space shall be at the same or higher elevation than the immediate exterior grade except a complete system of four-inch subsoil drain tile or other drainage system approved by the Building Official shall encircle the footings of exterior basement and cellar walls. The top half of the drain tile joint shall be covered with strips of buildings paper, and the drain tile shall be covered with 12 inches of gravel or stones. The subsoil drain may discharge into storm sewers or other established drains.

(d) Foundation wall damp-proofing and water-proofing; Foundation walls shall be so designed and constructed as to be adequately protected at all points against penetration of moisture by the application of undiluted hot tar, hot asphalt or a compound or system approved by the Building Official.

(1991 Code, § 8.4)

§ 151.005 VIOLATIONS.

(A) Any person erecting, using, moving, demolishing, occupying or maintaining any building or structure in violation of the Uniform Building Code as herein amended or causing, permitting or suffering any such violation to be committed, shall be punished as provided in § 10.99.

(B) Any building or structure erected, used, moved, demolished, occupied or maintained in violation of this subchapter is hereby declared to be a nuisance per se.

(C) Upon application to any court of competent jurisdiction, the court may order the nuisance abated and/or the violation, or threatened violation, restrained and enjoined.

(1991 Code, § 8.5)

DANGEROUS BUILDINGS

§ 151.020 ADOPTION OF CODE BY REFERENCE.

Pursuant to the provisions of § 3(k) of Act 279 of 1909, and § 8 of Act 230 of 1972, being M.C.L.A. §§ 125.1501 through 125.1531 (State Construction Code Act of 1972), State of Michigan, as amended, the Uniform Code for the Abatement of Dangerous Buildings, 1991 Edition, with appendices, as promulgated and published by the International Conference of Building Officials, Whittier, California, is hereby adopted by reference by the city for the purpose of providing a just, equitable and practicable method, to be cumulative with and in addition to, any other remedy provided by the Uniform Building Code, 1991 Edition, with appendices, or otherwise available at law, whereby buildings or structures which from any cause endanger the life, limb, health, morals, property, safety or welfare of the general public or their occupants, may be required to be repaired, vacated or demolished.

(1991 Code, § 8.11) (Ord. 134, passed 7-10-1989; Ord. 148, passed 4-6-1992)

§ 151.021 CODE ON FILE.

Complete copies of the *Uniform Code for the Abatement of Dangerous Buildings*, herein adopted, are available for public use and inspection at the office of the City Clerk.

(1991 Code, § 8.12)

§ 151.022 ABATEMENT BY CITY.

(A) If any person shall fail or refuse to carry out any order served upon him or her pursuant to this subchapter, after the expiration of the time allowed for an appeal from such order, or shall fail or refuse to carry out the order of the Board of Appeal, within the time fixed by the order, the officer issuing the original order shall proceed to carry out the same through his or her agents, employees or contractors, and the cost of carrying out such order shall constitute a lien against the premises.

(B) The cost of the demolition or making the building safe shall be a lien against the real property and shall be reported to the assessing officer of the city, who shall assess the cost against the property on which the building or structure is located in accordance with Chapter 33 (Special Assessments).

(1991 Code, § 8.13)

PLUMBING REGULATIONS

§ 151.035 CODE ADOPTED.

The Michigan Plumbing Code, 2009, as written and changed in the future is hereby adopted by as the Plumbing Code of the city the same as if fully set out herein for regulating the installation, alteration, maintenance and inspection of the plumbing, drainage, water supply systems and equipment in all structures and premises in the city, except public sewers and city water supply mains and service connections.

(1991 Code, § 8.21) (Ord. 122, passed 7-6-1987; Ord. 148, passed 4-6-1992; Ord. 177, passed 8-20-2001)

§ 151.036 REQUIREMENTS.

This code establishes minimum requirements and standards for the protection of the public health, safety and welfare.

(1991 Code, § 8.22)

§ 151.037 APPLICATION.

The provisions of this code shall apply to the erection, installation, alteration, addition, repair, relocation, replacement, maintenance or use of any plumbing system, except as otherwise provided for in this code.

(1991 Code, § 8.23)

Cross-references:

Sewer service, see Chapter 52

Water utility, see Chapter 51

§ 151.038 ABATEMENT OF NUISANCE.

(A) Any portion of a plumbing system found by the Administrative Authority to be unsanitary as defined herein is hereby declared to be a nuisance.

(B) Where a nuisance exists or a plumbing system is maintained in violation of this code or any notice issued pursuant to this section, the Administrative Authority shall require the nuisance or violation to be abated and, where necessary, shall seek such abatement in the manner provided by law. The Administrative Authority shall be the designated Building Official of the city.

(1991 Code, § 8.24)

Cross-reference:

Nuisances, see Chapter 94

§ 151.039 ENFORCEMENT.

(A) The Administrative Authority may appoint such assistants, deputies, inspectors or other employees as are authorized to carry out the function of the department and this code. The Administrative Authority has the right to provide by agreement or contract, approved by the City Commission, with any other city, village, township or county for joint enforcement and administration of this subchapter and the Uniform Plumbing Code.

(B) Whenever necessary to make an inspection to enforce any of the provisions of this code, or whenever the Administrative Authority or his authorized representative has reasonable cause to believe that there exists in any building or upon any premises any condition which makes such building or premises unsafe as defined in this code, the Administrative Authority or his or her authorized representative may enter such building or premises at all reasonable times to inspect the same or to perform any duty imposed upon the Administrative Authority by this code; provided that if such building or premises be occupied, he or she shall first present proper credentials and demand entry; and if such building or premises be unoccupied, he or she shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and demand entry. If such entry is refused, the Administrative Authority or his or her authorized representative shall have recourse to every remedy provided by law to secure entry. **AUTHORIZED REPRESENTATIVE** shall include the persons named in division (A) above.

(C) No owner or occupant or any other person having charge, care or control of any building or premises shall fail or neglect, after proper demand is made as herein provided, to properly permit entry therein by the Administrative Authority or his or her authorized representative for the purpose of inspection and examination pursuant to this code. Any person violating this division (C) shall be guilty of a violation of the city code.

(1991 Code, § 8.25)

§ 151.040 ISSUANCE OF PERMIT.

(A) The issuance or granting of a permit of approval of plans and specifications shall not be deemed or construed to be a permit for, or an approval of, any violation of any of the provisions of this code. No permit presuming to give authority to violate or cancel the provisions of this code shall be valid, except insofar as the work or use which it authorized is lawful.

(B) The issuance or granting of a permit or approval of plans shall not prevent the Administrative Authority from thereafter requiring the correction of errors in said plans and specifications or from preventing construction operations being carried on thereunder when in violation of this code or of another ordinance or from revoking any certificate of approval when issued in error.

(C) Every permit issued by the Administrative Authority under the provisions of this code shall expire by limitation and become null and void, if the work authorized by such permit is not commenced within 120 days from the date of issuance of such permit or if the work authorized by such permit is suspended or abandoned at any time after the work is commenced for a period of 120 days. Before such work can be recommenced, a new permit shall be first obtained, and the fee shall be one-half the amount required for a new permit for such work, provided no changes have been made or will be made in the original plans and specifications for such work; and provided further that such suspension or abandonment has not exceeded one year.

(1991 Code, § 8.26)

§ 151.041 PERMIT REQUIRED.

(A) It shall be unlawful for any person to install, remove, alter, repair or replace or cause to be installed, removed, altered, repaired or replaced any plumbing, gas or drainage piping work or any fixture or water heating or treating equipment in a building or premises without first obtaining a permit to do such work from the Administrative Authority.

(B) A separate permit shall be obtained for each building or structure.

(C) No person shall allow any other person to do or cause to be done any work under a permit secured by a permittee except persons in his or her employ.

(1991 Code, § 8.27) Penalty, see § 10.99

§ 151.042 WHEN PERMIT UNNECESSARY.

No permit shall be required in the case of any repair work as follows: the stopping of leaks in drains, soil, waste or vent pipe; provided, however, that should any trap, drainpipe, soil waste or vent pipe be or become defective and it becomes necessary to remove and replace the same with new material in any part or parts, the same shall be considered as such new work and a permit shall be procured and inspection made as hereinbefore provided. No permit shall be required for the cleaning of stoppages or the repairing of leaks in pipes, valves or fixtures, when such repairs do not involve or require the replacement or rearrangement of valves, pipes or fixtures.

(1991 Code, § 8.28)

§ 151.043 PERMIT.

(A) Any person legally entitled to apply for and receive a permit shall make such application on forms provided for that purpose. He or she shall give a description of the character of the work proposed to be done and the location, ownership, occupancy and use of the premises in connection therewith. The Administrative Authority may require plans, specifications or drawings and such other information as he or she may deem necessary.

(B) If the Administrative Authority determines that the plans, specifications, drawings, descriptions or information furnished by the applicant is in compliance with this code, he or she shall issue the permit applied for upon payment of the required fee as hereinafter fixed.

(1991 Code, § 8.29)

§ 151.044 PERMIT FEES.

(A) Each applicant shall pay for each permit at the time of issuance a fee as established from time to time by resolution of the City Commission.

(B) Any person who shall commence any work for which a permit is required by this code without first having obtained a permit therefor shall, if subsequently permitted to obtain a permit, pay double the permit fee for such work; provided, however, that this provision shall not apply to emergency work when it shall be proved to the satisfaction of the Administrative Authority that such work was urgently necessary and that it was not practical to obtain a permit therefor before the commencement of the work. In all such cases, a permit must be obtained as soon as it is practical to do so, and if there be an unreasonable delay in obtaining such permit, a double fee as herein provided shall be charged.

(C) For the purpose of this section, a sanitary plumbing outlet on or to which a plumbing fixture or appliance may be set or attached shall be construed to be a **FIXTURE**. Fees for reconnection and retest of plumbing system in relocated buildings shall be based on the number of plumbing fixtures, gas systems, water heaters and the like, involved.

(D) When interceptor traps or mobile home site traps are installed at the same time as a building sewer on any lot, no sewer permit shall be required for the connection of any such trap to an appropriate inlet fitting provided in the building sewer by the permittee constructing such sewer.

(E) When a permit has been obtained to connect an existing building or existing work to the public sewer or to connect to a new private disposal facility, backfilling of private sewage disposal facilities abandoned consequent to such connection is included in the permit.

(1991 Code, § 8.30)

§ 151.045 STOP-WORK ORDER.

Whenever any work is being done contrary to the provisions of this code, the Administrative Authority or his or her authorized representative may order the work stopped by notice in writing served on any persons engaged in the doing or causing such work to be done, and any such persons shall forthwith stop such work until authorized by the Administrative Authority to proceed with the work.

(1991 Code, § 8.31)

§ 151.046 REVOCATION OF PERMIT.

The Administrative Authority may, in writing, suspend or revoke a permit issued under provisions of this code whenever the permit is issued in error or on the basis of incorrect information supplied, or in violation of any ordinance or regulation of any provision of this code.

(1991 Code, § 8.32)

§ 151.047 NO PERSONAL LIABILITY.

The Administrative Authority or any employee charged with the enforcement of this code, acting in good faith and without malice for the jurisdiction in the discharge of his or her duties, shall not thereby render himself or herself liable personally and he or she hereby is relieved from all personal liability for any damage that may accrue to persons or property as a result of any act required or by reason of any act of omission in the discharge of his or her duties. Any suit brought against the Administrative Authority or his or her authorized representative because of such act or omission performed by him or her in the enforcement of any provisions of this code shall be defended by the legal department of the jurisdiction until final termination of the proceedings.

(1991 Code, § 8.33)

§ 151.048 VIOLATIONS.

Any violation of this subchapter or the Uniform Plumbing Code or any part thereof shall be punishable as prescribed in § 10.99. In addition, the city specifically reserves the right and shall have the authority to proceed in any court of competent jurisdiction for the purpose of obtaining an injunction, restraining order or other appropriate remedy to compel compliance with this subchapter and the said Uniform Plumbing Code.

(1991 Code, § 8.35)

MECHANICAL CODE

§ 151.060 ADOPTION BY REFERENCE.

The Michigan Mechanical Code, 2000, as written and changed in the future is hereby adopted as the mechanical code of the city the same as if fully set out herein for regulating the design, construction, installation, maintenance, service and inspection of mechanical systems, appliances and appurtenances thereof in the city.

(1991 Code, § 8.51) (Ord. 148, passed 4-6-1992; Ord. 178, passed 8-20-2001)

§ 151.061 REFERENCES IN CODE.

References in the Uniform Mechanical Code to “state” (name of state) shall mean the State of Michigan, references to “municipality” and (name of municipality) or “city” and (name of city) shall mean the City of Auburn, references to “local ordinances” shall mean the Auburn City Code, and references to “department” or “official or department personnel” shall mean the Building Department or its Director.

(1991 Code, § 8.52)

§ 151.062 CHANGES IN CODE.

The following sections and subsections of the Uniform Mechanical Code are hereby amended or deleted as set forth and additional sections and subsections are added as indicated. Subsequent section numbers used in this subchapter shall refer to the like-numbered sections of the Uniform Mechanical Code.

Section 301(a) is amended to read:

Sec. 301(a). Installers Permit Required. It shall be unlawful for any person, firm or corporation who has not been issued an annual permit under section 301(a), to erect, install, alter, repair, relocate, replace, add to, use, or maintain any heating, ventilating, comfort cooling, refrigeration system, incinerator or other miscellaneous heat-producing appliance in the city, or cause the same to be done, contrary to or in violation of any of the provisions of this chapter. Maintenance of equipment which was unlawful at the time it was installed and which would be unlawful at the time it was installed and which would be unlawful under this chapter if installed after the effective date of this chapter shall constitute a continuing violation of this chapter.

(1991 Code, § 8.53)

§ 151.063 VIOLATIONS.

(A) Any person, firm or corporation violating any of the provisions of this subchapter shall be punishable as provided in § 10.99.

(B) Any heating, ventilating, comfort cooling, refrigeration system, incinerator or other miscellaneous heat-producing appliance installed, altered, repaired, replaced, relocated, used or maintained in violation of any of the provisions of this subchapter is hereby declared to be a nuisance per se.

(C) In addition to the above remedies, the Building Official may institute any appropriate action or proceedings to prevent any installation, alteration, repair, replacement, relocation, use or maintenance of any heating, ventilating, comfort cooling, refrigeration system, incinerator or other miscellaneous heat-producing appliance constituting a violation of any of the provisions of this subchapter; to restrain, correct or abate such violations; or to prevent any unlawful act, conduct, business or use in or about such premises.

(1991 Code, § 8.54)

ELECTRICAL CODE

§ 151.075 CODE ADOPTED.

The Michigan Residential Code, 2000, for one- and two-family dwellings and the 1999 Michigan Electrical Code for all other applications as written and changed in the future is hereby adopted as the Electrical Code of the city the same as if fully set out herein for regulating the design, and installation, alteration and repair of electrical wiring, devices and equipment in the city, providing for the issuance of permits, licenses and collection of fees therefor; and providing penalties for violation thereof.

(1991 Code, § 8.71) (Ord. 122, passed 7-6-1987; Ord. 148, passed 4-6-1992; Ord. 179, passed 8-20-2001)

§ 151.076 SCOPE.

The provisions of this subchapter shall apply to the erection, installation, alteration, addition, repair, relocation, replacement, maintenance or use of any electrical system, except as otherwise provided for in this subchapter.

(1991 Code, § 8.72)

§ 151.077 EXISTING INSTALLATIONS.

(A) Any electrical system lawfully installed prior to the effective date of this subchapter may have its existing use continued if the use is in accordance with the original design and location and if no hazard to the public health, safety or welfare has been created by such system.

(B) Where a nuisance exists or an electrical system is maintained in violation of this subchapter or any notice issued pursuant to this

subchapter, the Administrative Authority shall require the nuisance or violation to be abated and where necessary, shall seek such abatement in the manner provided by law.

(1991 Code, § 8.73)

§ 151.078 ADMINISTRATIVE AUTHORITY; APPOINTMENT.

The Administrative Authority shall be the person duly appointed by the City Commission to enforce this subchapter.

(1991 Code, § 8.74)

§ 151.079 DUTIES, RIGHTS OF ADMINISTRATIVE AUTHORITY.

(A) *Duties and powers of the Administrative Authority.* The Administrative Authority may appoint such assistants, deputies, inspectors or other employees as are authorized to carry out the function of the Department and enforce this subchapter.

(B) *Right of entry.*

(1) Whenever necessary to make an inspection to enforce any of the provisions of this subchapter, the Administrative Authority or his or her authorized representative may enter such building or premises at all reasonable times to inspect the same or to perform any duty imposed upon the Administrative Authority by this subchapter; provided that if such building or premises be occupied, he or she shall first present proper credentials and demand entry; and if such building or premises be unoccupied, he or she shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and demand entry. If such entry is refused, the Administrative Authority or his or her authorized representative shall have recourse to every remedy provided by law to secure entry.

(2) No owner or occupant or any other person having charge, care or control of any building or premises shall fail or neglect, after proper demand is made as herein provided, to properly permit entry therein by the Administrative Authority or his or her authorized representative for the purpose of inspection and examination pursuant to this subchapter. Any person violating this division shall be guilty of a violation of the city code.

(1991 Code, § 8.75)

§ 151.080 PERMIT LIMITATIONS.

(A) The issuance or granting of a permit or approval of plans and specifications shall not be deemed or construed to be a permit for, or an approval of, any violation of any of the provisions of this subchapter. No permit presuming to give authority to violate or cancel the provisions of this subchapter shall be valid, except insofar as the work or use which it authorized is lawful.

(B) The issuance or granting of a permit or approval of plans shall not prevent the Administrative Authority from thereafter requiring the correction of errors in said plans and specifications or from preventing construction operations being carried on thereunder when in violation of this subchapter or of any other ordinance or from revoking any certificate of approval when issued in error.

(C) Every permit issued by the Administrative Authority under the provisions of this subchapter shall expire by limitation and become null and void, if the work authorized by such permit is not commenced within 120 days from date of issuance of such permit, or if the work authorized by such permit is suspended or abandoned at any time after the work is commenced for a period of 120 days, before such work can be recommenced, a new permit shall be first obtained, and the fee shall be one-half the amount required for a new permit for such work, provided no changes have been made, or will be made in the original plans and specifications for such work; and provided, further, that such suspension or abandonment has not exceeded one year.

(1991 Code, § 8.76)

§ 151.081 LICENSE REQUIRED.

Only persons holding a valid license, except properly supervised apprentices, shall in any manner undertake any electrical wiring. No person shall engage in the business of or perform the work of erecting, installing or altering any electrical wiring or equipment within the city, unless such person shall have a license issued by the State Electrical Administrative Board, or a governmental subdivision within the state having examining standards at least equal to the state.

(1991 Code, § 8.78) Penalty, see § 10.99

§ 151.082 EXCEPTION TO LICENSE REQUIREMENT.

No license shall be required to perform the following classes of work:

(A) The installation, alteration or repair of electrical wiring in a single-family residence owned and resided in by the person performing the work;

(B) The manufacture, test or repair of electrical equipment;

(C) The installation, alteration or repair of equipment for the operation of signals or transmission of intelligence where such work is part of a communication system owned and/or operated by a telephone or telegraph company in rendering its duly authorized service as a telegraph or telephone company;

(D) Any work installed by a public utility company specifically exempted by this subchapter or the laws of the state; or

(E) Work performed by electrical employees of an electrical contractor while under the supervision of a licensed electrical master journeyman on property owned by said electrical contractor.

(1991 Code, § 8.79)

§ 151.083 REGISTRATION OF STATE LICENSE.

Any person holding an electrical contractor's license issued by the State Electrical Administrative Board or by a governmental subdivision within the state having examining standards at least equal to those of the state shall register such license with the City Clerk, and pay the required fee as specified in § 151.088 before doing any electrical work within the city. Registrations expire on December 31 after the date of issue and shall be renewed upon presentation of the renewed license.

(1991 Code, § 8.80)

§ 151.084 PERMITS REQUIRED.

(A) No person shall install, erect or alter any wiring, cable, apparatus or equipment for conducting or using electrical energy within or on any building, structure or premise unless he or she shall have first obtained a permit therefor from the Administrative Authority.

(B) Exception: no permit shall be required for the installation, alteration or repair of electrical equipment installed by a public utility for the use of such utility in the generation, transmission, distribution or metering of electricity, or transmission of intelligence, or operation of signals.

(1991 Code, § 8.81) Penalty, see § 10.99

§ 151.085 PERMIT APPLICATION.

(A) To obtain a permit, the applicant shall first file an application therefor in writing on a form furnished for that purpose.

(B) Every such application shall:

- (1) Identify and describe the work to be covered by the permit for which application is made;
- (2) Describe the land on which the proposed work is to be done by lot, block, tract and house and street address, or similar description that will readily identify and definitely locate the proposed building or work;
- (3) For other than one- and two-family dwellings, be accompanied by plans and specifications as specified in § 151.086;
- (4) Be signed by a licensed electrical contractor or the owner and occupant of a single-family dwelling, who will be responsible for the electrical work covered by the permit for which application is made; and
- (5) Be accompanied with the fee as set forth in § 151.088.

(1991 Code, § 8.82)

§ 151.086 PLANS AND SPECIFICATIONS.

(A) A detailed set of plans and specifications shall be submitted with application for electrical permit for any wiring or alterations to the electrical system in all buildings using over six circuits except single- and two-family dwellings. The electrical drawings shall include such details as lighting layout, circuiting, switching, conductor and raceway sizes, wattage schedule, service location and riser diagram, calculations and proposed method of construction drawn with symbols of a standard form. All conductors are assumed to be copper unless otherwise stated on the plan. Specifications when provided shall also include this information. The selection of suitable disconnect and over-current devices to provide proper coordination and interrupting capacity for a wiring system is the responsibility of the designer. The Administrative Authority, when approving electrical plans assumes no responsibility for the design nor any deviations from any applicable codes not explicitly agreed upon at the time of approval of electrical drawings.

(B) One set of approved plans, specifications and computations shall be retained by the Administrative Authority for a period of not less than 90 days from date of completion of the work covered therein, and one set of approved plans, and specifications shall be returned to the applicant, which set shall be kept on such building or work at all times during which the work authorized thereby is in progress.

(1991 Code, § 8.83)

§ 151.087 ELIGIBILITY FOR PERMITS.

(A) Only persons duly licensed for the current year as an electrical contractor by the state or by a governmental subdivision within the state and who has registered such license with the City Clerk as specified in § 151.083 shall be eligible for electrical permits.

(B) Exception: nothing contained in this subchapter shall prohibit any bona fide owner from installing electrical work in his or her own single-family residence, provided the owner shall:

- (1) Sign an affidavit showing the applicant to be the owner and occupant, or eventual occupant of the residence; that he or she will install the electrical work for which application is made; that he or she has not obtained such a permit during the past six months; and that he or she is reasonably familiar with the requirements of the Electrical Code, and is competent and capable of performing the installation in accordance with the code;

- (2) Apply for and secure a permit in accordance with the provisions of the Electrical Code;
- (3) Pay fees required in § 151.088;
- (4) Apply for inspections; and
- (5) Receive approval of the Electrical Inspector for all work performed under such permits.

(1991 Code, § 8.84)

§ 151.088 ELECTRICAL PERMIT FEES.

(A) A fee for each electrical permit shall be paid to the city in such amounts as established from time to time by resolution of the City Commission.

(B) When work for which a permit is required by this subchapter is started or proceeds prior to obtaining said permit, the fees required shall be doubled, but the payment of such double fee shall not relieve any person from duly complying with the requirements of this subchapter in the execution of the work nor from any other penalties prescribed herein.

(C) Exception:

(1) Permits for emergency or maintenance repair work requiring inspection, may be obtained within 24 hours of the work without penalty; and

(2) When additional work is performed or additional equipment installed not listed on the permit application, an additional permit and fee shall be required before final approval is given.

(1991 Code, § 8.85)

§ 151.089 INSPECTIONS.

(A) Any person conducting or performing electrical work for which a permit is required by this subchapter, except for annual permits, shall notify the Administrative Authority and request an inspection when such work is ready for inspection. The Inspector shall be given a 24-hour notice of when the work will be ready for inspection.

(B) No such work performed under a permit required by this subchapter shall be concealed or covered until such work has been inspected and approved by the Electrical Inspector. It shall be the responsibility of the permittee to keep the electrical work from being concealed until it has been approved by the Inspector.

(C) Correction notices in writing shall be issued by the Inspector to the permittee for any electrical work performed in violation of this subchapter.

(D) The Administrative Authority shall order corrections to any electrical work necessary to ensure compliance with this subchapter.

(E) The Administrative Authority may refuse to issue further permits to any contractor who has failed to make necessary corrections.

(F) The Administrative Authority shall keep records of all inspections and approvals.

(1991 Code, § 8.86)

§ 151.090 UNSAFE OR HAZARDOUS EQUIPMENT.

When the use of any electrical equipment is found imminently dangerous to human life or property, the Administrative Authority is hereby empowered to condemn it or disconnect it from its source of electric supply. When such equipment is so condemned or disconnected, a red tag shall be placed thereon listing the causes for the condemnation or disconnection and the penalty under the act for the unlawful use thereof. Written notice of condemnation or disconnection, and the causes therefor, shall be given to the owner or the occupant of the building, structure or premises. A person shall not remove the tag or reconnect the electrical equipment to its source of electric supply, or use, or permit to be used electrical current in any such electrical equipment, until such causes for the condemnation or disconnection are remedied and a permit for the electrical repairs thereof is obtained from the Administrative Authority.

(1991 Code, § 8.87)

§ 151.091 ADDITIONS, ALTERATIONS AND REPAIRS.

When additions, alterations and repairs to a building within any 12-month period exceed 50% of the value of the existing building as determined by the Building Inspector, all electrical wiring, cable, appliances or equipment shall meet existing electrical code requirements.

(1991 Code, § 8.88)

§ 151.092 CONNECTING ELECTRICAL POWER.

(A) It shall be unlawful for any power company or person furnishing electric power to make connections to and furnish power to any new or altered installation of electric wire, cable, appliance or equipment until such company or person is given permission to do so by the Administrative Authority.

(B) This permission may be withheld until the structure to which such power supply is being furnished has met final inspection

requirements of the building, plumbing, heating and electrical codes and the zoning ordinance of the city.

(1991 Code, § 8.89)

§ 151.093 VIOLATIONS.

Any violation of this subchapter shall be punishable as prescribed in § 10.99. In addition, this subchapter may be enforced by suit for injunction, action for damages or any other legal process appropriate to enforcement thereof.

(1991 Code, § 8.90)

PROPERTY MAINTENANCE CODE

§ 151.105 ADOPTION OF CODE.

A certain document, three copies of which are on file in the office of the City Clerk, being marked and designated as "The International Property Maintenance Code, First Edition, 1998" as published by the Building Officials and Code Administrators International, Inc., the International Conference of Building Officials, and the Southern Building Code Congress International, Inc., be and is hereby adopted as the Property Maintenance Code of the city; for the control of buildings and structures provided herein; and each and all of the regulations, provisions, penalties, conditions and terms of said Property Maintenance Code are hereby referred to, adopted and made a part thereof, as if fully set out in this subchapter, with the additions, insertions, deletions and changes, if any, prescribed in § 151.106.

(Ord. 173, passed 9-20-1999)

§ 151.106 REVISION OF CERTAIN SECTIONS.

The following sections are hereby revised:

- (A) Section 101.1: Insert "City of Auburn";
- (B) Section 103.6: Insert: "At such fee as shall be determined, from time to time, by the City Commission";
- (C) Section 303.15: Insert: May 1 - October 31;
- (D) Section 602.3: Insert: September 1 - May 30;
- (E) Section 602.4: Insert: September 1 - May 30; and
- (F) Chapter 8, Codes: Insert: Uniform Building Code 1997 Edition with appendices

Uniform Fire Code 1997 Edition with appendices.

(Ord. 173, passed 9-20-1999)

§ 151.107 ORDINANCES IN CONFLICT.

All other ordinances that are in conflict herewith are hereby repealed.

(Ord. 173, passed 9-20-1999)

§ 151.108 EFFECT.

Nothing in this subchapter or in the Property Maintenance Code hereby adopted shall be construed to affect any suit or proceeding impending 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 hereby repealed as cited in § 151.106; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this subchapter.

(Ord. 173, passed 9-20-1999)

§ 151.109 CLERK TO CERTIFY.

The Clerk of the city shall certify to the adoption of this subchapter, and cause the same to be published as required by law; and this subchapter shall take effect and be in force from and after its approval as required by law.

(Ord. 173, passed 9-20-1999)

CHAPTER 152: TRAILER COACH PARKING

Section

- 152.01 Definition
- 152.02 Prohibited parking and uses
- 152.03 Parking on dwelling premises

- 152.04 Permits
- 152.05 Wastewater
- 152.06 Removal of wheels or tires; occupancy limit
- 152.07 Inspection

§ 152.01 DEFINITION.

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

TRAILER COACH. Any vehicle used or so constructed as to permit its being used as a dwelling or sleeping place, which is or may be mounted on wheels, and is or may be propelled either by its own power or by another vehicle to which it may be attached. The term shall not include a mobile home meeting the standards for permanent residential use in a residential district as provided in Chapter 154.

(1991 Code, § 5.381)

§ 152.02 PROHIBITED PARKING AND USES.

- (A) No person shall park or cause to be parked any trailer coach overnight on any street, alley, highway or other public place.
- (B) No trailer coach shall at any time be parked between the established setback line and the curblin on any lot.
- (C) No trailer coach shall be used or occupied, unless there is a clear unoccupied space of at least ten feet on all sides thereof.
- (D) No person shall park or permit the parking of any occupied trailer coach or use or occupy or permit the use or occupancy of any trailer coach on any site, lot, field or tract of land not specifically licensed as a trailer coach park, for any period longer than 72 hours, except only as provided in this chapter.

(1991 Code, § 5.382) Penalty, see § 10.99

§ 152.03 PARKING ON DWELLING PREMISES.

Not more than one trailer coach may be parked, used and occupied on the premises of any dwelling except as hereinafter limited, and then only, provided the occupants of the trailer coach have free access to and the unlimited use of the sanitary facilities of the dwelling on said premises and the occupant or owner of such trailer coach secures a permit as provided in this chapter.

(1991 Code, § 5.383) Penalty, see § 10.99

§ 152.04 PERMITS.

- (A) Application for a permit to park, use and occupy a trailer coach on the premises of a dwelling shall be made to the Building Inspector of the city and shall state the address of the dwelling, the name of the owner or occupant in control thereof, the name and address of the owner or operator and license number of such trailer coach.
- (B) The consent in writing of the owner or occupant in control of the dwelling premises to such parking, use and occupancy and to the use of the sanitary facilities as herein provided shall accompany the application or be endorsed thereon.
- (C) Upon the filing of such application the Building Inspector shall cause an inspection to be made of such dwelling premises and trailer coach and if he or she finds that adequate facilities are afforded on the premises for the disposal of waste and excreta and it appears that the parking, use and occupancy of such trailer coach complies with the statutes of the state and ordinances of the city, he or she shall approve such application.
- (D) Upon the filing thereof with the City Clerk and payment of a fee of \$10 the Clerk shall issue a permit, which permit shall limit the time of such parking, use and occupancy to a period of not longer than six weeks from the date of the application therefor.
- (E) Not more than one permit shall be issued for any one trailer coach or to any one trailer coach operator or occupant in any one 12-month period.
- (F) The owner or occupant of the land upon which a trailer coach is parked, used and occupied shall not be permitted to have more than one trailer coach upon said land in any one 12-month period.
- (G) Every permit shall be displayed in or on the trailer coach for which it was issued on the side nearest to a public street in such manner as to be readily noticeable at all times.

(1991 Code, § 5.384) Penalty, see § 10.99

§ 152.05 WASTEWATER.

No person shall spill or drain any waste water or liquid waste of any kind upon the ground or upon any paved area.

(1991 Code, § 5.385) Penalty, see § 10.99

§ 152.06 REMOVAL OF WHEELS OR TIRES; OCCUPANCY LIMIT.

- (A) No person shall remove or cause to be removed the wheels or tires from any trailer coach except for the purpose of repair, nor shall any person elevate, block or stabilize any trailer coach other than with jacks designed, provided and intended for that purpose.

(B) No parked trailer coach shall be occupied for sleeping purposes by a greater number of persons than said vehicle is designed and arranged to accommodate.

(1991 Code, § 5.386) Penalty, see § 10.99

§ 152.07 INSPECTION.

The County Health Department or any member of the Police Department of the city shall have the opportunity to enter and inspect at any reasonable time any of the premises upon which a trailer coach is parked, used or occupied for the purpose of ascertaining that the owner, operator or occupant thereof is complying with all statutes, ordinances and rules and regulations governing the same.

(1991 Code, § 5.387)

CHAPTER 153: SUBDIVISION REGULATIONS

Section

General Provisions

153.01 Definitions

153.02 Preliminary plat

153.03 Final plat

General Specifications and Design Standards

153.15 Streets and alleys

153.16 Utilities

153.17 Lots

153.18 Blocks

153.19 General requirements

Improvements

153.30 Improvements required

153.31 Financing

Procedure for Approval of Plats

153.45 Planning Commission procedure

153.46 City Commission procedure

153.47 Transmittal to County Plat Board

153.48 Nuisance

GENERAL PROVISIONS

§ 153.01 DEFINITIONS.

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

ALLEY or **SERVICE DRIVE**. A passage or way affording generally a secondary means of vehicular access to abutting properties and not intended for general traffic circulation.

CITY COMMISSION. The legislative body of the city.

COMMISSION. The Planning Commission of the city.

COMPREHENSIVE PLAN. The master plan or development plan which has been adopted by the Planning Commission as specified in Public Act 285 of 1931, being M.C.L.A. §§ 125.3831 through 125.3851, as amended.

IMPROVEMENTS. Street construction and surfacing, curb and gutter, water mains, storm and sanitary sewers, sidewalks, walkways, graded outlaws and bridges or culverts.

LOCAL STREET. A street intended to serve and to provide access to neighborhoods or sub-neighborhoods.

MAJOR STREET AND THOROUGHFARE PLAN. The master plan of highways, major streets and parkways adopted by the Planning Commission.

MAJOR STREET, HIGHWAY, PARKWAY. A street or road which serves or is intended to serve as a major traffic way and is designated in the major street plan.

MUNICIPALITY or **MUNICIPAL.** The City of Auburn.

PLANNER. The planning consultant or Planning Commission.

SUBDIVIDE or **SUBDIVISION.** The partitioning or dividing of a parcel or tract of land by the proprietor thereof or by his or her heirs, executors, administrators, legal representatives, successors or assigns for the purpose of sale, or lease of more than one year, or of building development, where the act of division creates five or more parcels of land each of which is ten acres or less in area; or five or more parcels of land each of which is ten acres or less in area are created by successive divisions within a period of ten years.

SUBDIVIDER. Includes the plural as well as the singular and may mean either a natural person, association, partnership, corporation or a combination of any of them.

(1991 Code, § 5.331)

§ 153.02 PRELIMINARY PLAT.

(A) Prior to submission of a preliminary plat, the subdivider shall discuss tentative studies with the planner.

(B) In order to receive consideration at the next subsequent meeting of the Commission, five prints of the preliminary plat along with writing application shall be filed with the planner not less than five days prior to such meeting.

(C) The following shall be shown on or accompany the preliminary plat:

- (1) Proposed name of the subdivision and description of land to be platted;
- (2) Scales shall be 100 feet to the inch, or larger, except that the location of the nearest sanitary and storm sewers and water mains may be shown at a scale of 400 feet to the inch;
- (3) Date and cardinal point;
- (4) The boundary lines, accurate in scale of the tract to be subdivided;
- (5) The proposed names of all streets;
- (6) The location, width, approximate grade and radii of curvature if of proposed and existing streets, alleys, highways, walkways and easements, including those for utilities, to be included in the plat;
- (7) Locations and dimensions of proposed lots and parks;
- (8) The location of all existing features within or adjacent to the proposed subdivision, which affect the subdivision, such as railroads, roads, buildings, wooded areas, easements, ditches, county drains, watercourses, section lines and the like;
- (9) The location and size of the nearest available public sanitary sewer, water mains and power lines existing or proposed;
- (10) The location, size and grade of the sewer which is proposed to serve the subdivision or the location and explanation of other means of sewage disposal which shall be acceptable by the Health Department;
- (11) The names and addresses of the subdivider and other owners of record of land within the proposed subdivision; and the engineer or surveyor;
- (12) All parcels of land proposed to be dedicated to public use and conditions of such dedication;
- (13) When only a part of a tract is proposed to be subdivided, the layout of the remaining area shall be shown in sketch form;
- (14) Boundary lines of adjacent tracts or unsubdivided and subdivided land showing owners;
- (15) Contours when required by the Commission;
- (16) The proposed numbers of lots shall be shown by numerical order commencing with number "1" and with no omission or duplications;
- (17) There shall be no block numbers or letters;
- (18) Deed or subdivision restrictions, when desired by the subdivider, shall be furnished; and
- (19) A written statement of intent, of the installation of improvements, shall be furnished.

(1991 Code, § 5.335)

§ 153.03 FINAL PLAT.

The subdivider shall file with the Commission the following in compliance with the requirements of the Subdivision Control Act of 1967, as amended, and any other requirements stipulated in this chapter:

- (A) One Mylar tracing of the final plat;
- (B) Certificate of title by an attorney at law;

(C) Profile and cross-section notes of each street with grades; a plan of the water lines with size and appurtenances in accordance with the standard specification of the city;

(D) An agreement with the city containing a restriction upon the plat whereby the Building Inspector will not be permitted to issue a building permit for any structure upon any lot within said subdivision until the improvements as specified herein have been completed, or satisfactory arrangements have been made with the city for the completion of the improvements. These plat restrictions shall be made a part of all deeds or contracts for any lot within the subdivision;

(E) An agreement (when half-street rights-of-way are involved) with the city whereby the subdivider shall be responsible for the installation of improvements as required by this chapter on his or her half of the street at the time the adjacent tract is developed;

(F) The city shall have the right to retain a professional engineer for the purpose of reviewing preliminary, revised and final plats associated with a proposed development for the purpose of determining whether the project complies with the requirements of this chapter. Such review procedures shall be at the expense of the subdivider; and

(G) Plat restrictions, if such are proposed by the subdivider, shall be submitted with the final record plat. Such restrictions shall not be in contradiction to those of Chapter 154 (Zoning) or any other provision of this code. These restrictions shall become a part of the final record plat and shall be recorded along with the plat in the office of the Register of Deeds of the county.

(1991 Code, § 5.336) (Ord. 150, passed 6-7-1993)

GENERAL SPECIFICATIONS AND DESIGN STANDARDS

§ 153.15 STREETS AND ALLEYS.

(A) The subdivision of land or the dedication of land for streets, alleys, highways, parks or other public uses shall conform to the major street and thoroughfare plan and comprehensive plan as approved by the Commission.

(B) In the preparation of new subdivisions, provisions shall be made for the continuation of existing or platted streets in adjoining or adjacent subdivisions or parcels of land, insofar as they may be necessary for public requirements.

(1) The centerlines of such streets shall continue with the centerline of existing streets.

(2) In general, the streets shall extend to the boundary of the subdivision to provide proper access to the adjoining property and provide for proper connection with the street system for continuous and adjacent land.

(C) Minimum rights-of-way widths shall be as follows:

(1) Major arterial and collector streets and parkways, 80 feet;

(2) Local streets, 50 feet;

(3) Alleys and service drives, 30 feet; and

(4) Walkways, ten feet.

(D) If there exists a dedicated and recorded half-street on an adjoining plat, the other half must be dedicated on the proposed plat to make the street complete.

(E) Intersections of streets shall be at an angle of 90 degrees or as close to such an angle as practicable, but in no case less than 60 degrees. Termination of streets at intersections shall be clearly defined.

(F) In case of approval of cul-de-sacs (courts) because of topography or other reasons, a turning area having a radius of 50 feet, or an approved equivalent, shall be provided; and in no case shall such a street have a length greater than 500 feet.

(G) Dead-end streets shall be accepted only when the street will be extended in the future.

(H) Alleys shall not be accepted in residence districts unless specifically required by the Commission.

(1991 Code, § 5.341)

§ 153.16 UTILITIES.

All utilities, including electrical power lines, telephone lines and telegraph lines, shall be installed below the finish surface grade, except in the case of unusual soil conditions wherein the Commission and/or the City Commission may grant a variance.

(1991 Code, § 5.342)

§ 153.17 LOTS.

(A) All lots shall face upon a public street.

(B) The side lines of lots shall be approximately radial to the street upon which the lots face.

(C) No lot shall be divided by a corporate boundary line. Such boundary line may be the lot line or centerline of streets and alleys.

(D) Residential lot widths, depths and area shall conform to the stipulations as set forth in Chapter 154 (Zoning), except that no lot shall have a width of less than 100 feet when public sanitary sewer facilities are not available.

(E) Business lots shall have width of not less than 20 feet plus ample off-street parking as determined by the Planning Commission.

(F) Corner lots shall be of sufficient width to allow conformance with building lines as established in Chapter 154 (Zoning).

(G) Lots shall not front on any major streets, highway or parkways, unless in the opinion of the Planning Commission and City Commission such requirement is not feasible for a specific subdivision or portion thereof. Double-frontage lots shall be otherwise avoided.

(1991 Code, § 5.343)

§ 153.18 BLOCKS.

(A) No block shall be more than 1,000 feet in length except where, in the opinion of the Commission, conditions justify a departure from this maximum. In blocks over 900 feet in length, the Commission may require a walkway or easement for public utilities at or near the middle of the block.

(B) The number of intersecting streets along highways and major streets shall be held to a minimum, as determined by the Planning Commission.

(1991 Code, § 5.344)

§ 153.19 GENERAL REQUIREMENTS.

(A) When held appropriate by the Commission, open spaces suitably located and of adequate size for parks or other public use shall be dedicated to the city.

(B) In case where variations and exceptions from the dimensional standards, improvement requirements and open space requirements are deemed necessary, the variation shall be recommended by the Commission to the City Commission.

(C) Every subdivision shall have a dedicated means of ingress and egress.

(1991 Code, § 5.345)

IMPROVEMENTS

§ 153.30 IMPROVEMENTS REQUIRED.

The minimum improvements which shall be installed according to municipal standards in all subdivisions are as follows.

(A) Streets shall be constructed at the permanently established elevation with curb and gutter on both sides of a street and with hard surface to the following widths:

(1) Forty-eight feet from curb to curb on two-way traffic-movement-type major arterial streets, of which 28 feet of the total width shall be the responsibility of the subdivider;

(2) Thirty-six feet on each traffic-way from curb to curb on one-way traffic-movement-type major arterial streets, of which 14 feet of each traffic-way (total 28 feet) and curb and gutter on the outer edge of the two traffic-ways shall be the responsibility of the subdivider;

(3) Twenty-eight feet from curb to curb on local streets, all of which shall be the responsibility of the subdivider;

(4) Twenty-eight feet from curb to curb on cul-de-sacs (courts) with a turning circle having a 50-foot radius, all of which shall be the responsibility of the subdivider; and

(5) Twenty feet, without curb and gutter for alleys and service drives, all of which shall be the responsibility of the subdivider.

(B) (1) Sanitary sewer lines shall be installed, when an adequate sanitary sewer main exists within 500 feet from any portion of the proposed subdivision of which the subdivider shall be responsible for up to and including ten-inch diameter mains within the subdivision being platted and shall be responsible for any above normal cost of material and installation thereof necessarily encountered, as determined by the city official having jurisdiction outside the boundary of the subdivision being platted.

(2) If a sanitary sewer main is not available, as specified above, a disposal system, either on a subdivision-wide or single-lot basis, may be approved if approved by the County Department of Health.

(C) Water lines shall be installed when an adequate water main exists within 500 feet from any portion of proposed subdivision, for which the subdivision shall be responsible for up to and including eight-inch diameter mains.

(D) Sidewalks of four-foot width shall be constructed along both sides of the street right-of-way within all dedicated street and walkway rights-of-way of responsibility of the subdivider.

(E) Outlawns between each curb and sidewalk shall be graded and seeded, of which the entire construction shall be the responsibility of the subdivider.

(F) Culverts and bridges shall be constructed when determined to be necessary by the city official having jurisdiction and shall be entirely the responsibility of the subdivider.

(G) Storm sewer lines (including catch basins and manholes) shall be installed at the expense of the subdivider; except that in the case of the necessity of the installation of lines larger than those normally needed to serve the area within the limits of the subdivision being

platted, the city will assume the additional cost encountered.

(H) The city shall furnish full-time inspection for the purpose of determining whether the project complies with the requirements of this chapter. Such inspection shall be at the expense of the subdivider.

(1) The subdivider shall supply the city with a project schedule of all improvements to be submitted a minimum of 15 days before construction begins. Revised construction schedules shall be immediately submitted to the city for review and approval.

(2) If, during the process of the installation of improvements it is necessary to remove any monuments or benchmarks, the subdivider or his or her contractor shall obtain permission from the engineering department to make such removal. All monuments or benchmarks removed, relocated or destroyed, shall be replaced in their proper location by the subdivider, at the subdivider's expense.

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

CITY STANDARDS. Standards and specifications of construction and installation as established and administered by the city.

RESPONSIBILITY. The cost of labor and materials for installation.

(1991 Code, § 5.352) (Ord. 150, passed 6-7-1993)

§ 153.31 FINANCING.

The financing of the installation of improvements shall be accomplished by one (or a combination of both) of the following methods:

(A) The subdivider may install the required improvements under private contract in which case the subdivider shall enter into a legal agreement, or contract with the city to make install, and complete all of the improvements required of the subdivider by this chapter, and shall ensure the completion of the same by filing security as authorized by the Subdivision Control Act in favor of the city in a sum equal to the cost of the improvements as estimated by the City Engineer; and/or

(B) The subdivider may request, by petition to the City Commission, the installation of the improvements required by the subdivider wherein the city may install all or any part of the required improvements under contract for any portion of the subdivision and assess the subdivider for said improvements costs and under any conditions which the City Commission may determine.

(1991 Code, § 5.353)

PROCEDURE FOR APPROVAL OF PLATS

§ 153.45 PLANNING COMMISSION PROCEDURE.

(A) The preliminary plat and any required accompanying data shall be reviewed for the purpose of checking its compliance with the Comprehensive Plan, Major Street and Thoroughfare Plan and other specifications of this chapter, all in accord with sound engineering practice.

(B) Before acting on the preliminary plat, the Commission shall hold a public hearing, notice of which shall contain the date and place of hearing and shall be sent by certified mail, return receipt requested, to the subdivider and owners of land immediately adjacent to the proposed subdivision, at least seven days prior to the hearing date.

(C) Written approval by the Commission shall be indicated on the preliminary plat along with any changes or requirements that said Commission may make, constituting acceptance thereof as a basis for the preparation of the final plat.

(D) Approval of the preliminary plat shall be valid for a duration of not more than one year.

(E) Final record plat approval will be granted only under the following conditions:

(1) The subdivider has submitted necessary engineering drawings, as required by this chapter and said drawings have been checked and approved for engineering accuracy by the city; and

(2) The subdivider has installed all improvements or in lieu thereof, has made arrangements for the installation of said improvements in accordance with the provisions of this chapter.

(1991 Code, § 5.357)

§ 153.46 CITY COMMISSION PROCEDURE.

Upon receipt of the final record plat and other material, the City Commission shall take action upon said plat in accordance with the requirements of the Subdivision Control Act, the City Charter and requirements of this chapter. In case of disapproval, the reasons for such action shall, by written communication, be transmitted to the subdivider and the Commission, both of whom shall, within a reasonable time, resubmit to the City Commission any changes or alterations stipulated in the City Commission's action of disapproval.

(1991 Code, § 5.358)

§ 153.47 TRANSMITTAL TO COUNTY PLAT BOARD.

When approved by the City Commission, the City Clerk shall promptly forward all copies of the plat to the Clerk of the County Plat Board, together with the filing and recording fee.

(1991 Code, § 5.359)

§ 153.48 NUISANCE.

Violation of any provision of this chapter is hereby declared to be a nuisance per se. Any court of competent jurisdiction may order such nuisance abated and the owner and operator guilty of maintaining a nuisance per se.

(1991 Code, § 5.360)

CHAPTER 154: ZONING CODE

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GENERAL PROVISIONS

§ 154.001 SHORT TITLE.

This chapter shall be known as the “City of Auburn Zoning Ordinance”.

(Ord. passed 11-2-2005)

§ 154.002 PURPOSE AND OBJECTIVES.

(A) The general purpose of this chapter is to promote the public safety, health, morals, convenience and general welfare.

(B) To accomplish this purpose, this chapter will address the following objectives:

- (1) Guide the use and development of land, buildings and natural resources according to their suitability for particular activities;
- (2) Protect the community’s quality of life and enhance the social and economic stability of the city;
- (3) Reduce congestion on public streets and highways and facilitate safe and convenient access to buildings and land uses;
- (4) Guide efforts to provide public services, such as water supply, sewer, storm drainage, waste disposal, transportation, education, recreation and public safety;
- (5) Establish standards to guide physical development of each zoning district and of the city as a whole, and provide for enforcement of these standards;
- (6) Educate citizens and public officials about their shared responsibilities for wise use of community resources; and
- (7) Strive to balance one property owner’s right to the peaceful use and enjoyment of his or her parcel with the rights of neighboring property owners to the peaceful use and enjoyment of theirs.

(Ord. passed 11-2-2005)

§ 154.003 INTERPRETATION.

(A) The provisions of this chapter shall be held to be minimum requirements, adopted to promote public health, safety, comfort, convenience and general welfare. This chapter is not intended to repeal, abrogate, annul, impair or interfere with any existing provisions of law or ordinance. Nor is it intended to overturn any previously approved or adopted rules, regulations or permits that relate to the use of land or buildings. Nor is this chapter intended to interfere with, abrogate or annul any lawful easements, covenants or other agreements.

(B) Where this chapter imposes a greater restriction upon the use of land or buildings than is imposed by other laws or ordinances, or by rules, regulations permits, easements, covenants or agreements that may be in force, the provisions of this chapter shall control. Where provisions of any other ordinance or regulation of the city impose stricter requirements for the use of land or buildings, the provisions of the other ordinance or regulation shall govern.

(Ord. passed 11-2-2005)

§ 154.004 LIABILITY.

The City Zoning Administrator or any person charged with the interpretation and enforcement of this chapter, acting in good faith and without malice for the city in the discharge of his or her duties shall not thereby render himself or herself liable personally and he or she is hereby relieved from all personal liability for any damage that may occur to persons or property as a result of any act required or by reason of any act or omission in the discharge of his or her duties.

(Ord. passed 11-2-2005)

§ 154.005 DEFINITIONS.

(A) *General.* When not inconsistent with the context, words in the present tense include the future tense, words used in the singular number include the plural number and words used in the plural number include the singular. The word “shall” is always mandatory and

not merely directory. The word “building” includes the word “structure” or vice versa. Terms not herein defined shall have the meaning customarily assigned to them. Definitions will be in two locations so citizens can read relevant definitions along with ordinance language (see also § 154.182).

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

ABANDONMENT. The cessation of a permitted activity in, or a permitted use of a dwelling structure, or lot, other than that which would normally occur on a seasonal basis, and that has fallen into disrepair or is neglected in some way for a period of 12 months or longer.

ABOVE-GROUND LEVEL (AGL). A measurement of height from the natural grade of a site to the highest point of a structure.

ABUTTING. Having property or district line in common, e.g., two lots are abutting if they have property lines in common.

ACCELERATED SOIL EROSION. The increased removal of the land surface that occurs as a result of human activities.

ACCESS. A way of approaching or entering a property. For purposes of this chapter, all lots of record shall have **ACCESS** to a public street or highway.

ACCESSORY BUILDING or **ACCESSORY STRUCTURE.** Any unattached subordinate building or structure, such as a private garage, which is incidental to that of the main building, located on the same lot with the main building, or any portion of the main building if that portion is occupied or devoted exclusively to an accessory use.

ACCESSORY USE. Any use customarily incidental and subordinate to the main use of the premises, but does not include residential occupation. These may include, but are not limited to, private garages, permanent storage sheds, playhouses, decks, porches and carports.

ACRE. A measure of land area containing 43,560 square feet.

ACTIVITY. See **PERMITTED USE.**

ADDITION. A structure added to the original structure at some time after the completion of the original.

ADJOINING LOT OR LAND. A lot or parcel of land that shares all or part of a common lot line with another lot or parcel of land.

ADULT MEDIA. Magazines, books, slides, CD-ROMs or devices used to record computer images, or other media that are distinguished or characterized by their emphasis on matter depicting, describing or relating to sexually oriented hard-core material.

ADULT MEDIA STORE. An establishment that rents and/or sells media, and that meets any of the following three tests:

- (a) Forty percent or more of the gross public floor area is devoted to adult media;
- (b) Forty percent or more of the stock in trade consists of adult media; and
- (c) It advertises or holds itself out in any form as “XXX”, “adult”, “sex” or otherwise as a sexually oriented business other than adult media store, adult motion picture theater or adult cabaret.

ADULT MOTION PICTURE THEATER. An establishment emphasizing or predominately showing sexually oriented movies.

AISLE. The traveled way by which cars enter and depart parking places.

ALLEY. A public thoroughfare that affords only a secondary means of access to abutting property.

ALTERATION OF BUILDING. A change in the supporting members of a building, an addition to, or a diminution, a change in use, or a conversion of a building or a part thereof.

AMENITY. A natural or artificial feature that enhances or makes a particular property more attractive or satisfying.

ANIMAL (SMALL). A small animal shall mean a dog, cat, bird, reptile, mammal, fish or other creature that can be kept in a relatively small or confined space and normally treated as a pet.

ANIMAL HOSPITAL. See **KENNEL.**

ANTENNA. The surface from which wireless radio signals are sent and received by a personal wireless facility.

APPEAL. The process, as prescribed in this chapter, for contesting a zoning interpretation made by the Zoning Administrator or decision made by the Planning Commission.

APPLICANT. A person or entity submitting an application for review and action by the city or any of its departments or commissions.

APPROVED PLAN. A plan that has been granted final approval by the appropriate approving authority.

APPROVING AUTHORITY. The agency, board, group or other legally designated individual or authority that has been charged with review and approval of plans and applications.

AREA. See **LOT AREA.**

ASSEMBLY BUILDING. A building for the primary purpose of group gatherings of 50 people or more for any purpose.

ATTACHED. Any structure or part of a structure immediately adjacent to another structure or part of a structure and fastened securely to it.

ATTIC. The part of a building that is immediately above the ceiling beams of the top story and wholly or partly within the roof framing.

AUTOMOBILE. A self-propelled, free moving vehicle, with four or more wheels, primarily for conveyance on a street or roadway.

BANK. A financial institution.

BAR. A building or portion thereof where liquors are sold to be consumed on the premises, but not including restaurants where the principal business is serving food.

BASEMENT. See City of Auburn's adopted Building Code (Chapter 151).

BED AND BREAKFAST. A use that is subordinate to the principal use of a dwelling unit as a single-family dwelling unit, in which transient guests are provided a sleeping room and breakfast in return for payment, and that does not provide separate cooking facilities for such guests.

BERM. An earthen mound of definite height and location designed to serve as an obscuring device in carrying out the requirements of this chapter.

BLOCK. A property surrounded by streets or abutting one side of a street and situated between the two nearest intersecting streets, or bounded by a combination of streets, waterways, parks, unplatted acreage, corporate boundary lines or other natural or human-made, physical or artificial barrier to continual development.

BOARD OF APPEALS. The Zoning Board of Appeals of the City of Auburn.

BODY SHOP. See **VEHICLE REPAIR.**

BUFFER. Open space, landscaped areas, fences, walls, berms or any combination thereof to physically separate or screen one use or property from another so as to visually shield or block noise, lights or other nuisances. A greenbelt is considered a **BUFFER.**

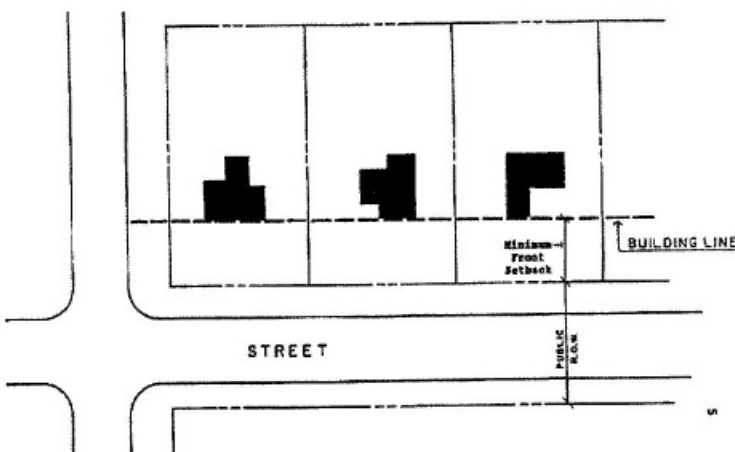
BUILDABLE AREA. The space remaining on a lot or lots of record after the minimum setback and open space requirements have been met.

BUILDING. A structure erected on-site, a manufactured home, a mobile home or mobile structure, or a premanufactured or precut structure that is above or below ground and is designed primarily for the use or intended use of shelter, support or enclosure of persons, animals or property of any kind.

BUILDING COVERAGE. The horizontal area measured within exterior walls of the ground floor of all principal and accessory buildings on a lot.

BUILDING HEIGHT. See **HEIGHT OF BUILDING.**

BUILDING LINE. A line formed by the face of the building and, for the purposes of this chapter, a minimum building line is the same as a **FRONT SETBACK LINE.**



BUILDING OFFICIAL. City staff appointed by the City Manager and licensed pursuant to the state's regulation to enforce and administer the city's adopted Building Code.

BUILDING PERMIT. A permit signifying compliance with the provisions of this chapter as to use, activity, bulk, density and with the requirements of all other development codes and ordinances currently in effect in the city.

BUSINESS CENTER. A business center is more than one business on the same parcel.

BUSINESS SERVICES. Establishments primarily engaged in rendering services to business establishments for a fee or on a contract basis, such as advertising and mailing, building maintenance, employment services, management and consulting services,

protective services, equipment rental and leasing, commercial research, development and testing, photo finishing and personal supply services.

CALIPER. The diameter of a tree trunk measured two feet above grade.

CAMOUFLAGE. To disguise or hide a building or use.

CANOPY. A roof-like cover that projects from the wall of a building for the purpose of shielding a doorway or window from the elements.

CAR WASH. A structure containing facilities for washing automobiles using a chain conveyer or other method of moving the cars along, or machinery that moves around a stationary vehicle, and automatic or semiautomatic application of cleaner, brushes, rinse water and heat for drying.

CARRIER. A company that provides wireless service.

CARRY-OUT RESTAURANT. See **DRIVE-IN RESTAURANT/FAST FOOD.**

CELLULAR TOWER. See **WIRELESS COMMUNICATION FACILITY.**

CEMETERY. Any publicly or privately owned place for the interment of human remains.

CERTIFICATE OF OCCUPANCY. A document issued by the proper authority (Building Official and Zoning Administrator) allowing the occupancy or use of a building and certifying that the structure or use has been constructed and/or will be used in compliance with all applicable municipal codes and ordinances and approved plans and specifications.

CHILD CARE ORGANIZATION. A facility for the care of children under 18 years of age, as licensed and regulated by the state under Public Act 116 of 1973, being M.C.L.A. §§ 722.111 through 722.128, and the associated rules promulgated by the State Department of Social Services. Such organizations shall be further defined as follows.

(a) **CHILD CARE CENTER** or **DAY CARE CENTER.** A facility, other than a private residence, receiving more than six preschool or school age children for group care for periods of less than 24 hours a day, and where the parents or guardians are not immediately available to the child. It includes a facility that provides care for not less than two consecutive weeks, regardless of the number of hours of care per day. The facility is generally described as a child care center, day care center, day nursery, nursery school, parent cooperative preschool, play group or drop-in center. **CHILD CARE CENTER** or **DAY CARE CENTER** does not include a Sunday School conducted by a religious institution or a facility operated by a religious organization where children are cared for during short periods of time while persons responsible for such children are attending religious services.

(b) **FOSTER FAMILY HOME.** A private home in which one but not more than four minor children, who are not related to an adult member of the household by blood, marriage or adoption, are given care and supervision for 24 hours a day, for four or more days a week, for two or more consecutive weeks, unattended by a parent or legal guardian.

(c) **FOSTER FAMILY GROUP HOME.** A private home in which more than four but less than seven children, who are not related to an adult member of the household by blood, marriage or adoption, are provided care for 24 hours a day, for four or more days a week, for two or more consecutive weeks, unattended by a parent or legal guardian.

(d) **FAMILY DAY CARE HOME.**

1. A private home in which one but less than seven minor children are received for care and supervision for periods of less than 24 hours a day, unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage or adoption.

2. It includes a home that gives care to an unrelated child for more than four weeks during a calendar year.

(e) **GROUP DAY CARE HOME.**

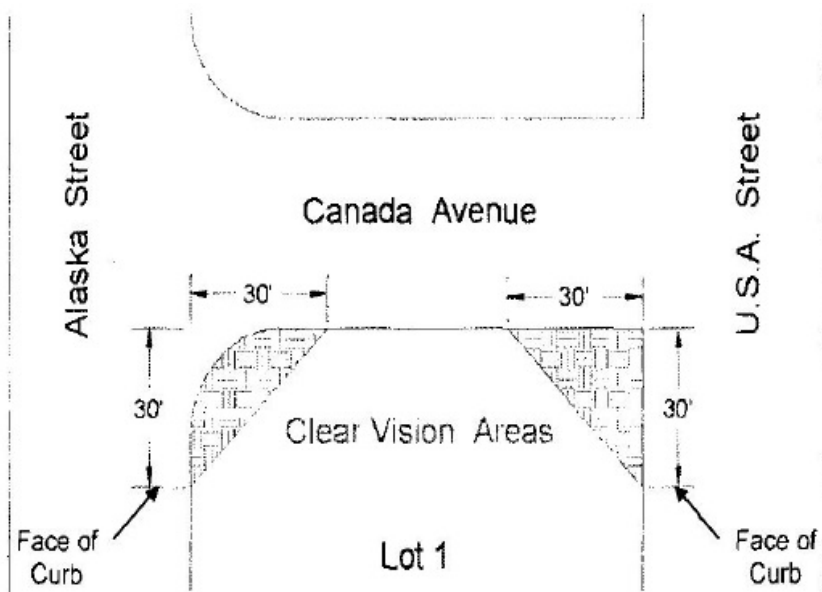
1. A private home in which more than six but not more than 12 children are given care and supervision for periods of less than 24 hours a day unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage or adoption.

2. It includes a home that gives care to an unrelated child for more than four weeks during a calendar year.

CHURCHES/SYNAGOGUES/MOSQUES. See **INSTITUTION, RELIGIOUS.**

CIRCULATION PATTERN. Systems, structures and physical improvements for the movement of people, goods, water, air, sewage or power by such means as streets, highways, railways, waterways, towers, airways, pipes and conduits; and the handling of people and goods by such means as terminals, stations, warehouses and other storage buildings or shipment points.

CLEAR VISION. An area 30 feet along each street at its intersection with another street, drive or alley where no visual obstruction of sight may exist above 36 inches from established street grades.



CLUBHOUSE. A building to house a club or social organization not conducted for private profit, as documented by state or federal records, and that is not an adjunct to or operated by or in connection with a public tavern, café or other public place.

CLUB/LODGE. See *INSTITUTION, SOCIAL*.

CLUSTER. A development design technique that concentrates buildings in specific areas on a site to allow the remaining land to be used for recreation, common open space and preservation of environmentally sensitive features.

COLLOCATION. The use of a single mount on the ground by more than one telecommunications carrier (vertical collocation) and/or several mounts on an existing building or structure by more than one carrier.

COMMERCIAL. A term relating to the use of property in connection with the purchase, sale or trading of goods for personal services or maintenance of service offices or recreation or amusement enterprise or garage/basement/porch sales lasting more than 14 days during any 12-month period.

COMMERCIAL RECREATION. Establishments with the primary purpose of providing amusement or entertainment for a fee or admission charge, and including such activities as dance halls, studios, bowling alleys and billiard and pool establishments, commercial sports such as arenas, rings, racetracks, golf courses, amusement parks, carnival operations, exposition, game parlors and swimming pools.

COMMERCIAL SCHOOL. A school or facility offering training to perform any of the uses by right in the district in which a commercial school is permitted either by right or by special use permit. A **COMMERCIAL SCHOOL** is a distinct use, not to be confused with an institution, educational.

COMMISSION. The Planning Commission of the City of Auburn.

CONDOMINIUM. See *PLANNED UNIT DEVELOPMENT*.

CONTIGUOUS. Next to, abutting or touching and having a common boundary or portion thereof, that is co-terminus.

CONTRACTOR. General contractors and builders engaged in the construction of buildings, either residences or commercial structures as well as heavy construction contractors engaged in activities such as paving, highway construction and utility construction.

CONTRACTOR, LANDSCAPE.

(a) Landscaping includes businesses principally engaged in lawn mowing and yard maintenance. It also includes decorative and functional alteration, planting and maintenance of such grounds. Such a business may engage in the installation and construction of underground improvements but only to the extent that such improvements (e.g., drainage/irrigation facilities) are accessible and on the same parcel as the principal use.

(b) **LANDSCAPE CONTRACTOR** also includes businesses that apply fertilizers, pesticides and other treatments for plants, trees and grass. This definition also includes tree services and commercial plant maintenance services.

CONTRACTOR'S STORAGE YARD.

(a) An unenclosed portion of the lot or parcel upon which a construction contractor maintains its principal office or a permanent business office.

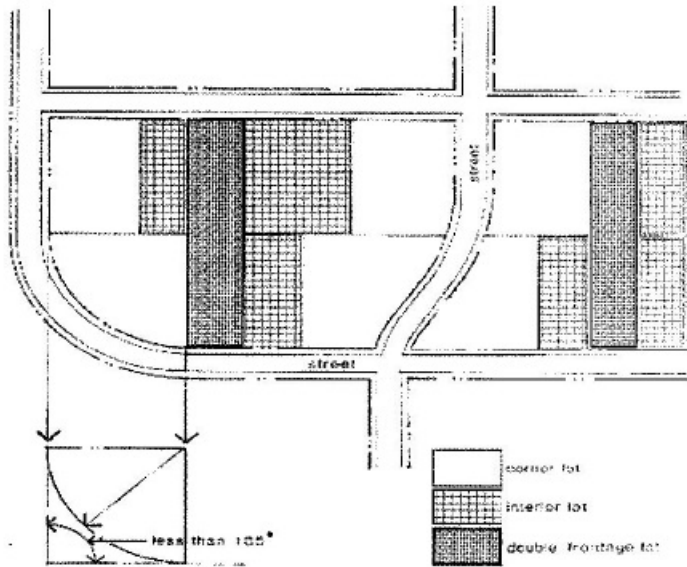
(b) Designation of the lot or parcel as a **CONTRACTOR'S STORAGE YARD** would allow this area to be used to store and maintain construction equipment and other materials customarily used in the trade carried on by a construction contractor.

(c) If permitted to be used in this manner, the entire lot or parcel would then be classified as a **CONTRACTOR'S STORAGE**

YARD and will be required to conform to all applicable zoning district standards and other legislative regulations.

CONVALESCENT OR NURSING HOME. See **INSTITUTION, HUMAN CARE**.

CORNER LOT. See **LOT**. Any lot having at least two contiguous sides abutting upon a street, provided that the interior angle of the intersection of the two sides is less than 135 degrees. A lot abutting upon a curved street or streets shall be considered a **CORNER LOT** if the tangents to the curve, at its points of beginning within the lot or at the points of intersection of the side lines with the street line, intersect at an interior angle of less than 135 degrees. The outside yard shall be the side yard adjacent to the street.



Corner, Interior & Double Frontage Lots

COVERAGE. See **LOT COVERAGE**.

CROSS-POLARIZED. A low mount dual polarized antenna that has three panels flush mounted or attached very close to the shaft.

DECK. A horizontal structure of a single elevation or varying elevations, commonly used as a floor attached or adjacent to the main building. A **DECK** may be open or partially or completely covered by a roof and wall structure.

DENSITY. The intensity of development in any given area, measured in this chapter by the number of dwelling units per acre.

DENSITY, HIGH RESIDENTIAL. Fifteen or more dwelling units per acre.

DENSITY, LOW RESIDENTIAL. Fewer than five dwelling units per acre.

DENSITY, MEDIUM RESIDENTIAL. Five to 15 dwelling units per acre.

DEVELOPMENT. The construction of a new building or other structure on a zoning lot, the relocation of an existing building on another zoning lot, or the use of open land for a new use.

DISH SATELLITE SIGNAL-RECEIVING ANTENNAE. Also referred to as **EARTH STATIONS** or **GROUND STATIONS**, shall mean one, or a combination of two or more of the following:

- (a) A signal-receiving device (antenna, dish antenna or dish-type antenna), the purpose of which is to receive communication or other signals from satellites in Earth orbit and other extra-terrestrial sources;
- (b) A low-noise amplifier (LNA) that is situated at the focal point of the receiving component and the purpose of which is to magnify, store, transfer and/or transmit electronic or light signals; and/or
- (c) A coaxial cable, the purpose of which is to carry or transmit said signals to a receiver.

DISTRIBUTION CENTER. A use where goods are received and/or stored for delivery to the ultimate customer at remote locations.

DISTRICT. See **ZONE**.

DRIVE-IN. A business establishment so developed that its retail or service character is dependent on providing a driveway approach or parking spaces for motor vehicles so as to serve patrons while in the motor vehicle rather than within a building or structure, or to provide self-service for patrons.

DRIVE-IN RESTAURANT/FAST FOOD. A restaurant developed so that its retail or service character is primarily dependent on providing a driveway approach or parking spaces for motor vehicles so as to serve patrons while in the motor vehicle or to permit patrons to eat while in the motor vehicle, as well as within a building or structure, or primarily to provide self-service for patrons and food carry-out. Any establishment whose principal business is the sale of foods, frozen desserts or beverages to the customer in a ready-to-consume state for consumption either within the restaurant building or for carry-out with the consumption off the premises, and whose design or

principal method of operation includes one or both of the following:

(a) Food, frozen desserts or beverages usually served in edible containers or in paper, plastic or other disposable containers; and/or

(b) More than 45% of the available floor space devoted to food preparation, related activities and other floor space not available to the public.

DUMPSTER. A container capable of holding a volume of material greater than two cubic yards and used for the purpose of collecting garbage, solid or liquid waste, or refuse of any type.

DWELLINGS. Any building or portion thereof usable exclusively for residential purposes. A **DWELLING** is classified as one of the following.

(a) **GROUP DWELLINGS (CONGREGATE LIVING).** A building or group of buildings, designed and used for residential habitation where joint and/or separate sleeping rooms share common living, kitchen, eating and bathroom facilities, housing persons unrelated by blood or marriage.

(b) **MULTIPLE-FAMILY DWELLING.** A building containing three or more dwelling units designed for residential use.

(c) **SINGLE-FAMILY DWELLING.** A building containing not more than one dwelling unit designed for residential use.

(d) **TWO-FAMILY DWELLING (DUPLEX).** A building containing no more than two separate dwelling units designed for residential use.

DWELLING UNIT. A building or portion thereof providing complete housekeeping facilities for one family.

EASEMENT. Any private or dedicated public way other than a street or alley, providing a secondary means of access to a property.

EAVE. The projecting lower edges of a roof overhanging the wall of a building.

EGRESS (EXIT). An exit from a building or site.

ELDERLY HOUSING. See **SENIOR HOUSING.**

ELEVATION, TOPOGRAPHIC. The measurement of height above sea level.

ELEVATION, VIEW. An architectural or engineered rendering of each side of a building for purposes of site plan review.

EMISSION. A discharge into the air or water.

ENGINEERED HOME. See **MANUFACTURED HOME.**

ENVIRONMENTAL ASSESSMENT (EA). An EA is the document required by the Federal Communications Commission (FCC) and the National Environmental Policy Act (NEPA) when a personal wireless service facility is placed in a certain designated area.

ENVIRONMENTALLY SENSITIVE AREA. An area with one or more of the following characteristics:

- (a) Slopes in excess of 20%;
- (b) Floodplain;
- (c) Soils classified as having a high water table;
- (d) Soils classified as highly erodible, subject to erosion or highly acidic;
- (e) Land incapable of meeting percolation requirements;
- (f) Land formerly used for landfill operations or hazardous industrial uses;
- (g) Fault areas;
- (h) Stream corridors;
- (i) Estuaries; and/or
- (j) Aquifer recharge and discharge areas.

EQUIPMENT RENTAL/SALES. A business that provides construction, household and other similar equipment for rent to the general public or contractors for a limited period of time. Used equipment and a limited proportion (up to 10%) of new items in the inventory of the business may be advertised for sale.

EQUIPMENT SHELTER. An enclosed structure, cabinet, shed or box at the base of the mount within which are housed batteries and electrical equipment.

ERECTED. Signifies the construction, alteration, reconstruction, placement upon or any physical alteration to a piece of land, including the excavating, moving and filling of earth.

EROSION. The process by which the ground surface is worn away by action of wind, water, gravity or a combination thereof.

ESSENTIAL SERVICES.

(a) The erection, construction, alteration or maintenance by public utilities or municipal departments or commissions of underground, surface or overhead gas, electrical, steam or water transmission, distribution or collection systems, communication, supply or disposal systems, including mains, drains, sewers, pipes, conduits, wires, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, towers, electric sub-stations, telephone exchange buildings, gas regulator stations and other similar equipment and accessories in connection therewith.

(b) **ESSENTIAL SERVICES** are those that are reasonably necessary to furnish adequate service by the public utilities or municipal departments or commissions or for the public health or safety or general welfare, but do not include buildings other than the buildings that are primarily enclosures or shelters of the mentioned equipment in this definition.

(c) Private wireless communication facilities are not considered **ESSENTIAL SERVICES**.

ESTABLISHMENT. An economic unit, generally at a single physical location, where business is conducted or services or industrial operations are performed.

EXCAVATION. The removal of rock, sand, soil or fill material below the average grade of the surrounding land and/or road grade, whichever is highest. This does not include alterations for farming or gardening purposes.

FALL ZONE. The area on the ground within a prescribed radius from the base of a personal wireless facility. The **FALL ZONE** is the area within which there is a potential hazard from falling debris (such as ice) or collapsing material.

FAMILY. A person living alone, or two or more persons related by blood, marriage or adoption, customarily living together as a single housekeeping unit in a dwelling unit as distinguished from a group occupying a hotel, club, religious or institutional building, boarding or lodging house, or fraternity or sorority house.

FAMILY DAYCARE HOME. See **CHILD CARE ORGANIZATION**.

FAST FOOD RESTAURANT. See **DRIVE-IN RESTAURANT/FAST FOOD**.

FENCE. A permanent or temporary partition or structure (including gate) created as a property line dividing marker, barrier or enclosure. Landscape berms, plantings, hedges and similar effects shall be considered a **FENCE** for issues related to clear vision areas. Minimum heights may apply if berms, plantings, hedges and similar effects are required for buffers.

FIRE STATION. Public building devoted to the storage and housing of fire equipment and personnel.

FIREWORKS.

(a) A device made from explosive or flammable compositions used primarily for the purpose of producing a visible display or audible effect, or both, by combustion, deflagration or detonation. **FIREWORKS** include Class B fireworks and Class C fireworks.

(b) Should the definitions of these items change per the Michigan Penal Code, Public Act 328 of 1931, being M.C.L.A. §§ 750.1 through 750.568, as amended, this chapter's definitions will change with the state law, and must be interpreted as those contained in the state law.

1. **CLASS B FIREWORKS.** These are toy torpedoes, railway torpedoes, firecrackers or salutes that do not qualify as Class C fireworks, exhibition display pieces, airplane flares, illuminating projectiles, incendiary projectiles, incendiary grenades, smoke projectiles or bombs containing expelling charges but without bursting charges, flash powders in inner units not exceeding two ounces each, flash sheets in interior packages, flash powder or spreader cartridges containing not more than 72 grains of flash powder each and other similar devices.

2. **CLASS C FIREWORKS.** These are toy smoke devices, toy caps containing not more than 25 grains of explosive mixture, toy propellant devices, cigarette loads, trick matches, trick noise makers, smoke candles, smoke pots, smoke grenades, smoke signals, hand signal devices, signal cartridges, sparklers, explosive auto alarms and other similar devices.

FLAG LOT. A lot not fronting entirely on or abutting a public road and where access to the road is a narrow, private right-of-way.

FLEA MARKET. See **OUTDOOR TEMPORARY USE**.

FLOODPLAIN.

(a) The relatively flat area or low lands adjoining the channel of watercourse or a body of standing water, that has been or may be covered by flood water.

(b) Determination of a **FLOODPLAIN** is made by the Federal Emergency Management Agency for those areas to be covered by flood insurance and consists of:

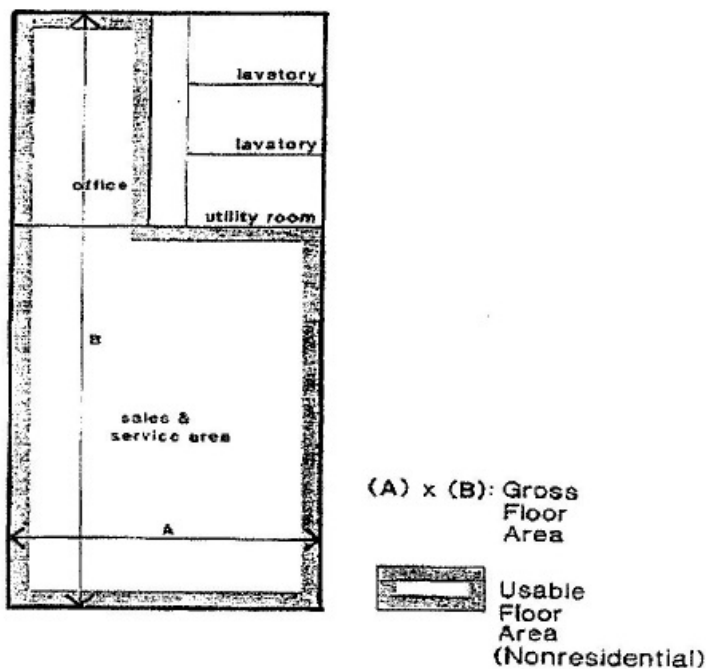
1. Contiguous areas paralleling a river, stream or other body of water that constitute at their maximum edge the highest flood levels experienced in a period of 100 years;
2. Principal estuary courses of wetland areas that are part of the river flow system; and/or
3. Contiguous area paralleling a river stream or other body of water that exhibits unstable soil conditions for development.

FLOOR AREA. The area of all floors computed by measuring the dimensions of the outside walls, excluding attic and basement floors, porches, patios, breezeways, carports and garages, or portions of rooms with less than seven feet of space between the floor and ceiling.

FLOOR AREA, USEABLE.

(a) The area of a nonresidential building used for or intended to be used for the sale of merchandise or services.

(b) Such floor area that is used for or intended to be used primarily for the storage or processing of merchandise which may include hallways, breezeways, stairways and elevator shafts, or for utilities and sanitary facilities, shall be excluded from the computation of *USEABLE FLOOR AREA*.



Floor Area Terminology

FOSTER FAMILY GROUP HOME. See *CHILD CARE ORGANIZATION*.

FOSTER FAMILY HOME. See *CHILD CARE ORGANIZATION*.

FRATERNAL ORGANIZATION. See *INSTITUTION, SOCIAL*.

FUNCTIONAL EQUIVALENT SERVICES. Cellular, personal communication services (PCS), enhanced specialized mobile radio, specialized mobile radio and paging.

FUNERAL HOME/MORTUARY. A building used for the storage and preparation of the deceased for burial and display, and for ceremonies connected therewith before burial or cremation.

GARAGES. Includes the following.

(a) **ATTACHED.** An attached outbuilding customarily used for the storage of vehicles, and is attached to a residential dwelling as either an integral part thereof, or, at a minimum, connected to the dwelling by a completely enclosed breezeway.

(b) **PRIVATE GARAGE.** A detached accessory building or portion of a main building used for the storage of vehicles without provision for repair or servicing such vehicles for profit.

(c) **SERVICE GARAGE.** Any building or structure designed or used for the hire, sale, storage, service, repair or refinishing of motor vehicles or trailers, but not for the storage of dismantled vehicles or parts thereof for purposes of reuse or resale.

GARBAGE. Animal, vegetable and mineral waste resulting from the handling, storage, sale, preparation, cooking and serving of foods.

GAS STATION/SERVICE STATION.

(a) A place where gasoline, kerosene or any other motor fuel or lubricating oil or grease for operation of motor vehicles is offered for sale to the public and deliveries are made directly into motor vehicles, including sale of accessories, greasing, oiling and light motor service on the premises, but in no case to include automobile or truck mechanical repair.

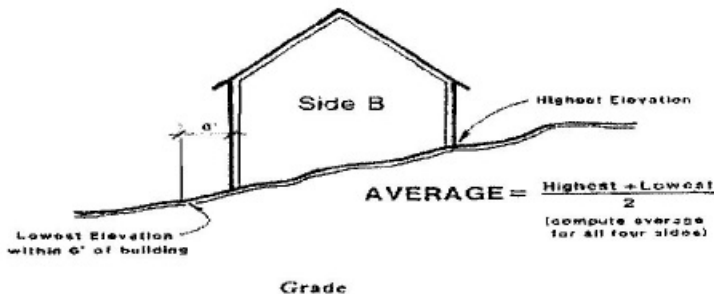
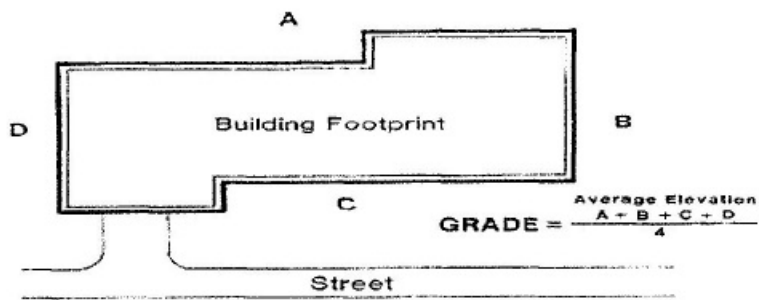
(b) Convenience food sales and/or fast food restaurants may also be provided on the premises.

GLARE. The effect produced by brightness sufficient to cause annoyance, discomfort or loss in visual performance and visibility.

GRADE.

(a) For purposes of this chapter, the level of the ground adjacent to the exterior walls of a building or structure.

(b) In the case of lots with a sloping terrain, the **GRADE** shall be the average elevation of the ground adjacent to the walls.



GRADING. Any stripping, excavating, filling, stockpiling or any combination thereof, and also included shall be the land in its excavated or filled condition.

GRADING PERMIT. The written authority issued by the City of Auburn permitting the grading, excavating or filling of land including drainage and soil erosion control in conformity with the Erosion Control Section of this chapter and Public Act 347 of 1972.

GREEN AREA. Land shown on a development plan, master plan or official map for preservation, recreation, landscaping or a park.

GREENBELT. See *BUFFER*.

GREENHOUSE. A temporary or permanent building whose roof and sides are made largely of glass or other transparent or translucent material, and in which the temperature and humidity can be regulated for the cultivation of delicate or out-of-season plants for subsequent sale or personal enjoyment.

GROUND COVER. Grasses or other cultivated plants grown to keep soil from being blown or washed away, not including weeds or other overgrown, unkempt vegetation.

GROUNDWATER RUNOFF. Storm water that is discharged into a stream channel as spring or seepage water.

GROUP DAY CARE HOME. See *CHILD CARE ORGANIZATION*.

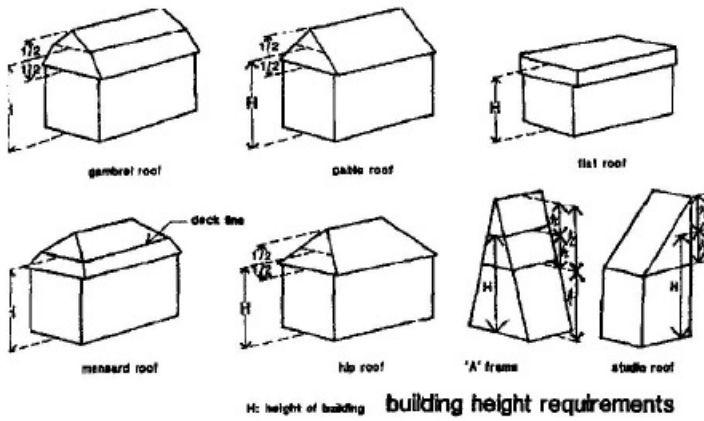
GUYED TOWER. A monopole or lattice tower that is tied to the ground or other surface by cables.

HARD CORE MATERIAL. Media characterized by sexual activity that includes one or more of the following: erect male organ; contact of the mouth of one person with the genitals of another; penetration with a finger or male organ into any orifice in another person; open female labia; penetration of a sex toy into an orifice; male ejaculation; or the aftermath of male ejaculation.

HAZARDOUS MATERIALS. Any materials that have been declared to be hazardous by any agency of the State of Michigan or of the United States, including, but not limited to, toxic materials and metal hydroxides.

HEALTH CARE (SERVICES) FACILITIES. See *INSTITUTION, HUMAN CARE*.

HEIGHT OF BUILDING. The vertical distance, measured from the adjoining curb level, to the highest point of the roof of the top story in the case of a flat roof; to the deck line of a mansard roof; and to the mean height level between eaves and ridge of a gable, hip or gambrel roof; however, where buildings are set back from the street line, the **HEIGHT OF THE BUILDING** may be measured from the average elevation of the finished lot grade at the front of the building.



HIGHWAY. A public thoroughfare or street, excluding alleys, but including federal, state and county roads and those appearing upon plats recorded in the office of the Register of Deeds and accepted for public maintenance.

HOME OCCUPATION.

- (a) While the city recognizes that many residents feel the necessity to work at home, the city also recognizes the rights of all residents to be free from actual or potential nuisance which may be caused by non-residential activities conducted in a residential zone.
- (b) The intent of this definition is to ensure that any **HOME OCCUPATION** is compatible with other permitted uses in residential districts and to maintain and preserve the residential character of the neighborhood.
- (c) A **HOME OCCUPATION OR BUSINESS** must:
 1. Be clearly incidental and secondary to the use of the dwelling as a residence and must not change the residential character of the dwelling or lot in any visible manner. The dwelling must be the primary residence of the business owner(s);
 2. Not produce noise, odor, fumes, vibration, dust, smoke, heat, glare, electrical disturbance or other nuisance that is transmitted beyond the property lines. In the case of a multi-family, no such nuisance should carry beyond the individual dwelling;
 3. Maintain the outside of the buildings free from the storage of any equipment, materials or any items related to the home occupation. The outside of the dwelling shall not hold any display of merchandise, nor should an interior display be visible from the outside; and
 4. Not advertise with any sign beyond what is allowed in §§ 154.090 through 154.098.

HORTICULTURE. The cultivation of a garden or orchard. **HORTICULTURE** specifically excludes operation of a landscaping business.

HOSPITAL. See **INSTITUTION, HUMAN CARE.**

HOTEL. See **MOTEL.**

IMPERVIOUS SURFACE. Any material that reduces and prevents the absorption of storm water into previously undeveloped land.

INDUSTRIAL PARK. A planned, coordinated development of a tract of land with two or more separate industrial buildings. Such development is planned, designed, constructed and managed on an integrated and coordinated basis with special attention given to on-site vehicular circulation, parking, utility needs, building design, orientation and open space.

INFRASTRUCTURE. Facilities and services needed to sustain industrial, residential and business activities.

INGRESS. Access or entry.

INSTITUTION, EDUCATIONAL. A school for kindergarten through twelfth grade or any colleges or universities authorized by the state to award degrees.

INSTITUTION, HUMAN CARE. A public or private facility for physical, as opposed to mental, care. A **HUMAN CARE INSTITUTION** may include hospitals, convalescent, assisted care facilities and nursing homes. It does not include homes for the mentally disadvantaged or substance abuse rehabilitation facilities.

INSTITUTION, REHABILITATION. A public or private facility for mental or substance abuse rehabilitation. A **REHABILITATION INSTITUTION** may include inpatient or outpatient hospitals, halfway houses and similar facilities.

INSTITUTION, RELIGIOUS. A structure or place in which worship, ceremonies, rituals and education pertaining to a particular system of beliefs are held.

INSTITUTION, SOCIAL. Any profit or nonprofit use or facility in which activities for pleasure or philanthropy are carried out. Such institutions may include service clubs, scout organizations, hobby clubs and veteran's organizations, churches, schools, hospitals, convalescent or nursing homes, public or quasi-public non-profit uses, community facilities, parks and playgrounds.

INTERSECTION. The point where two or more roads cross at grade.

JUNK MOTOR VEHICLE. An automobile, truck or other motor vehicle which has been damaged to such an extent that it cannot be operated under its own power, and will require major repairs before being made usable; or such a vehicle which does not comply with state or city laws or ordinances.

JUNK/SALVAGE YARD. A place where waste or discarded or salvaged materials are bought, sold, exchanged, stored, baled, packaged, disassembled, cleaned or handled, including house and vehicle wrecking yards, used lumber yards, and places or yards for use of salvaged house and vehicle parts, and structural steel materials and equipment. A **JUNK OR SALVAGE YARD** shall not include uses conducted entirely within a completely enclosed building; pawn shops and establishments for the sale, purchase or storage of used cars in operable condition, salvaged machinery, used furniture and household equipment; and the processing of used, discarded or salvaged materials as part of manufacturing operations.

KENNEL or ANIMAL HOSPITAL. Any building or land used for the sale, boarding, treatment or breeding of more than two dogs or three cats or other household pets as a business.

LABORATORY.

(a) **MEDICAL OR DENTAL.** A laboratory that provides analytical or diagnostic services to physicians and dentists. No fabrication is conducted on the premises except the custom fabrication of dentures or surgical supports.

(b) **EXPERIMENTAL.** A building or part of a building devoted to the testing and analysis of any product or animal.

LAND. Ground, soil or earth, including structures on, above or below the surface.

LAND USE. A use of land which may result in an earth change, including, but not limited to, subdivision, residential, commercial, industrial, recreational or other development, private and public highway, road and street construction, drainage construction, agricultural practices and mining.

LAND USE PLAN. A plan showing the existing and proposed location, extent and intensity of development of land to be used for varying types of residential, commercial, industrial, agricultural, recreational, educational and other public and private purposes or combination of purposes.

LATTICE TOWER. A type of mount that is self-supporting with multiple legs and cross bracing of structural steel.

LEGISLATIVE BODY. The City Commission of the City of Auburn.

LIBRARY. Institutions for the storage and circulation of books, compact discs, videotapes and other materials for use by the general public.

LICENSED CARRIER. A company authorized by the FCC to construct and operate a commercial mobile radio services system.

LOADING/UNLOADING SPACE. An off-street space on the same lot with a building, or group of buildings, for the temporary parking of a commercial vehicle while loading and unloading merchandise or materials.

LOT. A parcel or portion of land, exclusive of any adjoining street, separated from other parcels or portions by description, as on a subdivision of record or survey map.

LOT AREA. The total horizontal area included within lot lines. Where the front lot line is the centerline of a street or lies in part or in whole in the street area, the **LOT AREA** shall not include that part of the lot in use or to be used as the street.

LOT, CORNER. See **CORNER LOT**. See graphic for **CORNER LOT**.

LOT COVERAGE. The part or percent of the lot occupied by buildings, including accessory buildings.

LOT DEPTH. The mean horizontal distance from the front street line to the rear lot line.

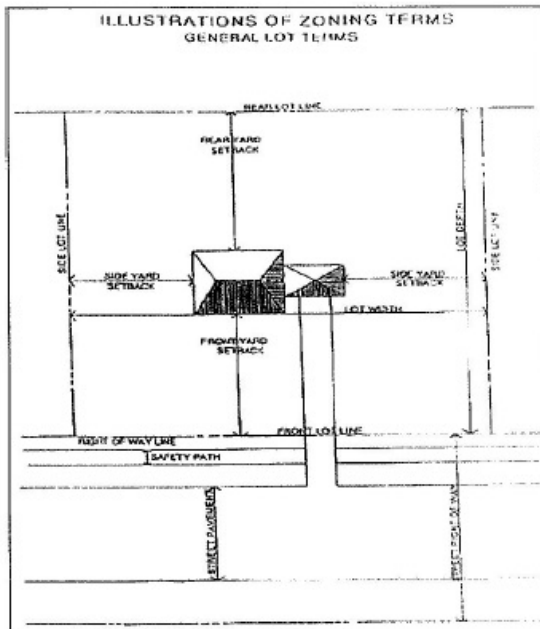
LOT, INTERIOR. Any lot other than a corner lot. See graphic for **CORNER LOT**.

LOT LINES. Any line bounding a lot, including the following:

(a) **FRONT LOT LINE.** The line separating the lot from the right-of-way of the street; in the case of a corner line, the address of record is the front lot line.

(b) **REAR LOT LINE.** The line opposite to and most distant from the front line; in irregularly shaped lots, it shall be the straight line entirely within the lot, ten feet long, parallel to and most distant from the front lot line.

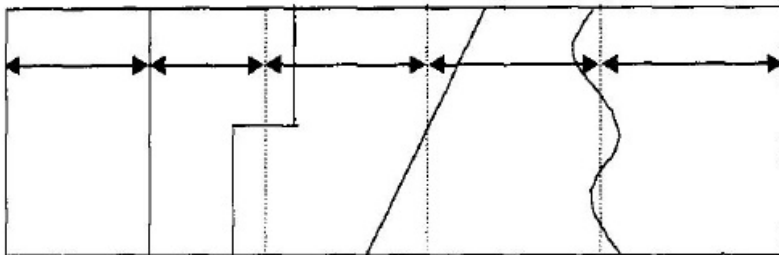
(c) **SIDE LOT LINE.** Any line other than front or rear lot lines.



LOT, THROUGH. Any interior lot having frontage on two more or less parallel streets as distinguished from a corner lot. In the case of a row of double frontage lots, all sides of said lots adjacent to streets shall be considered frontage, and front yards shall be provided as required. See graphic for **CORNER LOT**.

LOT OF RECORD. A parcel of land, the dimensions of which are shown on a document or map on file with the County Register of Deeds or in common use by city or county officials, and which actually exists as so shown, or any part of such parcel held in separate recorded ownership at the time of adoption of this chapter.

LOT WIDTH. The average of the width between side lot lines.



LOT, ZONING. A single tract of land that, at the time of filing for a building permit, is designated by its owner or developer as a tract to be used, developed or built upon as a unit, under single ownership or control.

LOUNGE. See **BAR**.

LUMBERYARD. A commercial or wholesale facility where building materials are sold and where lumber and other construction materials are warehoused within an enclosed yard or building.

MALLS. A shopping center where stores front on both sides of a pedestrian way that may be enclosed or open.

MANUFACTURED HOME. A dwelling unit, designed and built in a factory.

MANUFACTURING. The manufacture, predominantly from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment and packaging of such products, and incidental storage, sales and distribution of such products, but excluding basic industrial processing and custom manufacturing. The manufacturing or compounding process of raw materials. These activities or processes would necessitate the storage of large volumes of highly flammable, toxic matter or explosive materials needed for the **MANUFACTURING** process. These activities may involve outdoor operations as part of their **MANUFACTURING** process.

MARQUEE. Any hood, canopy, awning or permanent structure that projects from a wall of a building, usually above an entrance.

MASTER PLAN. A comprehensive long-range plan intended to guide the growth and development of a community. The plan includes analysis, recommendations and proposals for the community's population, economy, housing, transportation, community facilities and land use.

MINI-STORAGE/SELF STORAGE. A structure containing separate storage areas of varying sizes that are leased or rented on an individual basis.

MIXED USE ZONING. Regulations that permit a combination of different uses within a single development, under special regulations.

MOBILE HOME. A structure, transportable in one or more sections, that is built on a chassis and designed for use as a dwelling with or without a permanent foundation, and which includes the plumbing, heating, air conditioning and electrical systems contained in the structure. A **MOBILE HOME** does not include a recreational vehicle.

MANUFACTURED HOME DEVELOPMENT. A parcel of land under the control of a person upon which three or more mobile homes are located on a continual nonrecreational basis and which is offered to the public for that purpose, regardless whether a charge is made therefore, together with any building, structure, enclosure, street, equipment or facility used or intended for use incident to the occupancy of a mobile home.

MOBILE HOME SITE/MANUFACTURED HOME SITE. A measured parcel of land within a manufactured home development that is delineated by lot lines on a final development plan and which is intended for the placement of a mobile home and the exclusive use of the occupants of such mobile home.

MOBILE HOME SUBDIVISION. A manufactured home development except that the mobile home lots are subdivided, surveyed, recorded and sold in accordance with Michigan Act 288 of 1967, being M.C.L.A. §§ 560.101 through 560.293, as amended.

MONOPOLE. The type of mount that is self-supporting with a single shaft of wood, steel or concrete, without guy wires and a platform (or racks) for panel antennas arrayed at the top.

MORTUARY. See **FUNERAL HOME**.

MOTEL. A building or group of buildings, whether detached or in connecting units, used as individual sleeping or dwelling units designed primarily for transients traveling by automobile. The term **MOTEL** shall include buildings designed as auto courts, tourist courts, motor hotels, hotels and similar names that are designed as integrated units of individual rooms under common ownership. For the purposes of this chapter, **MOTEL** and **HOTEL** have the same meaning.

MOUNT. The structure of surface upon which antennas are mounted, including the following four types of mounts.

- (a) **GROUND-MOUNTED.** Mounted on the ground.
- (b) **ROOF-MOUNTED.** Mounted on the roof of a building.
- (c) **SIDE-MOUNTED.** Mounted on the side of a building.
- (d) **STRUCTURE-MOUNTED.** Mounted on a structure other than a building.

MUNICIPAL BUILDING. A structure housing an operation of the City of Auburn.

MUNICIPALITY. The City of Auburn.

MUSEUM. A building having public significance by reason of its architecture or former use or occupancy or building serving as a repository for a collection of natural, scientific, or literary curiosities or objects of interest, or works of art, and arranged, intended and designed to be used by members of the public for viewing, with or without an admission charge, and which may include as an accessory use the sale of goods to the public as gifts or for their own use.

NATURAL RETENTION AREA. A naturally occurring pond or wetland that retains storm water runoff.

NONCONFORMING BUILDING, LEGAL. Any building or portion thereof lawfully existing at the time this chapter became effective and that does not comply with this chapter's regulations.

NONCONFORMING LOT, LEGAL. A lot, the area, dimensions or location of which was lawful prior to the adoption, revisions, or amendment of the zoning code; but which fails, by reason of such adoption, revisions or amendment, to conform to current requirements of the Zoning District.

NONCONFORMING SIGN, LEGAL. Any sign lawfully existing as of the effective date of an ordinance, or amendment thereto, that renders the sign nonconforming because it does not conform to all the standards and regulations of the adopted or amended ordinance.

NONCONFORMING USE, LEGAL. Any property use that was lawful at the time the zoning Ordinance became effective and which now does not comply with its regulations. A **LEGAL NONCONFORMING USE** is a use that is in compliance with the requirements of this chapter.

NORTH POINT or NORTH ARROW. The designation on a map illustrating the direction of north.

NOXIOUS. Offensive or disturbing.

NUISANCE. An offensive, annoying, unpleasant or obnoxious thing, or practice, a cause or source of annoyance, especially a continual or repeated invasion of a use or activity that invades the property line of another so as to cause harm or discomfort to the owner or resident of that property.

NURSERY, PLANT MATERIALS. Any lot or structure used for the growing, harvesting, processing, storing and/or selling of plants, shrubs, trees and flowers, including products used for gardening and landscaping, but not including fruit and vegetable sales.

OCCUPANCY PERMIT. A required permit allowing occupancy of a building or structure after it has been determined that the building meets all of the requirements of applicable ordinances.

OCCUPANCY PERMIT, TEMPORARY. A certificate of occupancy that is issued for a fixed time period to allow occupancy, because seasonal conditions make it impossible to complete all needed external improvements.

OFFICE. A room or group of rooms used for conducting the affairs of a business, profession, service, industry or government.

OFFICE BUILDING. A building used primarily for conducting the affairs of a business, profession, service, industry, government or like activity; it may include ancillary services for office workers such as a restaurant, coffee shop, newspaper or candy stand.

OMNIDIRECTIONAL (WHIP) ANTENNA. A thin rod that beams and receives signals in all directions.

OPEN SPACE. The part of a zoning lot, including courts or yards, which:

- (a) Is open and unobstructed from its lowest level to the sky;
- (b) Is accessible to all residents upon the zoning lot;
- (c) Is not part of the roof of that portion of a building containing dwelling units;
- (d) Is comprised of lawn and landscaped area; and
- (e) Is not part of the roof of an attached garage if said roof is used for a swimming pool deck or recreation deck; and is not higher than 23 feet above grade; and is directly accessible by passageway from the residential building.

ORCHARD. The establishment, care and harvesting of more than 25 fruit-bearing trees or vines, such as apples, cherries or grapes for the purpose of selling the fruit to others.

OUTDOOR AMUSEMENT FACILITY. A commercial business that provides amusement facilities, such as miniature golf, carnival rides, petting zoo and other similar attractions and open to the general public.

OUTDOOR SALES. Uses not conducted from a wholly enclosed building, operated for a profit, and including the following uses:

- (a) Bicycle, mobile home, travel trailer, motor vehicle, boat or home equipment sale or rental services;
- (b) Outdoor display and sale of garages, swimming pools and similar uses;
- (c) Retail sale of trees, fruits, vegetables, shrubbery, plants, seed, topsoil, humus, fertilizer, trellis, lawn furniture, playground equipment and other home garden supplies and equipment; and
- (d) Tennis courts, archery courts, shuffleboard, horseshoe courts, miniature golf, golf driving range, children's amusement park or similar recreation uses.

OUTDOOR USE. A use, the majority of which is carried outside of a structure of any kind. These may include outdoor displays of merchandise, outdoor eating areas, outdoor storage and outdoor recreation under certain circumstances.

OUTDOOR USE, TEMPORARY. A use carried out in an open area or uncovered or temporary structure that is disbanded when the designated time period, activity or use for which the temporary structure was erected has ceased.

PANEL ANTENNA. A flat surface antenna usually developed in multiples.

PARK, NEIGHBORHOOD. City- or county-owned land intended to serve the recreation needs of people living or working within one-half mile radius of the park. A **NEIGHBORHOOD PARK** is less than two and one-half acres in size.

PARK, RECREATIONAL. An open area designed for the active and/or passive use of the general public and which may or may not contain playground or exercise facilities and equipment.

PARKING AISLE. The area behind a parking space used for backing and turning into and out of the parking space. See §§ 154.070 through 154.075 for parking space and aisle required sizes.

PARKING AREA. An area used for the parking, parking aisle or access of motor vehicles for a fee or as an accommodation for clients, customers, residents, employees or the general public.

PARKING AREA, TOTAL. The parking lot and all connecting access drives and landscaping.

PARKING ACCESS. The area of a parking lot that allows motor vehicles ingress and egress from the street to the parking aisle or parking space of not longer than 100 feet.

PARKING BAY. A parking module consisting of one or two rows of parking spaces and the aisle from which motor vehicles enter and leave spaces.

PARKING LOT. An off-street, ground level area, surfaced and improved, for the temporary storage of motor vehicles.

PARKING, OFF-STREET. Any parking area located on the same property it is intended to serve, or in a joint use lot.

PARKING SPACE. Any vehicle accessible area designated for vehicle parking and exclusive of drives and aisles.

PATIO, PORCH. Roofed open area that, while it may be glassed or screened, is usually attached to, or part of, and with direct access to or from a building.

PERFORMANCE STANDARDS. A set of criteria or limits relating to nuisance elements (noise, odor, vibration, toxic and hazardous materials, radiation, flooding and other similar occurrences) that a particular use or process may not exceed.

PERMANENTLY AFFIXED. To affix a structure to the ground or to another structure in accordance with the design and material specification of applicable building codes.

PERMITTED USE. Any use allowed in a zoning district and subject to the restrictions applicable to that zoning district.

PERSON. Any individual, partnership, organization, association, trust or corporation. When used as a penalty provision, **PERSON** shall include the members of such partnership, the trustees of such trust, and the officers and members of such organization, association or corporation.

PERSONAL SERVICES FACILITIES. Establishments primarily engaged in providing services involving the care of a person or his or her apparel.

PERSONAL WIRELESS SERVICE FACILITY. A facility for the provision of personal wireless services, as defined by the Telecommunications Act.

PERSONAL WIRELESS SERVICE. The three types of services regulated by this chapter as specified in the special use permit regulations. These services are cellular, radio and satellite.

PETROLEUM BULK PLANT. An establishment for the purpose of storage of petroleum products, in bulk or in packages, distributed by tank car, tank vehicle or motor truck.

PLAN, FINAL. A site plan that has been approved by the Planning Commission.

PLAN, PRELIMINARY. A site plan that is under review by the Planning Commission or proper review authority and indicates the proposed layout of the subdivision, planned unit development (PUD) or other development.

PLAN, TENTATIVE PRELIMINARY. A conceptual site plan or sketch showing ideas for development and site use.

PLANNED UNIT DEVELOPMENT or PUD. An area of minimum contiguous size, as specified by ordinance, to be planned and developed as a single entity containing one or more residential clusters or planned unit residential developments and one or more public, quasi-public, business or industrial areas in such range or ratios of nonresidential to residential uses as shall be specified.

PLANNING COMMISSION. The duly designated Advisory Plan Commission of the municipality.

POND. A permanent or temporary body of human-made open water that is more than 0.25 acres in size and less than one acre in size.

POOL, COMMERCIAL SWIMMING. An artificially constructed basin for holding water for use by paying customers or patrons of a commercial facility.

POOL, PRIVATE SWIMMING. Any artificially constructed basin or other structure for holding water for use in swimming, diving and other aquatic sports and recreation. The term **SWIMMING POOL** does not include any plastic, canvas or rubber pool temporarily erected upon the ground holding less than 500 gallons of water and not over 24 inches deep. Section AG102 of Appendix G in the 2003 Michigan Residential Code defines **SWIMMING POOL** as any structure intended for swimming or recreational bathing that contains water over 24 inches (610 mm) deep. This includes in-ground, above-ground and on-ground swimming pools, hot tubs and spas.

POTABLE WATER. Water suitable for drinking or cooking purposes.

PRINCIPAL BUILDING. A building in which is conducted the principal use allowed of the lot in the district in which it is situated.

PRINCIPAL USE. The primary and predominate use of the premises including customary accessory uses.

PRIVATE. Not publicly owned or otherwise regulated by the state, either by statute or by rules and regulations of one of its administrative bodies.

PROFESSIONAL SERVICES. Services offered to the general public such as law, medicine, engineering, accounting and architecture.

PROCESSING. Any operation changing the nature of material or materials such as the chemical composition, physical qualities or size or shape. Does not include operations described as fabrication or assembly.

PUBLIC FACILITIES. Facilities that are owned and operated by a municipality, government agency or publicly owned utility.

PUBLIC HEARING. A meeting announced and advertised in advance and open to the public, with the public being given an opportunity to speak or participate.

PUBLIC SERVICE INSTALLATION. A building, structure or use of land that provides a service that is essential to the general public's convenience or safety and is also defined as a **PUBLIC UTILITY**.

PUBLIC UTILITY. See **PUBLIC SERVICE UTILITY**. Any person, firm, corporation, municipal department or board, duly authorized to furnish and furnishing under federal, state or municipal regulations to the public, electricity, gas, steam, communication, telegraph, transportation or water, sanitary sewer or storm sewer.

PUBLIC WAY. A highway, street, avenue, boulevard, road, lane, alley or other area specifically designated and continuously maintained for public access.

QUASI-PUBLIC AGENCY. A service owned and operated by a nonprofit, religious or missionary institution and providing educational, cultural, recreational or similar types of public programs.

QUORUM. A simple majority of the full membership of a board or agency.

RADIO ANTENNA. A signal-receiving device, the purpose of which is to receive radio signals from radio transmitters in the area.

RADIO FREQUENCY (RF) ENGINEER. An engineer specializing in electrical or microwave engineering, especially the study of radio frequencies.

RADIO FREQUENCY RADIATION (RFR). The emissions from personal wireless service facilities.

RADIO TOWER. A signal-sending device, the purpose of which is to distribute radio signals from a radio transmitter or transmitters in the area.

RECREATION, COMMERCIAL INDOOR. A commercial recreational land use conducted entirely within a building, including arcade, arena, art gallery and studio, art center, assembly hall, athletics and health clubs, auditorium, bowling alley, club or lounge, community center, conference center, exhibit hall, gymnasium, library, movie theater, museum, performance theater, pool or billiard hall, skating rink, swimming pool and tennis court.

RECREATION, OUTDOOR. Recreational uses conducted almost wholly outdoors, including golf driving ranges (not associated with a golf course), miniature golf, firing ranges, water parks, amusement parks and similar uses.

RECREATION, PRIVATE. Recreational, playgrounds and parks activities that are not open to the general public and for which a fee may or may not be charged.

RECREATIONAL EQUIPMENT. Includes travel trailers, pickup campers, motor homes, ice fishing houses, tent trailers, tents, boats and boat trailers, personal watercraft, snowmobiles, off-road vehicles of any kind, and similar equipment and cases or boxes used for transporting recreational equipment, whether occupied by the equipment or not.

RECREATIONAL VEHICLE. A vehicle primarily designed and used as 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.

RECREATIONAL VEHICLE (RV) PARK/CAMPGROUND. A parcel of land reserved for the location of recreational vehicles, including building sites set aside for group camping and similar recreational vehicles.

RECYCLING FACILITY. The process by which waste products are reduced to raw materials and transformed into new and often different products.

RELIGIOUS INSTITUTION. See *INSTITUTION, RELIGIOUS*.

RESEARCH AND DEVELOPMENT FACILITY. Any facility that is involved in the inquiry, examination, investigation or experimentation aimed at the discovery and/or interpretation of facts, revision of accepted theories or laws in the light of new facts, or practical application of such new or revised theories of laws and the development thereof. **DEVELOPMENT** may include a limited number of test units of a given product resulting from such research and shall include limited production while a product is being test-marketed, which is the interim step between full research and development and ultimate full-scale production.

RESIDENCE. A home, abode or place where an individual is residing at a specific point in time.

RESIDENTIAL, RESIDENTIAL USE or RESIDENTIAL DISTRICT. The use of land parcels for human habitation under the terms of this chapter. **RESIDENTIAL** shall not be construed or interpreted to mean the storage, sale (wholesale or retail), trade, transfer, fabrication, production, manufacture or development of goods and services.

RESOURCE RECOVERY FACILITY. A fully enclosed building where waste is sorted and classified by type and material, such as ferrous metal, nonferrous metal, aluminum, paper, newsprint, boxed board, plastic and glass colors. The purpose of such a building is to reuse the recovered materials.

RESTRICTION. A limitation on property, which may be created in a deed, lease, mortgage or other appropriate document, through certain zoning or subdivision regulations, or as a condition of approval of an application for development.

RESTRICTIVE COVENANT. A restriction on the use of land usually set forth in a deed or other appropriate document.

RETAIL TRADE. Establishments engaged in selling goods or merchandise to the general public for personal or household consumption, and rendering services incidental to the sale of such goods.

RESTAURANT. A business located in a building where, in consideration for the payment of money, meals are habitually prepared, sold and served to persons for consumption on or off the premises, having suitable kitchen facilities connected therewith, containing conveniences for cooking an assortment of goods that may be required for ordinary meals, and deriving the major portion of its receipts from the sale of food and complying with state and federal health regulations.

RIGHT-OF-WAY. A strip of land acquired by reservation, dedication, forced dedication, prescription or condemnation, and intended to be occupied or occupied by a road, crosswalk, railroad, electric transmission lines, oil or gas pipeline, waterline, sanitary storm sewer or other similar uses.

RIGHT-OF-WAY LINE. The boundary of a dedicated street, highway or strip of land used or reserved for the placement or location of utilities and facilities. See graphic for *LOT LINES*.

RINGELMANN CHART. A device to measure the opacity of smoke emitted from stacks and other sources.

ROAD FRONTAGE. The length of the lot line that borders a public or private road at the right-of-way line.

RUNOFF. The portion of rainfall, melted snow or irrigation water that flows across ground surface and is eventually returned to streams.

SALVAGE YARD. A place where waste or discarded or salvaged materials are bought, sold, exchanged, stored, baled, packaged, disassembled, cleaned or handled, including house and vehicle wrecking yards, used lumber yards and places or yards for use of salvaged house and vehicle parts, and structural steel materials and equipment. **SALVAGE YARD** shall not include uses conducted entirely within a completely enclosed building; pawn shops and establishments for the sale, purchase or storage of used cars in operable condition, salvaged machinery, used furniture and household equipment; and the processing of used, discarded or salvaged materials as part of manufacturing operations.

SANITARY LANDFILL. Any operation that is licensed by the State of Michigan or its agencies as a sanitary landfill or is subject to the requirement of having such a license.

SCALE. The relationship between distances on a map and actual ground distances.

SCHOOL. See **INSTITUTION, EDUCATIONAL.**

SCREENING. A method of visually shielding or obscuring one abutting or nearby structure or use from another by fencing, walls, berms or densely planted vegetation.

SEASONAL BUSINESS. A retail business or service business that is not normally used as a business for more than six months during any one calendar year.

SEASONAL RESIDENCE. A dwelling unit not normally the permanent residence of the occupant(s) and not normally used as a dwelling unit for more than six months during any calendar year.

SECURITY BARRIER. A locked, impenetrable wall, fence or berm that completely seals an area from unauthorized entry or trespass.

SENIOR HOUSING. A residential complex containing multiple family dwellings designed for and principally occupied by senior citizens. Such facilities may include a congregate meals program in a common dining area, but exclude institutional care such as medical or nursing care where patients are confined to bed.

SEPARATION. The distance between one carrier's array of antennas and another carrier's array.

SETBACK. The minimum required horizontal distance measured from the front, side or rear lot line, whichever is applicable, of a lot of record for purposes of determining the minimum amount of open space surrounding the main structure on that lot. See graphic for **LOT LINES.**

SEWAGE TREATMENT PLANT. A facility designed for the collection, removal, treatment and disposal of waterborne sewage generated within a given service area.

SIGNS.

(a) A name identification, description, display or illustration that is affixed to or represented directly or indirectly upon a building, structure or piece of land and which is intended to direct attention to an object, product, place, activity, person, institution, organization or business; however, a **SIGN** shall not include a sign located completely within an enclosed building.

(b) For the purpose of this chapter, the following sign or sign-related terms are here defined.

1. **AREA, OR SURFACE AREA, OF SIGN.** Measurement of a sign includes the entire area within a circle, triangle or parallelogram enclosing the extreme limits of writing, representation, emblem or any figure of similar character, together with any frame or other material or color forming an integral part of the display or used to differentiate the sign from the background against which it is placed. This excludes the necessary supports or uprights on which the sign is placed but includes any sign tower.

a. Where a sign has two or more faces, the area of all faces shall be included in determining the **AREA OF THE SIGN**, except that where two such faces are placed back-to-back and are at no point more than two feet from one another, the **AREA OF THE SIGN** shall be taken as the area of one face if the two faces are of equal area, or as the area of the larger face if the two faces are of unequal area.

b. In the case of a sphere, the total area of the sphere shall be divided by four to determine the maximum permitted **SIGN AREA.**

c. The height of a sign shall be measured from the average grade of the lot at the setback line.

d. If a sign includes a numeric address, the portion of the sign containing the address numbers shall not be counted toward the total square footage of the sign.

2. **ABANDONED SIGN.** If a sign advertises a business, service, commodity, accommodation, attraction or other enterprise or activity that is no longer being offered or conducted at that site for a period of 14 days, that sign shall be considered abandoned.

3. **BANNER.** Either a temporary sign or portable sign, depending on how it is used.

4. **DIRECTIONAL SIGNS.** Signs posted to show direction of traffic flow through the property.

5. **ELECTRIC SIGN.** Any sign containing electric wiring. This does not include signs illuminated by an exterior floodlight source.

6. **ELECTRONIC MESSAGE BOARD.** Changeable copy/image signs in which the copy/image consists of an array of lights activated and deactivated.

7. **FREESTANDING SIGNS.** Signs that are supported from the ground by a structure and are not attached to a building.
Types:

a. A sign elevated high above ground level, typically on a pole or other structure;

b. Ground sign: A sign low to the ground and typically used to identify large buildings, institutions and real estate developments; and

c. High-rise signs/highway billboards: signs that may be erected for visibility from the U.S. 10 freeway.

8. **ILLUMINATED SIGN.** A sign that provides artificial light directly or through any transparent or translucent material.

9. **INTEGRAL SIGN.** Names of buildings or farm, date of erection, monumental citations, commemorative tablets and the like when made an integral part of the walls of the structure (or roof for farm buildings).

10. **JOINT SIGN.** A sign that gives direction and identification to a group of adjacent businesses whether or not under single management.

11. **LOCATION.** A lot, premise, building, wall or any place whatsoever upon which a sign is located.

12. **MARQUEE.** An identification sign attached to or made a part of a marquee, canopy or awning projecting from and supported by the building.

13. **MERCHANDISING SIGNS.** Signs identifying products or services available at the establishment and their prices. This is a descriptive term. Regulation depends on whether the sign is permanent, portable, temporary, a sign cover or a safety concern.

14. **MONUMENT or GROUND MOUNTED.** A freestanding sign where the base of the sign structure is on the ground or integrated into landscaping or other solid structural features other than support poles.

15. **MULTI-TENANT SIGNS.** Wall, ground or freestanding signs for unified developments, such as shopping centers and office parks, shall identify only the development, individual tenants or establishments.

16. **NON-DWELLING USE SIGN.** A sign located on a parcel that does not have a dwelling as its principal structure and is located in the R-1 or R-2 District. Examples of the uses that may be associated with non-dwellings in these districts include, but are not limited to, subdivisions, schools, religious institutions, public buildings, cemeteries and agricultural retail facilities.

17. **POLITICAL SIGNS/POSTERS.** Signs intended for use in promoting either a candidate for public office or proposal or similar issue that will be placed before the public to vote.

18. **PORTABLE SIGNS.** Those signs that are designed to be transported. Illustrations of signs designed to be transported include, but are not limited to, signs on a trailer or trailer frame and designed to be transported by means of wheels; signs converted to "A" or "T" frames that sit on the ground or lean against a permanent structure; menus and sandwich board signs; balloons used as signs; umbrellas used for advertising; and signs attached to or painted on vehicles parked and visible from the public right-of-way, unless said vehicle is used in normal day-to-day operation of the business. **PORTABLE SIGNS** may be a printed banner, changeable copy or portable LED messaging units. If a sign more accurately fits the definition of a "temporary sign", it shall not be considered **PORTABLE** for the purposes of this subchapter.

19. **REAL ESTATE SIGNS.** Signs intended for temporary use in promoting the sale of real estate, with or without structures, shall conform to § 154.094.

20. **ROOF LINE.** Either the high point of the roof or the top of the parapet, whichever forms the top line of the building silhouette and where a building has several roof levels; this roof or parapet shall be the one belonging to that portion of the building on whose wall the sign is located.

21. **ROOF SIGNS.** Signs placed on the roofs of buildings, supported by the roof and within the lines of exterior walls. If a wall extends above a roofline and supports a sign, it shall be considered a "wall sign" and not a **ROOF SIGN** in this chapter.

22. **SETBACK.** A distance measured from the outer boundary of a parcel in which erection of a sign is not permitted. A **FRONT SETBACK** is measured from the edge of the right-of-way of any abutting roadway. A **REAR SETBACK** is measured from the property line opposite the roadway. A **SIDE SETBACK** is measured from any other abutting property line. Corner lots shall require two front setbacks, but only one rear **SETBACK**.

23. **SIGN.** A name identification, description, display or illustration that is affixed to or represented directly or indirectly upon a building, structure or piece of land and that is intended to direct attention to an object, product, place, activity, person, institution, organization or business. This includes changeable copy and LED (light-emitting diode) portable signs. For this chapter, a national flag or official court or public office notice is not considered a **SIGN**. A sign located inside of a window shall not be regulated under this chapter.

24. **SIGN COVER.** Signs are defined as **SIGN COVER** only when they are located on permitted signs and cover up the content of the permitted sign. This includes a display sign, banner or other advertising device, with or without a structural frame, constructed of nondurable materials and intended for a limited period of use.

25. **STREET BANNERS.** Fabric signs, suspended across public streets advertising a public entertainment or event. The

location and contents of each street banner must be specially approved by the city.

26. **SUBDIVISION SIGN.** A sign intended as identification for a residential subdivision.

27. **TEMPORARY SIGN.**

a. A display sign, banner or other advertising device, with or without a structural frame, intended for a limited period of use.

b. Signs are defined as **TEMPORARY** when they are attached to a permanent structure, including but not limited to a building, light pole, trees, bushes or fences.

c. If a sign more accurately fits the definition of a “portable sign”, it shall not be considered **TEMPORARY** for the purposes of this chapter.

28. **WALL SIGNS.**

a. Signs permanently attached to the exterior wall of a building and projecting out from such walls no more than 14 inches.

b. The area of the **WALL SIGN** includes that area within a continuous line enclosing all letters and graphic symbols of the sign.

29. **WINDOW SIGNS.** Signs hung outside of a window and within the framework of any window of a business or residence.

SINGLE OWNERSHIP. Ownership by one person or by two or more persons whether jointly, as tenants by the entirety, or as tenants in common, of a separate parcel of real property not adjacent to land in the same ownership.

SITE. Any plot or parcel of land or combination of contiguous lots or parcels of land.

SITE CONDOMINIUM. See **PLANNED UNIT DEVELOPMENT.**

SITE PLAN. The development plan for one or more lots, on which is shown the existing and proposed conditions of the lot.

SITE PLAN REVIEW AND APPROVAL. The submission of plans for review and approval, as required by this chapter and special use permits.

SLOPE. The degree of deviation of a surface from the horizontal, usually expressed as percent or degrees.

SOIL. All unconsolidated mineral and organic material, of whatever origin, that overlies bedrock and can be readily excavated.

SOIL RESOURCE EXTRACTION. All or any part of the process involved in the mining of minerals by removing excess materials and mining directly from the mineral deposits, open pit mining or minerals naturally exposed, mining by auger method, dredging and quarrying, underground mining and surface work incidental to an underground mine.

SPECIAL LAND USE. A use, permitted within certain zoning districts, of such a nature that the public has reserved the right to approve its exact location, subject to conditions stated in this chapter and to any special conditions imposed by the Planning Commission to protect the use by right of other properties in the city.

SPECIFIED ANATOMICAL AREA.

(a) Less than completely opaquely covered human genitals, pubic region, buttock, female breast below a point immediately above the top of the areola.

(b) Human genitals in a discernable turgid state, even if completely and opaquely covered.

SPECIFIED SEXUAL ACTIVITY. Human genitals in a state of sexual stimulation or arousal or acts of human masturbation, sexual intercourse, sodomy or fondling or other erotic touching of human genitals, pubic region, buttock or female breast.

SPOT ZONING. Rezoning of a lot or parcel of land to benefit an owner for a use incompatible with surrounding uses, and not for the purpose or effect of furthering the objectives of the City Comprehensive Plan.

SQUARE FOOTAGE. The length times width of a building, structure or use.

STADIUM. A large open or enclosed place used for games and major events, partly or completely surrounded by tiers of seats for spectators.

STALL, PARKING. The parking space in which vehicles park.

STATE LICENSED RESIDENTIAL FACILITY. A private home licensed by the State Department of Social Services for care of sick, elderly or handicapped adults. A **FAMILY HOME** is defined as having one to six adults; a **GROUP HOME** has seven to 20.

STORAGE, BULK. The holding or stockpiling on land of material and/or products where such storage constitutes 40% of the developed site area and the storage area is at least one acre, and where at least three of the following criteria are met by the storage activity:

(a) In a bulk form or in bulk containers;

(b) Under protective cover to the essential exclusion of other uses of the same space due to special fixtures or exposure to the elements;

(c) In sufficient number, quantities or spatial allocation of the site to determine and rank such uses as the principal use of the site;

- (d) The major function is the collection and/or distribution of the material and/or products rather than processing; and
- (e) The presence of fixed bulk containers or visible stockpiles for a substantial period of a year.

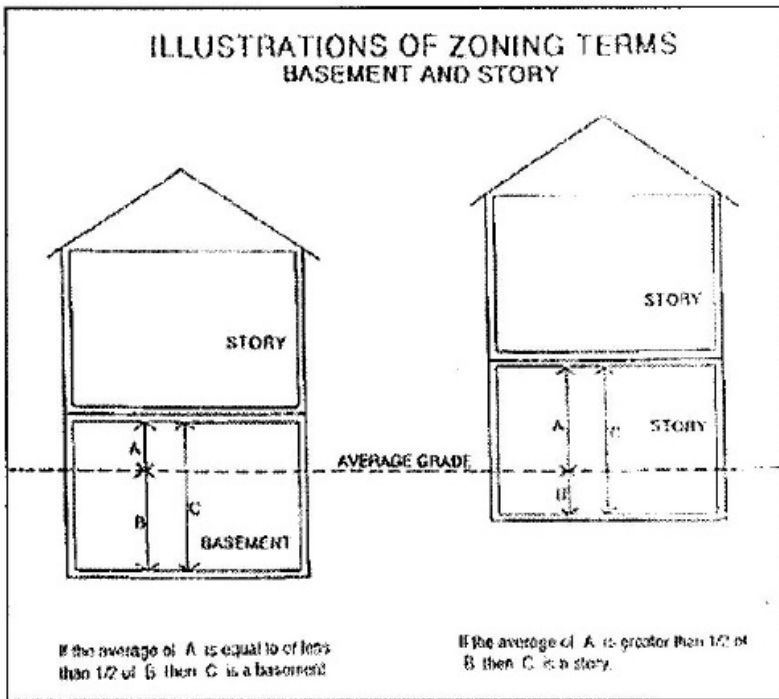
STORAGE, INDOOR. See **WAREHOUSE.**

STORAGE, OUTDOOR. See **OUTDOOR USE.**

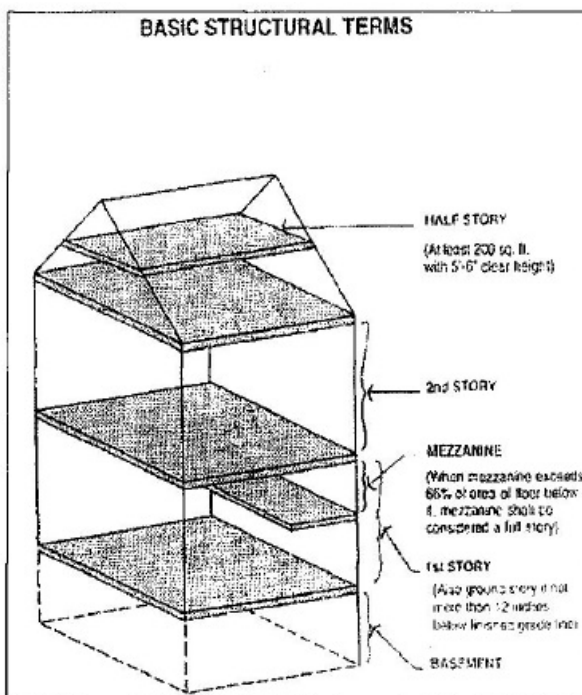
STORM SEWER. A conduit that collects and transports runoff of storm water.

STORM WATER DETENTION. Any storm drainage technique that retards or detains runoff, such as a detention or retention basin, parking lot storage, rooftop storage, porous pavement, dry wells or any combination thereof.

STORY. The portion of a building included between the surface of any floor above the average elevation or ground at the foundation wall 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.



STORY, HALF. An uppermost story lying under a sloping roof having an area of at least 200 square feet with a clear height of seven feet six inches. For the purposes of this chapter, the **USABLE FLOOR AREA** is only that area having at least four feet clear height between floor and ceiling.



STREET. A public right-of-way that has been dedicated to the public and accepted for the purpose of providing access to abutting private lots or land, including space for curb, gutter, paving and sidewalks.

STREET, COLLECTOR. A street that collects traffic from local streets and connects with minor and major arterials.

STREET, CUL-DE-SAC. A street with a single, common ingress and egress, and with a turnaround at the end.

STREET, GRADE. The top of the curb or the top of the edge of the pavement or traveled way where no curb exists.

STREET, LOCAL. A street designed to provide vehicular access to abutting property and to discourage through traffic.

STREET, MAJOR ARTERIAL. A street or highway so designated on the major road plan of the City Comprehensive Plan that is designed and intended to carry heavy traffic volumes.

STREET, MINOR ARTERIAL. A dedicated public way or recorded private street that affords access to abutting properties and is designed primarily to serve immediate neighborhood needs.

STREET, PRIVATE. A street that is not public as defined by this chapter.

STREET, PUBLIC. Any public right-of-way, conforming to the city standards, that provides vehicular access to adjacent properties.

STRUCTURE. See **BUILDING**.

STRUCTURE 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.

SUBDIVISION. The division of single lot or parcel of land, or part thereof, into two or more lots, tracts or parcels of land for the purpose, whether immediate or future, of transfer of ownership for residential, commercial or industrial purposes; or the division of a single lot, tract or parcel of land, or a part thereof, into two or more lots, tracts or parcels by means of buildings, building groups, streets, alleys, parking areas or leaseholds, for the purpose, whether immediate or future, of building development for residential, commercial or industrial purposes; provided, however, that divisions of land for agricultural purposes only, not involving any new street or easement of access, shall not be included.

SUBSTANCE ABUSE REHABILITATIONS CENTER. See **INSTITUTION, REHABILITATION**.

SUPPLY YARD. A fenced yard for the open or enclosed storage of supplies, equipment or merchandise.

SWALE. A depression in the ground that channels runoff.

SYSTEM BUILT HOME. See **MANUFACTURED HOME**.

TAVERN. See **BAR**.

TENANT. An occupant of land or premises who occupies, uses or enjoys real property for a fixed time, usually through a lease arrangement with the property owner and with the owner's consent.

THEATER. A building, or part of a building, devoted to showing motion pictures, or dramatic, musical or live performances.

TRAILER. Any vehicle designed to be drawn by an automotive/motorized vehicle.

TRUCK AND RAILROAD TERMINALS.

(a) A place where transfer between modes of transportation takes place.

(b) A terminating point where goods are transferred from a truck to a storage area or to other trucks, or picked up by other forms of transportation.

TRUCK TRACTOR. The driving and control component of a trailer rig. A **TRUCK TRACTOR** is a self-propelled vehicle to which a trailer is attached.

UNIFIED CONTROL. The combination of two or more tracts of land, wherein each owner has agreed that his or her tract of land shall be developed as part of a planned development and shall be subject to the control applicable to the planned development.

USE, BY RIGHT. Any use that is listed as a use by right in any given zoning district in this chapter. **USES BY RIGHT** are not required to show need for their location.

USE, CHANGE OF. Any use which substantially differs from the previous use of a building or land, or which imposes other special provisions of law governing building construction, equipment, egress or ingress.

USE, LAWFUL. The legal use of any structure or land that conforms with all of the regulations of this code or any amendment that exists at the time of the enactment of this code or any amendment thereto. All other uses are considered "nonconforming uses" that may be deemed legal or illegal.

USE, TEMPORARY. A use in a temporary building or structure on a parcel, established for a fixed period of time with the intent to discontinue such use upon the expiration of the time period granted in the administrative permit.

USED CAR LOT. See **VEHICLE SALES**.

VARIANCE. A modification of the required provisions of the physical development or land use standards of the zoning code granted when strict enforcement of the zoning code would cause undue hardship owing to circumstances unique to the individual property on which the **VARIANCE** is granted.

VEHICLE, MOTOR. A self-propelled device used for transportation of people or goods over land surfaces, and licensed as a motor vehicle.

VEHICLE REPAIR. General repair, rebuilding or reconditioning of engines, motor vehicles or trailers; collision service, including body frame or fender straightening or repair; overall painting or paint shop; vehicle steam cleaning and oil change.

VEHICLE SALES. A lot or portion thereof to be used only for the display and sale of automobiles that are in condition to be driven off the lot. A **USED CAR LOT** shall not be used for the storage of wrecked automobiles, the dismantling of automobiles or the storage of automobile parts.

VETERINARY HOSPITAL. See **KENNEL**.

WALL, OBSCURING. A structure of definite height and location to serve as an obscuring screen in carrying out the requirements of this chapter.

WAREHOUSE. A building primarily used for the storage of goods and materials.

WATER SUPPLY SYSTEM. The system for the collection, treatment, storage and distribution of potable water from the source of supply to the consumer.

WETLANDS. Areas delineated by the Department of Environmental Quality as wetlands.

WHOLESALE SALES. Establishments or places of business primarily engaged in selling merchandise to retailers, to industrial, commercial, institutional or professional business users, or to other wholesalers; or acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or companies.

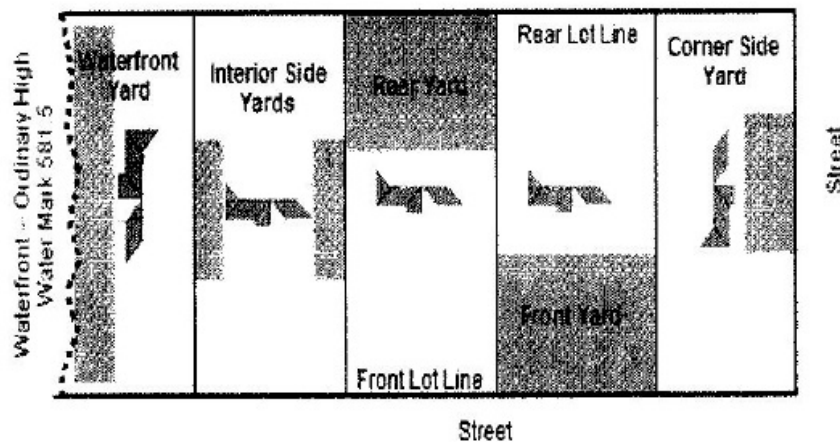
WIRELESS COMMUNICATION FACILITY. Any device, including cellular towers, used for transmitting and receiving radio waves, microwaves and other similar frequencies.

YARD SALE. Any sale of materials within a residential or business area for the purpose of selling, swapping or giving away residential or personal belongings to the general public. This includes the common definitions of terms such as rummage sale, garage sale, estate sale, block or city rummage sale and similar terms. A **YARD SALE** is not determined by the visibility of materials in front yards or within structures.

YARDS. Includes the following:

- (a) **FRONT YARD.** The open space, on a corner lot or otherwise, extending the full width of the lot between the main building and front lot line.
- (b) **REAR YARD.** The open space extending the full width of the lot between the main building and rear lot line.
- (c) **SIDE YARD.** The open space extending from the front yard to the rear yard between the main building and the side lot line.
- (d) **YARD, LEAST DEPTH OR WIDTH.** The shortest horizontal distance from each of the lot lines to the building thereon.

Required Yards



ZERO LOT LINE. The location of a building in such a manner that one or more of the building's sides is directly on a lot line.

ZONE. A specifically delineated area or district in a municipality, within which regulations and requirements uniformly govern the use, placement, spacing and size of lots and buildings.

ZONING. The dividing of a municipality into districts and the establishment of regulations governing the use, placement, spacing and size of land and buildings.

(Ord. passed 11-2-2005; Ord. 187, passed - -2007; Ord. 190, passed 6-7-2010; Ord. 192, passed 3-21-2011)

§ 154.006 USE REGULATIONS.

(A) *Dumping of soil, sand, clay materials.* The extensive dumping of soil, sand, clay or similar materials not resulting in landscaping shall not be allowed on any lot or parcel and concurring with the currently adopted International Property Maintenance Code.

(B) *Excavation and holes.*

(1) The construction, maintenance or existence of unprotected or un-barricaded holes, pits, wells, building pads or similar excavations that are in conflict with MIOSHA regulations that cause, and are likely to cause a danger to life, health and safety to the general public shall be prohibited. This section shall not, however, prevent any excavation that is required for constructing, remodeling or expanding structures, or for industrial or farming operations, including the mining of sand and gravel, provided appropriate precautionary measures, such as the placement of warning signs, fences and the like, have been approved by the Zoning Administrator and placed on the premises. Nothing in this section shall apply to bodies of water, ditches, streams or other major natural resources created or existing by the authority of the state, the county, the city or other units of government.

(2) Excavation resulting from the extraction of sand, gravel or other minerals for commercial purposes shall be required, upon termination of such activities for a period of one year or more, to be refilled by the person, firm or corporation engaging in such excavation. The excavated site shall be graded and returned, as far as possible, to its natural state, including planting of vegetation indigenous to the area, within 90 days after the one year anniversary of termination of excavation or extraction activities. If the site is immediately vacated after termination of activities, the site shall be graded and returned to its natural state within 90 days after activities are terminated. In all other instances in which excavation of holes for construction or remodeling has occurred, the filling and grading of such holes shall occur as soon as practical.

(C) *Storage, dumping of waste, junk and the like.*

(1) In all residential districts, the use of land or water resources for the dumping or disposal of scrap iron, metal, rubber, plastic refuse, junk, slag, ash, wood chips or timber infected or quarantined shall not be permitted.

(2) In business and industrial districts, the use of land or water resources for the dumping or disposal of scrap iron, metal, rubber, plastic refuse, junk, slag, ash, wood chips or timber infected or quarantined shall not be permitted, unless the following process is followed:

- (a) Request for special permit sent to Planning Commission;
- (b) Public hearing in accordance with Part 115 of the Michigan Natural Resources and Environment Protection Act, as amended;
- (c) Approval of the Planning Commission; and
- (d) Temporary permit issued by the Zoning Administrator.

(3) Such permit shall not exceed one year from the date of issuance and may be renewed on an annual basis only after approval is granted by the Planning Commission.

(4) Bond/agreement: an appropriate bond and agreement shall be required of the applicant to ensure compliance with the directives set forth by the Planning Commission. Such dumping or disposal shall not negatively affect the water table, or cause pollution of stagnant or running water in any area of the city or attract rodents, vectors or other nuisances so as to create health or safety problems to the natural environment and the inhabitants of the city. Nor shall the natural terrain be altered in any fashion to create safety or health hazards at the expiration date of the permit. The character of the land shall not be substantially altered so as to make it unusable for the uses for which it was originally zoned.

(D) *Temporary use permit.*

(1) The Zoning Administrator may issue temporary use permits for the following uses after determining that these uses will not be detrimental to adjacent conforming uses during the permitted period of use. A second temporary use permit may be issued by the Zoning Administrator at the end of a time limit if the applicant shows good cause.

(2) The Zoning Administrator may attach the conditions and requirements deemed necessary to meet the intent of the provisions of this section.

(3) A third temporary use permit may only be authorized by the Zoning Board of Appeals.

(a) *Mobile homes.* An individual mobile home or other temporary structure may be used as temporary living or working quarters for up to 90 days while a dwelling or structure is being constructed or reconstructed on the same premises.

(b) *Signs and supplies.* The storage of building supplies and machinery; temporary storage buildings; the assembly of materials associated with a customary trade; and contractor, architect and identification signs in connection with a construction project may be authorized by the Building Department for a period of up to 12 months.

(E) *Zoning affects every structure and use of property.* Except as specified, no building, structure, land or premises shall be used or occupied, and no building or part of a building or other structure shall be erected, raised, moved, placed, reconstructed, extended, enlarged or altered, unless it conforms with the regulations of the district in which it is located.

(F) *Fences.*

(1) *Definitions.* For the purpose of this division (F), the following fence-related definitions shall apply unless the context clearly indicates or requires a different meaning.

BUILDING LINE. A line formed by the face of the building and, for the purposes of this chapter, a minimum building line is the same as a front setback line.

FENCE. A permanent or temporary partition or structure (including gate) created as a property line dividing marker, barrier or enclosure. Landscape berms, plantings, hedges and similar effects shall be considered a **FENCE** for issues related to clear vision areas. Minimum heights may apply if berms, plantings, hedges and similar effects are required for buffers.

GRADE. The average elevation/level of lot lines of the property in question. **STREET GRADE** is the top of the curb or the top of the edge of the pavement or traveled way where no curb exists.

LOT LINES. Any line bounding a lot, including the following:

1. **FRONT LOT LINE.** The line separating the lot from the right-of-way of the street; in the case of a corner line, the address of record is the **FRONT LOT LINE**.

2. **REAR LOT LINE.** The line opposite to and most distant from the front line; in irregularly shaped lots, it shall be the straight line entirely within the lot, ten feet long, parallel to and most distant from the front lot line.

3. **SIDE LOT LINE.** Any line other than front or rear lot lines.

POOL PRIVATE. Any artificially constructed basin or other structure for holding water for use in swimming, diving and other aquatic sports and recreation. The term **SWIMMING POOL** does not include any plastic, canvas or rubber pool temporarily erected upon the ground holding less than 500 gallons of water and not over 24 inches deep.

PRIVATE. Not publicly owned or otherwise regulated by the state either by statute or by rules and regulations of one of its administrative bodies.

(2) *Permits.*

(a) *Permits required.* No fence shall be erected or altered without first obtaining a permit from the city. Permits shall be valid for 12 months from the time they are issued.

(b) *Application.* Written application for such permits shall be made upon forms provided for by the City Clerk, which shall contain:

1. Name, address and telephone number of the property owner;
2. Address of the property proposed to be fenced;
3. Names and addresses of adjacent property owners; and
4. Type of fence to be erected, including the kind and size of posts, proposed length and height, and types of material to be used.

(c) *Determination of property lot lines.* It shall be the obligation and sole responsibility of persons obtaining fence permits under this section and erecting fences to determine property or lot lines. The issuance of a fence permit shall in no way be construed as a determination of the correct, valid or legal location for the fence or prejudice in any way the rights of adjacent or abutting property owners.

(d) *Application.* Fence regulations do not apply to public playgrounds, play field, parks, school grounds or recreation areas.

(3) *Fees.* A fee established by the City Commission shall be paid with each application for a permit filed.

(4) *Restrictions on fence construction.* This division (F) shall apply to all classes of property.

(a) Any fence erected in an area from the front lot line and ten feet toward the rear lot line shall not have a height greater than 36 inches. From the ten-foot point to the front building line, the height shall be restricted to five feet. Shrub plantings as fences shall be maintained at or below these height restrictions so as to not encroach on the adjacent property or right-of-way. Shrub plantings may require trimming to comply with visual requirements in divisions (F)(4)(c) or (d) below.

(b) Any fence erected for the side yard or the rear yard shall not have a height exceeding six feet and shall not be erected closer to the front lot line than the front building line of the structure. Shrub plantings shall be maintained at or below these height restrictions. Trees and shrub plantings as fences shall be maintained so as not to encroach on the adjacent lot or right-of-way.

(c) To protect clear vision at intersections, fences, walls, berm, shrubs, hedges and other obstructions to vision (excluding trees) within the triangular area formed by the intersection of any street right-of-way lines at a distance along each line of 30 feet from their point of intersection shall not exceed 36 inches in height. Trees planted in the same area that become obstructions to vision shall have their branches trimmed to eight feet above street grade.

(d) To protect clear vision at intersections, fences, walls, shrubs, berms hedges or other obstructions to vision (excluding trees) within the triangular area formed by the intersection of any driveway and any existing or proposed sidewalk, alley, street or public right-of-way at a distance along each line of 15 feet from their point of intersection shall not exceed 36 inches in height. Trees planted in the same area that become obstructions to vision shall have their branches trimmed to eight feet above street grade.

(e) Fences in proximity to fire hydrants: any fence that comes within 36 inches of a fire hydrant shall conform to requirements of the International Fire Code to assure unfettered access in case of emergency. Disagreements over requirements shall be resolved by the Auburn Williams Township Fire Department.

(f) No spike, nail, pointed device or pointed extension of a fence component shall be placed atop or extended from a fence. It shall

not contain barbed wire, electric current or charges of electricity.

(g) No fence shall be located nearer than one foot to the property line, except by written mutual agreement of the adjoining property owners, which agreement shall be filed with the City Clerk at the time of application for a permit.

(h) Gates in fences shall not open over public property.

(i) All fences shall be located entirely on the property of the person, firm or corporation erecting the fence.

(j) Fences over four feet in height must have posts at least three feet into the ground.

(k) Fences must be built with chain link fence, standard fence wood, or metal such as wrought iron. Fences may not be built with scrap lumber, chicken wire, wire mesh, wood pallets or other unapproved materials.

(l) For vacant property, a fence across the lot or parcel shall not be erected closer to the street than the established front building lot line along said street.

(m) Fence posts, with the exception of posts for chain-link fence, lateral supports and framework not a specific part of decoration, shall be inside the fence, facing inward toward the property enclosed by the fence.

(n) A snow fence shall be allowed between November 1 and April 1 without permit. Such fences shall be subject to ordinance requirements relative to clear vision, other safety issues and proximity to lot lines. Any fence in violation of those requirements shall be brought into compliance immediately upon the request of the city.

(o) Pool fencing:

1. All private pools shall be enclosed by a fence that shall be at least four feet in height above grade and of a type not readily climbable by children. A dwelling or accessory building may be used as part of such an enclosure. A pool with sides at least four feet in height above grade may be exempt from complete enclosure by a fence as specified in this section if the ladders, steps or similar means of access to such pool or attached deck area is enclosed within a fence with one or more gates constructed as specified in this section. A pool with sides at least four feet in height above grade may be exempt from complete enclosure by a fence as specified in this section if the ladders, steps or similar means of access to such pool can be raised, removed or secured so as to prevent access;

2. Each gate in such fence and all doorways giving direct access to the enclosure shall be secured when the pool is not in use. Likewise, ladders or steps giving access to above-ground pools shall be removed or raised to prevent access when the pool is not in use;

3. Inspection and compliance: the city or its designated agents shall have the right, at any reasonable hour, to inspect any fence surrounding any pool for the purpose of determining compliance with this code; and

4. Pools, installed or erected before the date of this division (F) (Ord. 187, passed - -2007) shall be made to comply with this division (F) within 90 days after this division (F)'s adoption.

(5) *Maintenance.*

(a) *Generally.* All fences shall be maintained in a sound and safe condition. Any fence that through lack of repair, type of construction, location, deterioration or other reason, imperils life or property shall subject the property owner to the penalty provisions of § 154.999.

(b) *Nonconforming fences.* The lawful use of a fence existing at the effective date of this ordinance may be continued although such use does not conform with the provisions of this chapter or the ordinance it replaces. A nonconforming use in this chapter may be changed, repaired or altered provided that it is not to an extent greater than 50% of the total lineal footage, with the exception that any repairs, changes or alterations made to fences in the required clear vision area shall comply with this chapter.

(6) *Parallel fences.*

(a) Fences parallel to one another shall be prohibited unless special provision is made to specifically provide for proper maintenance of both fences; this shall include provision for adequate distances between the fences and construction design details.

(b) Fencing panels and posts shall not be structurally attached to an existing fence where a safety concern can be identified by the city's Building Inspector.

(7) *Appeals.* Any person directly or indirectly affected by the strict application of the provisions of this chapter may appeal by filing the request in writing to the Zoning Board of Appeals. The Zoning Board of Appeals will consider the appeal in accordance with established procedures.

(8) *Non-applicability.* This chapter shall not apply to construction fences as authorized and required in the Building Code.

(Ord. passed 11-2-2005; Ord. 187, passed - -2007)

§ 154.007 GENERAL DEVELOPMENT REGULATIONS.

(A) *Clear vision area.* No fence, wall, shrubbery, sign or other obstruction to vision above the height of three feet from the established street grades shall be permitted within the triangular area formed at the intersection of any face of curb lines by a straight line drawn between said face of curb lines at a distance along each line of 30 feet from their point of intersection.

(B) *Mixed occupancy.*

(1) Before issuing a building permit for construction on any premises that is:

- (a) Intended for a combination of dwelling and business or dwelling and industrial occupancy;
- (b) That would result in an increased number of dwelling units within a building partly occupied by business or industrial use; or
- (c) That would result in an increased area devoted to business or industrial use, within a building partly occupied as a dwelling, the Zoning Administrator shall refer the plans to the Fire Chief and Health Department for their review of any existing or anticipated fire or health hazards.

(2) Recommendations as to additional provisions or changes in the interest of safety or health shall be complied with before issuance of a permit.

(C) *Public nuisance, per se.* Any building or structure that is erected, altered or converted, or any use of premises or land that is begun or changed subsequent to the time of passage of this section and in violation of any of the provisions thereof is hereby declared to be a public nuisance per se, and may be abated by order of any court of competent jurisdiction.

(D) *Sidewalks.* Upon adoption of this chapter and subsequent to the city's initiative to establish city-wide sidewalks in 2004-2005, sidewalks are required in accordance with the City Sidewalk Ordinance (contained in Chapter 95 of this code of ordinances).

(E) *Fences.*

(1) *Definitions.* For the purpose of this subchapter, certain fence-related terms are defined as follows.

BUILDING LINE. A line formed by the face of the building and, for the purposes of this chapter, a minimum building line is the same as a front setback line.

FENCE. A permanent or temporary partition or structure (including gate) created as a property line dividing marker, barrier or enclosure. Landscape berms, plantings, hedges and similar effects shall be considered a **FENCE** for issues related to clear vision areas. Minimum heights may apply if berms, plantings, hedges and similar effects are required for buffers.

GRADE. The average elevation/level of lot lines of the property in question. **STREET GRADE** is the top of the curb or the top of the edge of the pavement or traveled way where no curb exists.

LOT LINES. Any line bounding a lot, including the following:

1. **FRONT LOT LINE.** The line separating the lot from the right-of-way of the street; in the case of a corner line, the address of record is the front lot line.
2. **REAR LOT LINE.** The line opposite to and most distant from the front line; in irregularly shaped lots, it shall be the straight line entirely within the lot, ten feet long, parallel to and most distant from the front lot line.
3. **SIDE LOT LINE.** Any line other than front or rear lot lines.

POOL PRIVATE. Any artificially constructed basin or other structure for holding water for use in swimming, diving and other aquatic sports and recreation. The term **SWIMMING POOL** does not include any plastic, canvas or rubber pool temporarily erected upon the ground holding less than 500 gallons of water and not over 24 inches deep.

PRIVATE. Not publicly owned or otherwise regulated by the state either by statute or by rules and regulations of one of its administrative bodies.

(2) *Permits.*

(a) *Permits required.* No fence shall be erected or altered without first obtaining a permit from the city. Permits shall be valid for 12 months from the time they are issued.

(b) *Application.* Written application for such permits shall be made upon forms provided for by the City Clerk, which shall contain:

1. Name, address and telephone number of the property owner;
2. Address of the property proposed to be fenced;
3. Names and addresses of adjacent property owners; and
4. Type of fence to be erected, including the kind and size of posts, proposed length and height, and types of material to be used.

(c) *Determination of property lot lines.* It shall be the obligation and sole responsibility of persons obtaining fence permits under this section and erecting fences to determine property or lot lines. The issuance of a fence permit shall in no way be construed as a determination of the correct, valid or legal location for the fence or prejudice in any way the rights of adjacent or abutting property owners.

(d) *Application.* Fence regulations do not apply to public playgrounds, play field, parks, school grounds or recreation areas.

(3) *Fees.* A fee established by the City Commission shall be paid with each application for a permit filed.

(4) *Restrictions on fence construction.* This section shall apply to all classes of property.

(a) Any fence erected in an area from the front lot line and ten feet toward the rear lot line shall not have a height greater than 36 inches. From the ten-foot point to the front building line, the height shall be restricted to five feet. Shrub plantings as fences shall be maintained at or below these height restrictions so as to not encroach on the adjacent property or right-of-way. Shrub plantings may

require trimming to comply with visual requirements in divisions (E)(4)(c) or (d) below.

(b) Any fence erected for the side yard or the rear yard shall not have a height exceeding six feet and shall not be erected closer to the front lot line than the front building line of the structure. Shrub plantings shall be maintained at or below these height restrictions. Trees and shrub plantings as fences shall be maintained so as not to encroach on the adjacent lot or right-of-way.

(c) To protect clear vision at intersections, fences, walls, berms, shrubs, hedges and other obstructions to vision (excluding trees) within the triangular area formed by the intersection of any face of curb lines at a distance along each line of 30 feet from their point of intersection shall not exceed 36 inches in height. Trees planted in the same area that become obstructions to vision shall have their branches trimmed to eight feet above street grade.

(d) To protect clear vision at intersections, fences, walls, shrubs, berms, hedges or other obstructions to vision (excluding trees) within the triangular area formed by the intersection of any driveway and any existing or proposed sidewalk, alley, street or face of curb line at a distance along each line of 15 feet from their point of intersection shall not exceed 36 inches in height. Trees planted in the same area that become obstructions to vision shall have their branches trimmed to eight above street grade.

(e) Any fence that comes within 36 inches of a fire hydrant shall conform to requirements of the International Fire Code to assure unfettered access in case of emergency. Disagreements over requirements shall be resolved by the Auburn Williams Township Fire Department.

(f) No spike, nail, pointed device or pointed extension of a fence component shall be placed atop or extended from a fence. It shall not contain barbed wire, electric current or charges of electricity.

(g) No fence shall be located nearer than one foot to the property line, except by written mutual agreement of the adjoining property owners, which agreement shall be filed with the City Clerk at the time of application for a permit.

(h) Gates in fences shall not open over public property.

(i) All fences shall be located entirely on the property of the person, firm or corporation erecting the fence.

(j) Fences over four feet in height must have posts at least three feet into the ground.

(k) Materials: fences must be built with chain link fence, standard fence wood, prefabricated vinyl fence, masonry materials or metal such as wrought iron. Fences may not be built with scrap lumber, chicken wire, wire mesh, wood pallets or other unapproved materials.

(l) Masonry walls higher than 24 inches will require engineering drawings for construction that assure the safety of such walls before a permit will be issued.

(m) Fence posts, with the exception of posts for chain-link fence, lateral supports and framework not a specific part of decoration, shall be inside the fence, facing inward toward the property enclosed by the fence.

(n) A snow fence shall be allowed between November 1 and April 1 without permit. Such fences shall be subject to ordinance requirements relative to clear vision, other safety issues and proximity to lot lines. Any fence in violation of those requirements shall be brought into compliance immediately upon the request of the city.

(o) Pool fencing:

1. *Required.* All private pools shall be enclosed by a fence that shall be at least four feet in height above grade and of a type not readily climbable by children. A dwelling or accessory building may be used as part of such an enclosure. A pool with sides at least four feet in height above grade may be exempt from complete enclosure by a fence as specified in this section if the ladders, steps or similar means of access to such pool or attached deck area is enclosed within a fence with one or more gates constructed as specified in this section. A pool with sides at least four feet in height above grade may be exempt from complete enclosure by a fence as specified in this section if the ladders, steps or similar means of access to such pool can be raised, removed or secured so as to prevent access;

2. *Access.* Each gate in such fence and all doorways giving direct access to the enclosure shall be secured when the pool is not in use. Likewise, ladders or steps giving access to above-ground pools shall be removed or raised to prevent access when the pool is not in use; and

3. *Inspection and compliance.* The city or its designated agents shall have the right, at any reasonable hour, to inspect any fence surrounding any pool for the purpose of determining compliance with this code. Pools, installed or erected before the date of Ord. 187, passed - -2007 shall be made to comply with this section within 90 days after the Ordinance 187's adoption.

(5) *Maintenance.*

(a) *Generally.* All fences shall be maintained in a sound and safe condition. Any fence that through lack of repair, type of construction, location, deterioration or other reason, imperils life or property shall subject the property owner to the penalty provisions of § 154.999.

(b) *Nonconforming fences.*

1. The lawful use of a fence existing at the effective date of this chapter may be continued although such use does not conform with the provisions of this chapter or the ordinance it replaces.

2. A nonconforming use in this chapter may be changed, repaired or altered provided that it is not to an extent greater than 50% of the total lineal footage, with the exception that any repairs, changes or alterations made to fences in the required clear vision area shall

comply with this chapter.

3. Fences parallel to one another shall be prohibited unless special provision is made to specifically provide for proper maintenance of both fences; this shall include provision for adequate distances between the fences and construction design details. Fencing panels and posts shall not be structurally attached to an existing fence where a safety concern can be identified by the city's Building Inspector.

(6) *Appeals.* Any person directly or indirectly affected by the strict application of the provisions of this chapter may appeal by filing the request in writing to the Zoning Board of Appeals. The Zoning Board of Appeals will consider the appeal in accordance with established procedures.

(7) *Non-applicability.* This chapter shall not apply to construction fences as authorized and required in the Building Code.

(F) *Exterior lighting.*

(1) All outdoor lighting in all districts used to light the general areas shall be so arranged as to reduce glare and to reflect light away from all adjacent residential districts or adjacent residences.

(2) Lighting for outdoor purposes such as sidewalks, parking, loading areas and similar uses shall be directed toward and confined to the ground areas. In no case should a light interfere with the vision of persons on adjacent highways or adjacent property.

(3) Lighting for the purpose of external illumination of buildings or signs shall be placed and shielded so as not to interfere with the vision of persons on adjacent highways or adjacent property.

(4) Exterior lighting hardware shall be maintained in a manner so as not to constitute a hazard or nuisance. Regulatory standards may have to be met where mentioned elsewhere in city ordinances.

(5) Lighting established or maintained by city, county, state or federal authorities shall be exempt from this chapter.

(Ord. passed 11-2-2005; Ord. 192, passed 3-21-2011)

§ 154.008 STRUCTURE REGULATIONS.

(A) *Abandoned buildings and structures.* Any building or structure not in continuous use as defined by permitted, special land use or nonconforming uses in any district for a period greater than six months shall be considered abandoned and come under the provisions of this chapter and other city codes for buildings and structures. In order to obtain a certificate of occupancy as a use in the future, once six months have passed, the building or structure shall have to meet all the current standards of all applicable city codes.

(B) *Accessory buildings or accessory structures in R-1, R-2 and R-3.*

(1) No accessory building or structure may be built upon any lot on which there is no principal building. Accessory structures and buildings may not be inhabited. No accessory building (except for school bus shelters) shall be placed in any required front or side yard nor closer than ten feet to any other building.

(2) Size of accessory structures: no accessory structure may exceed the square footage of the ground floor of the principal structure on the same lot.

(3) Structures must meet all required yards, lot coverage and height regulations. If setback and lot coverage requirements cannot be met, the total square footage of the accessory structure must be reduced or a variance obtained from the Zoning Board of Appeals.

(C) *Building and occupancy permits.*

(1) *Building permits required.* Any construction related to any type of zoning administrative approval shall be commenced only after a building permit has been obtained.

(2) *Prior building permits.* Any building permit issued prior to the effective date of this chapter shall be valid, even though not conforming to the provisions of this chapter, provided that construction is commenced within 90 days, with continuous substantial progress, after the date the permit was issued and that the building is completed according to the plans filed with the permit application within one year of the date of issuance.

(3) *Occupancy permit.* Upon completion of a structure and all required site improvements per approved site plan, and before moving into a building in any district, an occupancy permit is required

(D) *Storage and screening of garbage.* In multiple-family residential, business and industrial districts, all garbage and rubbish must be stored in closed containers or in a dumpster. All containers and dumpsters must be screened from view so as not to be visible to pedestrian or vehicular traffic passing on a public thoroughfare. More specific screening may be required during a site plan review.

(E) *Connections to drainage system.* Surface drains, ground water drains and foundation or footing drains shall be connected whenever possible to an enclosed storm sewer, but they shall not discharge to a sanitary sewer or private waste water treatment plant.

(F) *Dwelling unit standards.* The following standards shall be applied to each dwelling unit constructed or placed in the city:

(1) It complies with the minimum square footage requirements of the zone in which it is located;

(2) It has a minimum width across any section of 20 feet and complies in all respects with the City Building Code, including minimum heights for habitable rooms. Where a dwelling is required by law to comply with any federal or state standards or regulations for construction, and where the standards of construction are less stringent than those imposed by the City Building Code, then the more

stringent city regulations shall apply;

- (3) It is firmly attached to a permanent foundation, constructed on the site in accordance with the City Building Code;
- (4) It does not have exposed wheels, towing mechanism, undercarriage or chassis; and
- (5) The dwelling is connected to a public sewer and water.

(G) *Height and area zoning exceptions to uses and structures.* The height and area requirements of all zones shall apply except for the following:

(1) *Height.* Height exceptions include parapet walls not exceeding four feet in height; chimneys; cooling towers; elevator bulkhead; fire towers; gas tanks; grain elevators; stacks; stage towers or scenery lofts; television antennas; refineries; tanks; water towers; radio towers; ornamental towers; monuments; cupolas; domes and spires; and necessary mechanical appurtenances.

(2) *Permitted yard encroachments.* Accessory structures, even though they may be attached to a principal building, may project into the required side or rear yards for the principal building to the following extent.

(a) Structural elements such as cornices, sills, chimneys, gutters and similar features may project a maximum of two and one-half feet from the principal structure.

(b) Fire escapes, outside stairways and balconies, if of open construction, may project a maximum of five feet from the principal structure.

(c) Signs must be in compliance with §§ 154.090 through 154.098 (sign regulations).

(d) School bus shelters when do not interfere with a clear vision area.

(Ord. passed 11-2-2005)

§ 154.009 PARCEL REGULATIONS.

(A) *Buffering.*

(1) The intent and purpose of the buffer zone is to protect residential uses from the negative impacts associated with nonresidential uses where residential and nonresidential uses abut. These negative impacts include noise, debris, odors, dust, dirt, traffic, soil erosion, rain water runoff and in some cases visible aspects of the abutting use. The buffer zone is also intended to prevent and improve blight in both residential and business areas by encouraging improvements to uses that abut residential districts.

(a) The objectives of this approach are:

- 1. To give the Planning Commission and the proponent as much opportunity to achieve the regulations by any suitable means; and
- 2. To encourage business owners to continue to invest in commercial improvements, including relocating on lots where a strict interpretation of the distance requirement cannot be met.

(b) Buffers are required on business or industrial property on the side that abuts residentially zoned property. Buffers are required even when the adjacent lot is unimproved. A buffer will be required when any parcel used for business or industrial purposes is expanded by way of an addition or demolition or a special land use approval is requested or a site plan review is requested. Buffers are not required on business lots that are already developed as such.

(c) A buffer may consist of both a physical distance separation and a physical sight, sound and odor separation as described in this chapter by a fence, wall, berm or screen. In all cases, the buffer plan shall incorporate the equivalent of one canopy tree and one evergreen tree per 30 lineal feet or fraction of buffer area length.

(d) The Planning Commission shall determine the character of the buffer based on the following criteria:

- 1. Traffic impact;
- 2. Increased building and parking lot coverage;
- 3. Increased outdoor sales, display and manufacturing area;
- 4. Physical characteristics of the site and surrounding area such as topography, vegetation and the like;
- 5. Visual, noise and air pollution levels; and
- 6. Health, safety and welfare of the city.

(2) Buffer options:

(a) Buffer area width: a greenbelt alone may serve as a buffer. In lieu of trees, shrubs, berms, fences or walls, the table below shows the distances required between zones, in addition to the required yard on the side on which a residential district abuts a business or industrial district:

<i>District</i>	<i>Distance from R-1, R-2, R-3 Zones</i>
-----------------	--

I	45 feet
B	30 feet

(b) In this buffer zone, all areas outside of planting beds shall be covered with grass or other living ground cover; and

(c) Continuous rolling screen six feet in height comprised of plant material, berming, screen walls or fences or any combination of these elements is required.

(3) Construction standards:

(a) If a screen wall or fence is used for all or part of the buffer area, then:

1. The equivalent of two shrubs are required per 30 feet of wall or fence with at least 50% being 24 inches high at the time of planting and none being less than 12 inches at the time of planting; and

2. All required plants shall be placed on the side facing the exterior.

(b) If a berm is used for part of the buffer, the guiding principle for berms is that if they do not provide six feet of screening by themselves, then plant material, screen walls or fences shall bring the screen to a minimum of six feet above grade. If a berm is used for all or part of the buffer zone, all required plant material shall be placed on top and side slopes facing the exterior of the site.

1. Berms shall be constructed so as to maintain a side slope not to exceed one foot rise to three foot run ratio.

2. Berm areas not containing planting beds shall be covered with grass or living ground cover maintained in a healthy growing condition.

3. Berms shall be constructed in such a manner so as not to alter drainage patterns on site or adjacent properties or obstruct vision for reasons of safety, ingress or egress.

4. If a berm is constructed with a retaining wall or by terracing, the earthen slope shall face the exterior of the site.

(c) If berming is used for all or part of the buffer zone, all required plant material shall be placed on top and side slopes facing the exterior of the site.

(d) Buffers are required to extend into the front yard area but shall not be closer to a road right-of-way than 15 feet. The Planning Commission may require the buffer to extend to the road right-of-way if it deems it necessary to accomplish the intent of this chapter.

(e) All plantings including grass must be maintained in good healthy condition and must be replaced if they should die at any time.

(f) Buffer areas may be required to be designed by a person who is a licensed landscaper, certified landscape designer, engineer or architect. A drawing of all required landscaping, top and side profile, must be submitted to the Planning Commission for review prior to site plan approval.

(g) The Planning Commission may require a performance bond, cash, irrevocable letter of credit or other similar financial assurance satisfactory to the city. All financial deposits must be deposited with the city prior to the issuance of a building permit, in the amount of the Planning Commission's estimated cost of installing landscaping on a parcel and shall be held until all approved landscaping is installed. If landscaping is not installed in accordance with the approved site plan as determined solely by the city, the deposited financial assurance may be used to install the required landscaping and only any unused portion thereof will be returned.

(B) *Parking of commercial vehicles in residential zones.* Commercial vehicles, truck and/or trailers with a rated capacity exceeding one ton shall not be parked or stored on residentially zoned property or on city streets within residential districts. This prohibition is not intended to prevent parking for the purpose of stopping for deliveries.

(C) *Required area or space.*

(1) No lot, or lots in common ownership and no yard, court, parking area or other space shall be divided, altered or reduced to make its area dimensions less than the minimum required under this chapter, and the area or dimension shall not be further divided or reduced.

(2) Where the lot plan presented in the application for a permit includes more than one recorded lot, the Building Inspector shall execute an affidavit in which the facts related to the use of the platted lots, or parts of platted lots, shall be stated and shall cause the plat and affidavit to be recorded in the office of the Register of Deeds in the county, with the cost of recording to be borne by the applicant.

(a) *Minimum lot frontage.* The front lot lines of all parcels shall abut a public street and shall have a contiguous permanent frontage at the front lot line equal to the required parcel width. Flag lots are not permitted. In the case of a cul-de-sac, parcel width is measured at the front yard setback line.

(b) *Space used once.* Any yard or other open space provided around any building or structure for the purpose of complying with the provisions of this chapter shall not again be used as a yard or other required open space for another building or structure except where one is to be demolished upon completion of the other.

(Ord. passed 11-2-2005)

§ 154.010 YARD SALES IN RESIDENTIAL/BUSINESS AREAS.

(A) Yard sales are allowed in residential/business areas.

(B) Because it is the intent of this chapter to maintain and preserve the residential character of our neighborhoods, the following limitations shall apply.

- (1) The signage shall comply with § 154.094. Sign type: small freestanding.
- (2) The yard sale shall not last beyond eight days.
- (3) A previous yard sale shall not have been held at the same address in the previous 60 days.
- (4) Items for sale and yard sale signage should not be visible from front yard sidewalks when the sale is over.
- (5) Merchandise for sale in a residential area that is not considered “personal belongings” shall be considered as part of a home occupation and shall fall under that ordinance.

(Ord. 192, passed 3-21-2011)

DISTRICT REGULATIONS

§ 154.025 DIVISION OF THE CITY.

For the purposes of this chapter, all land within the city, except streets, are divided into the following zoning districts:

- (A) R-1 Residential: Single- and Two-Family;
- (B) R-2 Residential: Single- and Two-Family;
- (C) R-3 Residential: Multiple-Family;
- (D) R-4 Residential: Manufactured Home Development;
- (E) B Business; and
- (F) I Industrial.

(Ord. passed 11-2-2005)

§ 154.026 OFFICIAL ZONING MAP.

The boundaries of zoning districts are defined and established as shown on a map, entitled “City of Auburn Zoning Map” that accompanies this chapter. This map, with all explanatory text, is a part of this chapter. The official zoning map shall be kept and maintained by the City Clerk or his or her designee.

(Ord. passed 11-2-2005)

§ 154.027 INTERPRETATION OF BOUNDARIES.

Where uncertainty exists with respect to the boundaries of any of the districts indicated on the official zoning map, the following rules shall apply.

- (A) Boundaries indicated as approximately following streets or highways shall be presumed to follow the centerline of said roadways.
- (B) Boundaries indicated as approximately following city boundary lines or property lines shall be presumed to follow said lines.
- (C) Boundaries indicated approximately parallel to the centerlines of streets or highways shall be interpreted as being parallel to and at such distance from as indicated by given distance or scaled dimension.

(Ord. passed 11-2-2005)

§ 154.028 SCOPE OF REGULATIONS.

(A) No building or structure or part thereof shall be erected, moved, constructed or altered, and no new use or change in use of a parcel shall be made unless it conforms with the provisions of this chapter, including the regulations for the zoning district in which it is located.

(B) The regulations applying to zoning districts include specific limitations on the use of land and structures, height and bulk of structures, parcel area and dimensions, setback of structures from public thoroughfares and neighboring properties, and area of a parcel that can be covered by structures.

(C) The Zoning Board of Appeals shall have the power to classify a use that is not specifically mentioned by this chapter. Said use shall be treated in a like manner with a comparable permitted or prohibited use for the purpose of clarifying the district regulations of any zoning district.

(Ord. passed 11-2-2005)

§ 154.029 DISTRICT REGULATIONS TABLES.

(A) Regulations for all zoning districts are contained together in the following tables. Each table specifies a related set of information for all zoning districts.

(B) These tables do not include general requirements of this chapter.

(C) The reader is urged to become familiar with all ordinance provisions before making any decision regarding use of a parcel or structure in the city.

(1) *Intent and purpose table.* This table lists the intent and purpose of each zoning district.

(2) *Uses table.* This table appears on multiple pages. Each page describes permitted activities for two to four related zoning districts that are identified in the left-hand column of each page. Each zoning district may be host to several types of activity, but only the activities specified for a given zoning district will be permitted there. Uses permitted by right may be allowed upon meeting all other requirements of this chapter. Uses permitted by special permit are subject to the process described by §§ 154.110 through 154.124.

(3) *Dimensions table.* This table specifies parcel dimensions and setback requirements for parcels in each zoning district.

(Ord. passed 11-2-2005)

§ 154.030 INTENT AND PURPOSE; PERMITTED USES; TABLES.

<i>Table A: Intent and Purpose of Zoning Districts</i>	
R-1 Residential Single- and Two-Family	This district is intended for single- and two-family residential uses. The purpose of this zone is to encourage a residential environment of low-density dwellings and planned unit developments.
R-2 Residential Single- and Two-Family	This district is intended for single-family and two-family residential uses together with compatible recreational and institutional uses. The purpose of this zone is to encourage a residential environment of low-density dwellings and planned unit developments.
R-3 Multiple-Family	The intent and purpose of this district is to provide a variety of housing styles, designs and costs to meet the needs of existing and potential residents while promoting development and preservation of neighborhoods of higher density than in the R-1 and R-2 districts.
R-4 Manufactured Home Development	The R-4 Manufactured Home Development District is intended to preserve the interests of alternate types of residential developments that should be permitted in every community and to protect the residents of any manufactured home type development. The regulations applicable to this district are considered as minimum standards to be applied to all manufactured home developments in the district.
B Business District	The intent and purpose of this district is to provide neighborhood shopping areas to meet the day-to-day shopping, service and professional needs of area residents as well as to provide essential service needs to the highway traveler and to accommodate businesses serving a regional market.
I Industrial	This district is intended for light industrial uses and also permits non-retail business and service establishments. It is designed to permit manufacturing, production, processing, assembling, packaging and treatment of products from previously prepared or finished products. The purpose of this district is to promote industrial areas that are protected from incompatible uses.

<i>Table B: City Table of Permitted Uses</i>		
<i>District</i>	<i>Uses Permitted by Right</i>	<i>Uses Permitted by Special Use Permit</i>
<i>Table B: City Table of Permitted Uses</i>		
<i>District</i>	<i>Uses Permitted by Right</i>	<i>Uses Permitted by Special Use Permit</i>

<p>R-1 Residential Single- and Two-Family</p>	<ul style="list-style-type: none"> -Day nurseries, limited size -Home occupations -Neighborhood parks within subdivisions or residential developments -Single-family dwellings -State licensed residential facilities for six or fewer residents -Two-family dwellings -Accessory uses 	<ul style="list-style-type: none"> -Bed and breakfasts
<p>R-2 Residential Single- and Two-Family</p>	<ul style="list-style-type: none"> -Day nurseries -Home occupations -Public parks -Single-family dwellings -State licensed residential facilities for six or fewer residents -Two-family dwellings -Accessory uses 	<ul style="list-style-type: none"> -Bed and breakfasts -Public service installations -Religious and educational institutions -State licensed residential facilities for seven or more residents -Utility grid wind energy systems
<p>R-3 Multiple-Family</p>	<ul style="list-style-type: none"> -All uses by right in R-2 -Accessory uses -Multi-family dwellings -On-site wind energy systems -Senior housing 	<ul style="list-style-type: none"> -Museums, libraries -Planned unit development -Public service installations -Religious, social, educational and human care institutions -State licensed residential facilities for seven or more residents -Utility grid wind energy systems
<p>R-4 Manufactured Home Development</p>	<ul style="list-style-type: none"> -Accessory uses or structures, such as manufactured home development, business office, laundry facilities and home occupations -Clubhouse, swimming pool, playgrounds, common areas and recreation facilities -Home occupations -Manufactured home developments, subject to the requirements established and regulated by the Manufactured Housing Commission rules, and the provisions of this subchapter -On-site wind energy systems -Public service installations 	<ul style="list-style-type: none"> -None

<p>B Business District</p>	<ul style="list-style-type: none"> -Bed and breakfasts -Commercial recreation -Commercial schools -Contractors -Day nurseries -Drive-in establishments -Equipment rental/sales -Funeral homes/mortuaries -Gas stations -Libraries -Lumber yard -Museums -Dwellings above the first floor meeting multiple-family regulations -On-site wind energy systems -Other retail goods, service, repair -Outdoor sales -Personal services -Professional and admin. offices -Public buildings 	<ul style="list-style-type: none"> -Assembly buildings -Car wash -Hotel/motel -Kennels -Mini-storage -Outdoor assembly -Planned unit developments -Religious, social, rehabilitation and human care institutions. -RV parks -Utility grid wind energy systems
<p>B Business District</p>	<ul style="list-style-type: none"> -Restaurants -Retail food -Senior housing -Temporary outdoor uses -Utility service buildings -Vehicle sales -Veterinary hospitals -Wholesale sales -Accessory uses 	

I Industrial	-All uses allowed by right in the B District	
	-Accessory uses	
	-Agricultural bulk storage and processing	
	-Commercial schools	
	-Distribution	-Fireworks storage
	-Fuel sales	-High intensity food processing
	-Greenhouses	-Incarceration facility
	-Heavy vehicle repair	-Incinerators
	-Laboratories	-Industrial parks
	-Manufacturing	-Junk yard
	-Mini-storage	-Petroleum or flammable liquid production, refining and storage
	-On-site wind energy systems	-Sewage treatment and disposal
	-Production, processing, assembling, treatment or packaging of goods	-Sexually oriented business
	-Public utility installations	-Soil resource extraction
	-Research and development	-Utility grid wind energy systems
	-Truck terminals	
	-Vehicle repair	
-Warehousing and storage		

(Ord. passed 11-2-2005; Ord. 190, passed 6-7-2010)

§ 154.031 DIMENSIONS TABLE.

<i>District</i>	<i>R-1</i>	<i>R-2</i>	<i>R-3</i>	<i>R-4</i>	<i>B</i>	<i>I</i>
<i>District</i>	<i>R-1</i>	<i>R-2</i>	<i>R-3</i>	<i>R-4</i>	<i>B</i>	<i>I</i>
Lot area minimum	8,500 sq. ft.	8,500 sq. ft.	7,500 sq. ft. for first two units plus 2,000 sq. ft. for each add unit	See district regulations	None	8,000 sq. ft.
Lot width minimum	80'	80'	60'		None	40'
Front yard minimum for lots of > 8,500 sq. ft.	25'	25'	25'		10'	25'
Front yard minimum for lots of 5,000 - 8,500 sq. ft.	18'	18'	20'		10'	10'
Front yard minimum for lots of 1,600 - 4,999 sq. ft.	10' See footnote B.	10' See footnote B.	15' See footnote B.		10'	10'
Rear yard minimum	30'	30'	25'		8'	None
	Acc. structures: 5'	Acc. structures: 5'	Acc. structures: 5'			
Side yard, minimum each,	10'	10'	8'	8'	10'	

lots >8,500 sq. ft.	Acc. structures: 8'	Acc. structures: 8'	5' for detached garages		
Side yard minimum for lots of 5,000 - 8,500 sq. ft.	8'	8'	5' for detached garages	None	None
Side yard minimum for lots of 1,600 - 4,999 sq. ft.	6'	6'	5' for detached garages	None	None

<i>District</i>	<i>R-1</i>	<i>R-2</i>	<i>R-3</i>	<i>R-4</i>	<i>B</i>	<i>I</i>
<i>District</i>	<i>R-1</i>	<i>R-2</i>	<i>R-3</i>	<i>R-4</i>	<i>B</i>	<i>I</i>
Corner lot minimum yards for principal and accessory structures	25' on outside yard, 4' interior side yard	25' on outside yard, 4' interior side yard	25' on outside yard, 4' interior side yard	25' on outside yard, 4' interior side yard	25' on outside yard, 4' interior side yard	
Minimum housing unit one- family	1,000 sq. ft.	1,000 sq. ft.	1,000 sq. ft.	Permitted above first floor. See footnote B. for sq. ft. by type	Permitted above first floor. See footnote B. for sq. ft. by type	
Minimum housing unit two- family	1,500 sq. ft.	1,500 sq. ft.	1,500 sq. ft.	Permitted above first floor. See footnote B. for sq. ft. by type	Permitted above first floor. See footnote B. for sq. ft. by type	
Minimum housing unit multi-family	Not permitted	Not permitted	See footnote A.	Permitted above first floor. See footnote B. for sq. ft. by type	Permitted above first floor. See footnote B. for sq. ft. by type	
Maximum structure height	35' or 2.5 stories	35' or 2.5 stories	35' or 2.5 stories	45' or 3.0 stories	35' or 2.0 stories	
Maximum lot coverage	35%	35%	50%	None	None	
Accessory structures	See § 154.008 "Accessory Buildings"	See § 154.008 "Accessory Buildings"	See § 154.008 "Accessory Buildings"	See §§ 154.006 through 154.010	See §§ 154.006 through 154.010	

<i>District</i>	<i>R-1</i>	<i>R-2</i>	<i>R-3</i>	<i>R-4</i>	<i>B</i>	<i>I</i>
Footnotes to the Dimensions Table:						

A. Minimum required square footage per unit by unit type:

1. **EFFICIENCY UNIT** is a dwelling unit containing a minimum floor area of 500 square feet per unit, consisting of not more than one room and sanitary facilities.
2. **ONE-BEDROOM UNIT** is a dwelling unit containing a minimum floor area of at least 640 square feet per unit, consisting of not more than two rooms in addition to kitchen, dining and sanitary facilities, and for the purposes of computing density shall be considered a two-room unit.
3. **TWO-BEDROOM UNIT** is a dwelling unit containing a minimum floor area of at least 800 square feet per unit, consisting of not more than three rooms in addition to kitchen, dining and necessary sanitary facilities, and for the purposes of computing density shall be considered as a three-room unit.
4. **THREE OR MORE BEDROOM UNIT** is a dwelling unit wherein for each room in addition to the three rooms permitted in a two-bedroom unit, there shall be provided an additional area of 200 square feet to the minimum floor area of 800 square feet. For the purpose of computing density, said three-bedroom unit shall be considered a four-room unit and each increase in a bedroom over three shall be an increase in the room count by one over the four.

B. The Planning Commission recognizes that the original city lots in the city are small and may restrict homeowners who seek to maintain and improve a house built before the establishment of the current minimum setbacks. The Zoning Administrator can approve building permits for projects that infringe on the front setback requirements as long as the approval:

1. Is not inconsistent with the density and coverages of the immediate neighborhood and the setback of adjacent homes.
2. Maintains clear vision areas.
3. Does not create a safety hazard.
4. Does not extend roof lines further into the front yard setback.

(Ord. passed 11-2-2005)

§ 154.032 MANUFACTURED HOME DEVELOPMENT REGULATIONS.

(A) *Purpose.* The R-4 Manufactured Home Development District is intended to preserve the interests of alternate types of residential developments that should be permitted in every community and to protect the residents of any manufactured home type development. These regulations are minimum standards to be applied to all manufactured home developments in the district.

(B) *Permitted uses.*

- (1) Manufactured home developments, subject to the requirements established and regulated by the Manufactured Housing Commission rules, and the provisions of this subchapter;
- (2) Clubhouse, swimming pool, playgrounds, common areas and recreation facilities for the use of manufactured home development residents;
- (3) Accessory uses or structures such as manufactured home development business office, laundry facilities and home occupations otherwise permitted in residential districts under this subchapter; and
- (4) Public service installations.

(C) *Compliance with Michigan Manufactured Housing Commission.* No manufactured home development shall be established within the R-4 District unless the park complies with the rules of the Michigan Manufactured Housing Commission.

(D) *Greenbelt buffer.* Within the premises upon which a manufactured home development is located there shall be constructed a greenbelt buffer. After approval as a part of the preliminary plan review process, there shall be no requirement that the buffer be changed due to future development.

(1) Landscaping materials: if the manufactured home development abuts an existing residential development, the development shall be required to provide screening along the boundary abutting the residential development.

(a) If a development abuts a nonresidential development, it need not provide screening. In all cases, however, a development shall provide screening along the boundary abutting a public right-of-way.

(b) The landscaping shall consist of evergreen trees or shrubs at least three feet in height spaced so they provide a continuous screen at maturity.

(c) Alternative screening devices may be utilized if they conceal the manufactured home development as effectively as the required landscaping above.

(d) Property owners are allowed flexibility in material selection as long as these standards are met. If a wood fence is used, the materials shall be pressure-treated lumber. If a masonry fence is used, it shall have a foundation of at least 42 inches deep in the ground.

(e) Trees, shrubs and all planted vegetation within the buffer must be appropriate to the climate and provided further, that they are not infested with pests, insects or diseases.

(f) The buffer shall be landscaped in such fashion as to assure that it will not erode and shall be landscaped with grass or ground cover appropriate for the climate.

(2) Screening shall be maintained in a condition very similar to the condition at the time of installation. This means fences shall be straight and broken boards shall be replaced. Dead trees, bushes, shrubs and vegetation shall be replaced with new, live, smaller plants that will grow to the same height as the dead plant being replaced. Masonry fences shall have all cracks repaired and maintained by pointing.

(3) The Planning Commission shall be authorized to grant an exception from the foregoing screening requirements where the screening would serve no useful practical purpose in providing peace and quiet for the occupants of the adjoining premises and may grant an exception during the preliminary plan review process.

(E) *Streets, sidewalks and public ways.* Every manufactured home development shall be provided with a network of streets with access points to adjacent public ways, at least as set forth hereinafter.

(1) All streets within the manufactured home development shall be paved with a hard surface in accordance with the most recent edition of the ASSHTO Standards.

(2) Every street shall be provided with drains designed according to the design standards of the Michigan Department of Environmental Quality drainage standards.

(3) Two-way streets within the manufactured home development shall have a minimum traveled width of 21 feet of pavement with no parking.

(a) All streets and street rights-of-way shall be of adequate width to allow for snow storage and removal.

(b) In the event that parking is permitted on any street within the manufactured home development, the minimum width of each street, in addition to the traveled portion, shall be ten feet wide for each parallel parking lane and 16 feet wide for each diagonal parking lane.

(c) If a parking lane is not provided, "no parking" signs will be installed and enforced on the side of the street.

(F) *Off-street parking and driveways.*

(1) Driveways shall be provided for access to service entrances and buildings for delivery and collection points for fuel, refuse and other materials and elsewhere as needed. Every driveway entrance shall have a flare or radii in horizontal alignment necessary for safe and convenient ingress and egress.

(2) A minimum of one parking space for every three manufactured home sites shall be provided for visitor parking. Each visitor parking site shall be located within 500 feet of the manufactured home site it is intended to serve. The 500 feet shall be measured along a road or sidewalk.

(3) In addition to the foregoing, a separate parking area may be provided for vehicles that cannot be accommodated within the parking areas set forth above, such as recreational vehicles, travel trailers, snow mobiles, and the like.

(G) *Illumination.* All streets and sidewalks and areas open to travel by manufactured home development residents shall be illuminated as follows.

(1) Access points shall be lighted. If the public thoroughfare is lighted, the illumination level shall not exceed the average illumination level of the public thoroughfare.

(2) At all internal street intersections and designated pedestrian crosswalks, the minimum illumination shall be not less than 0.15 foot candles.

(3) All internal roads, parking bays and sidewalks shall be illuminated at no less than 0.05 foot candles.

(H) *Water supply, fire hydrants and sanitary system.* Public sewer systems shall be required in a manufactured home development if available within 200 feet at the time of preliminary plan approval. If a public sewer system is unavailable, the development shall connect to a state-approved sewage system.

(I) *Open space.* An open space dedicated to use by manufactured home development residents as a recreation area, playground or gathering area, including, at the option of the owner/developer, clubhouses, swimming pools and the like, shall be provided.

(1) The areas shall consist of not less than 2% of the park's gross acreage but not less than 25,000 square feet.

(2) The areas shall not be included in the border greenbelt buffer and shall not be swamp or other marshland. This open space requirement shall not apply to manufactured home developments with less than 50 sites.

(3) If a development is built in stages, when the fifty-first site is developed, this requirement shall apply to all the sites in both stages of the development.

(J) *Manufactured home installation.* Installation of manufactured homes upon each manufactured home site shall be accomplished in accordance with Part 6 of the Michigan Manufactured Housing Commission rules. All manufactured homes shall be connected to utilities and shall be skirted and anchored in accordance with Part 6 of the Michigan Manufactured Housing Commission rules.

(Ord. passed 11-2-2005)

NONCONFORMING USES AND BUILDINGS

§ 154.045 INTENT.

(A) The intent of this section is to permit the continuation of any lawful use of building or land existing as of the effective date of this chapter. Nonconformance with the provisions of this chapter is not in the best interest of the city and should be discontinued as circumstances permit. Any nonconforming building, structure or use shall not be enlarged or expanded and may be changed, repaired or reconstructed only as prescribed by this section.

(B) Whenever changes occur in the boundaries of zoning districts, the provisions of this section shall apply to any uses or parcels that become nonconforming as a result of the boundary changes.

(Ord. passed 11-2-2005)

§ 154.046 HISTORIC PROPERTIES.

Any nonconforming property in the city that is listed on the State or National Register of Historic Places is specifically excluded from any requirement of this section that would damage the historic character of the property. When any such property is the subject of any administrative decision, the input of the State Historic Preservation Officer shall be requested in writing not less than 30 days before any regulatory action may take effect.

(Ord. passed 11-2-2005)

§ 154.047 LEGALITY OF NONCONFORMITIES.

(A) Nonconformities will be classified as “legal” or “illegal” based on the following guidelines.

(B) Regulation of nonconformities will vary based on their legality.

(1) **ILLEGAL NONCONFORMITIES** are those that have been developed in conflict with zoning regulations. The buildings or structures that extend into a public right-of-way, or over a neighboring property line are illegal nonconformities.

(2) **LEGAL NONCONFORMITIES** are those that meet each applicable criterion listed below. Note that temporary signs are not considered legal nonconforming structures.

(a) The nonconformity existed legally before the effective date of this chapter.

(b) The nonconformity complied with the district regulations of the previous zoning ordinance, or existed legally through a special use permit or variance.

(c) Nonconforming setback or lot size only: the nonconformity resulted from land acquisition by a government agency, such as for a road right-of-way.

(d) For otherwise legal nonconforming buildings or structures only: the building or structure may not extend into a public right-of-way, or over a neighboring property line.

(Ord. passed 11-2-2005)

§ 154.048 LOSS OF LEGAL NONCONFORMING STATUS.

If a nonconforming use of land or structure ceases for any reason for a period of six months or more, any reuse of the land or structure must conform to all requirements of this chapter. If the status of the land use is contested, it is the obligation of the owner or lessee to provide to the Zoning Enforcement Officer documentation that a legal nonconforming use is being continued within 30 days of written notification of abandoned status.

(Ord. passed 11-2-2005)

§ 154.049 EXPANSION, RECONSTRUCTION AND REPAIR.

(A) *Occupied dwelling units.* Occupied dwelling units in business districts at the time of adoption of this chapter are considered legal nonconforming uses with special rights to expand, reconstruct and repair. Any expansion, reconstruction or repair of an occupied dwelling unit must meet all yard requirements for dwelling units in the R-1 District.

(B) *Expansion of structural nonconformity prohibited.* No structure may be enlarged or structurally altered in such a way as to increase its nonconformity. A reduction of the degree of nonconformance in one respect is not permitted to offset an increase in the degree of nonconformance in another respect. Bartering of nonconformities is not permitted. For example, square footage may not be “traded” from one portion of a building to another.

(C) *Uses.* One nonconforming use may be replaced by another if the degree of nonconformance in use is reduced in some way.

(D) *Reconstruction and restoration.* Any lawful nonconforming use damaged by fire, explosion, act of God, or by other causes may be restored, rebuilt or repaired provided that the reconstruction or restoration work does not increase the gross floor area. All such restoration must be started within a period of one year of the time of such damage and diligently pursued to completion. The Board of Appeals may extend the period of time for restoration of any such building or structure when a bona fide emergency renders it impossible

to make the restoration of the building or structure within the required time period. Any basements, large holes and the like remaining on the site after removal of the structure shall be filled in and leveled within 90 days of removal of the structure.

(E) *Repair*. Nothing in this chapter shall prohibit the repair, improvement or modernizing of a lawful nonconforming building to correct deterioration, obsolescence, depreciation or wear, provided that such repair does not exceed an aggregate cost thereby increasing the assessed value by more than 50% as determined by the assessing officer unless the subject building is changed by such repair to a conforming use. No repair may enlarge or structurally alter the structure in such a way as to increase the nonconformity.

(Ord. passed 11-2-2005)

§ 154.050 CHANGING USES.

The use of a lawful nonconforming building or structure may be changed only to a conforming use or a use that is less nonconforming. This use may or may not be a permitted use in that district. The determination of relative nonconformance of a proposed use with respect to the previous lawful nonconforming use shall be at the discretion of the Board of Appeals. The proposed use shall be subject to all the requirements applying to that use in the district, including parking, signage and all other aspects of the site. Where the use of a lawful nonconforming building or structure is changed to a less lawful nonconforming use, it may not be changed back to the previous lawful nonconforming use or to another more nonconforming use.

(Ord. passed 11-2-2005)

§ 154.051 PLANS ALREADY FILED.

In any case where plans and specifications for a building or structure that would conform with the zoning regulations prior to the date of this chapter or any amendment thereof have been filed, and where a building permit for such building or structure has been issued and construction work started at the effective date of this chapter or amendment, such work may proceed, provided it is completed within one year.

(Ord. passed 11-2-2005)

§ 154.052 REGULATION OF NONCONFORMITIES.

Should any question arise concerning the interpretation of any provision of the regulation of nonconformities table or if a situation is encountered that was not anticipated by the table, the question shall be submitted to the Zoning Board of Appeals for their interpretation, which shall be final.

(Ord. passed 11-2-2005)

§ 154.053 NONCONFORMING LOTS.

(A) In any district in which single family dwellings are permitted, a single-family dwelling and the accessory buildings may be erected on any single legal lot of record at the effective date of adoption or amendment of this chapter.

(B) Yard dimensions shall conform to the regulations for the district in which the lot is located. No existing conforming lots may be changed to nonconforming lots. Contiguous lots under one ownership may not be changed back to separate lots unless they meet lot requirements for newly created lots.

(Ord. passed 11-2-2005)

§ 154.054 INVENTORY OF NONCONFORMITIES.

(A) The City Zoning Administrator is hereby required to establish and maintain an inventory of legal nonconformities known to exist in the city.

(1) This inventory should not list illegal nonconformities. Illegal nonconformities are violations of the ordinance and should be kept in the active files of the Code Enforcement Officer.

(2) In theory, the inventory of legal nonconformities should only expand if a Board of Appeals action allowing the nonconformity is issued.

(3) All listed properties shall also be identified on a large-scale map of the city that shall be available for public inspection.

(B) Each listing in the inventory of nonconformities shall include the following information:

(1) Date each parcel listed on inventory;

(2) Parcel identification number;

(3) Property address;

(4) Current owner(s);

(5) Property description;

(6) Parcel dimensions;

(7) Sketch with dimensions and setbacks of buildings, structures and parking areas on the parcel;

(8) Current zoning district; and

(9) Current use of property.

(Ord. passed 11-2-2005)

§ 154.055 ELIMINATION OF NONCONFORMING USES BY ACQUISITION.

The City Commission may, from time to time, acquire properties on which nonconforming uses or structures are located, by condemnation or otherwise, and may remove such uses or develop the property for a public use. The net cost of such acquisition may be made a special assessment against a benefit district, or may be paid from other sources of revenue legally available to the city.

(Ord. passed 11-2-2005)

§ 154.056 TABLE OF NONCONFORMING SITUATIONS AND ACTIONS.

Instructions: locate the situation in top line and nonconformity type in first column.

<i>Type</i>	<i>If discontinued for 6 months</i>	<i>If damaged more than S.E.V.</i>	<i>If damaged less than S.E.V.</i>	<i>Change in use (including new buildings)</i>	<i>Remodeling, maintenance, code work</i>
<i>Type</i>	<i>If discontinued for 6 months</i>	<i>If damaged more than S.E.V.</i>	<i>If damaged less than S.E.V.</i>	<i>Change in use (including new buildings)</i>	<i>Remodeling, maintenance, code work</i>
Illegal nonconforming parcel	NA	NA	NA	NA	Property must be kept in safe condition
Illegal nonconforming use of land	May not be resumed	NA	NA	Not permitted unless use becomes conforming	Property must be kept in safe condition
Illegal nonconforming use of building or structure	May not be resumed	Use not permitted; use must stop and may not be resumed	Use not permitted; may repair building	Not permitted unless use becomes conforming	Use not permitted; may repair building
Illegal nonconforming dimensions or setback of building or structure	NA	Building must be rebuilt to fully comply with applicable district regulations	May repair, but must reduce degree of nonconformance	New use and new building must adhere to all district regulations	Permitted, but may not create any greater degree of nonconformance
Legal nonconforming parcel	NA	NA	NA	Permitted, but requires a variance	Property must be kept in safe condition
Legal nonconforming use of land	May not be resumed	NA	NA	Permitted, but must reduce degree of nonconformance; see § 154.052	Property must be kept in safe condition
Legal nonconforming use of building or structure	May not be resumed	May rebuild if all plans meet all other district regulations	May repair to pre-damage status	Permitted, but must reduce degree of nonconformance; see § 154.052	Permitted so long as use is not expanded
Legal nonconforming dimensions or setback of building or structure	NA	May rebuild, but must reduce degree of nonconformance	May repair to pre-damage status	Permitted, but requires a variance	Permitted, but may not create any greater degree of nonconformance

(Ord. passed 11-2-2005)

PARKING REGULATIONS

§ 154.070 INTENT.

This section is intended to provide efficient and safe access management and adequate parking area for specific uses as well as promote the efficient use of land. It also seeks to prevent adverse environmental impacts of large paved areas.

(Ord. passed 11-2-2005)

§ 154.071 APPLICATION TO ESTABLISH OR CHANGE PARKING AREAS.

(A) *Single-family dwelling in R-1 or R-2 Districts.* A building permit that is required for new construction of a dwelling shall address related parking. A building permit shall also be required for a change of an existing parking area when it involves a curb cut for access.

(B) *Two-family dwellings in R-1 and R-2 Districts.* A building permit that is required for new construction of a dwelling shall address related parking. A building permit shall also be required for a change of an existing parking area whether or not it involves a curb cut for access.

(C) *Multi-family R-3 District.* Same requirements as for business and industrial districts (below).

(D) *Manufactured housing development, R-4 District.* See § 154.032.

(E) *Business and industrial districts.* Development of parking areas shall require the submittal of professional site plans to the City Manager or City Engineer and the Zoning Administrator, who will then present them to the Planning Commission for approval.

(Ord. passed 11-2-2005)

§ 154.072 STANDARDS IN CONSTRUCTION/DESIGN/USE.

The design/construction/use of parking areas shall conform to the following requirements.

(A) *Single family dwelling in R-1 or R-2 Districts.*

(1) Provisions shall be made for at least one usable off-street parking space for each single-family dwelling in R-1 and R-2.

(2) The parking space shall be a minimum of 162 square feet excluding the use of a sidewalk and outlawn area. Exceptions shall be made by the Zoning Administrator when a dwelling is on an historically small city lot and lot space is not readily available.

(3) No commercial repair work, commercial servicing or selling of any kind except for periodic garage or yard sales shall be conducted on parking areas in R-1 and R-2 Districts.

(4) Parking in residential zones is permitted only as an accessory use.

(B) *Two-family dwellings.* For two-family dwellings, minimal parking provided shall be two spaces of 162 square feet each. Parking space may be subject to shared access described for Multi-Family R-3, Business and Industrial.

(C) *Multi-Family R-3, Business and Industrial.*

(1) Parking spaces shall be a minimum of ten feet by 20 feet in size. The length of the space may be 18 feet if curbs or bumpers are designed to define one end of the parking space. Handicapped spaces must comply with the current Michigan Building Code.

(2) There shall be a curb or curb stop provided wherever an off-street parking and loading area adjoins a public sidewalk, right-of-way or adjoining property line. The curb or curb stop shall be designed to prevent any portion of a vehicle from encroaching upon the sidewalk, right-of-way or adjoining property.

(3) Any lighting used to illuminate any off-street parking and loading areas shall conform to the lighting ordinance section.

(4) Each off-street parking driveway opening to a public street must be approved by the agency having jurisdiction over the street following site plan review by the Planning Commission. Lanes for entering and exiting traffic shall be clearly marked on the pavement. Each driveway shall intersect a public street at a 90-degree angle.

(5) Each off-street parking driveway shall include an on-site stacking area that does not function as an access aisle for parking spaces, equivalent to at least 5% of the spaces in the parking area.

(6) All off-street parking driveways shall have a clear vision area unobstructed by accessory structures or plantings, within 20 feet of any public street right-of-way, for a sight distance of 50 feet along the near edge of the pavement in either direction.

(7) Except for parallel parking, all parking spaces shall be clearly marked with striping that shall be maintained.

(8) Landscaping regulations apply to parking areas of 100 spaces or more. Off-street parking shall be permitted to occupy required front, side and rear yards after approval of the parking plan layout, provided that there shall be maintained a minimum landscaped setback of ten feet between the nearest point of the off-street parking area, exclusive of access driveways and the nearest right-of-way line.

(9) Off-street parking areas shall be effectively screened on any side that abuts a residentially zoned district or institutional use, by a screening of evergreen hedge or other natural landscaping. If the owners of adjacent residential properties request, in writing, this screening shall be done by a solid uniformly painted fence or wall not less than four or more than six feet in height and maintained in good condition. In all cases, the screening shall comply with the need for a clear vision area.

(10) Maneuvering lanes to and from a parking area shall be paved. Access drives are not part of the required parking area. Design and construction of access drives must be reviewed and approved by the city staff and be designed in accordance with the following standards.

<i>Parking Pattern</i>	<i>Maneuvering Lane Width</i>		<i>Min. parking space width₁</i>	<i>Min. parking space length₂</i>	<i>Total width 2 tiers of spaces plus maneuvering lane</i>	
	<i>One-way</i>	<i>Two-way</i>			<i>One-way</i>	<i>Two-way</i>
0 degree (parallel parking)	11 ft.	18 ft.	8 ft. 6 in.	25 ft.	28 ft.	35 ft.
30-50 degrees	12 ft.	20 ft.	9 ft.	21 ft.	54 ft.	62 ft.
54-70 degrees	13 ft.	24 ft.	9 ft.	21 ft.	55 ft.	66 ft.
75-90 degrees	15 ft.	26 ft.	9 ft. 6 in.	20 ft.	55 ft.	66 ft.
1- Measured perpendicular to the longitudinal space centerline						
2- Measured along the longitudinal space centerline						

(11) For properties that have employees, employee parking shall consist of one parking space for every one employee on the largest shift and handicapped parking shall be required.

(12) Parking surface: all parking shall be on an approved paved surface with the exception of parking for campgrounds, RV parks, cemeteries, parks and other outdoor recreational areas.

(13) In the case of multiple uses of a single structure, the following calculations may be applied by the Planning Commission for determining off-street requirements. The Planning Commission shall have the power to reduce parking further in the case of shared drives, shared parking or other circumstances where a reduction in parking will contribute to safety, function or the overall site design.

- (a) For two uses per structure, the parking required may be 80% of the parking required for the two uses calculated individually.
- (b) For three uses: 75%.
- (c) For four uses: 70%.
- (d) For five uses: 65%.

(14) In no case shall less than 65% be allowed.

(D) *Shared access.* The Planning Commission must require shared access between and among uses where feasible, excluding single-family residential uses.

(1) Feasibility is determined with respect to the physical design of the site and not the effort or costs involved with achieving joint access.

(2) This requirement applies to driveways and access drives associated with site redevelopment or new construction.

(3) In the case of new development, a joint driveway agreement must be signed by all property owners involved prior to a construction permit being issued.

(4) Driveways must be designed to allow joint access in the future, where feasible, and an agreement to allow future use of the drive for joint access must be signed at the time of site plan approval.

(5) Shared drives must be shown on site plans at the time of review by the Planning Commission.

(6) Refusal to design a site with provisions for joint access or refusal to participate in a joint access agreement is justification for site plan denial by the Planning Commission.

(E) *Driveway closure.* Nonconforming driveways, per this chapter, shall be made to be less nonconforming at the time a site is redeveloped. Lessening the degree of driveway nonconformance may include the Planning Commission requiring closing a driveway or combining driveways or access points at the time of site plan review.

(F) *Occupancy.*

(1) The occupancy of a building or any part of a building shall not change it from one use to a use in another classification unless the minimum parking requirements are provided for the new use.

(2) No building shall be enlarged if the enlargement requires additional parking space, unless the minimum requirements for off-street parking are provided.

(G) *Parking spaces.* Parking spaces may count toward the requirement for a parcel if they are located on it or on an adjoining parcel where the farthest space is not over 500 feet from the nearest public entrance to the principal building, with a continuous paved walkway between the lot and entrance.

(Ord. passed 11-2-2005)

§ 154.073 BUSINESS DISTRICTS.

(A) Off-street waiting area for drive-through facilities:

(1) An off-street waiting space is defined as an area with a minimum width of ten feet and a minimum length of 20 feet and shall not include the use of any public space, street, alley or sidewalk and shall be located entirely within any business district;

(2) For uses occupied or built for the purpose of serving customers in their vehicles by a service window or similar arrangements, off-street waiting spaces shall be provided as shown in the following chart;

(3) Drive-through lanes shall not utilize any space that is necessary for adequate access to parking spaces from internal maneuvering lanes;

(4) Drive-through lanes shall have a minimum centerline radius of 25 feet;

(5) Drive-through lanes shall be striped, marked or otherwise distinctively delineated; and

(6) No space shall be located closer than 50 feet to any lot in any residential district, unless wholly within a completely enclosed building or enclosed on all sides facing residential zones, by a wall or uniformly painted solid board or masonry fence of uniform appearance that is not less than six feet in height.

(B) Stacking requirements:

<i>Use Served by Drive-Through Lane</i>	<i>Minimum Stacking Requirements (per lane)</i>
<i>Use Served by Drive-Through Lane</i>	<i>Minimum Stacking Requirements (per lane)</i>
1. Restaurant	Storage shall be provided for three vehicles in advance of the menu board (not including the vehicles at the pick-up window and menu board)
2. Financial institution	Three vehicles per lane inclusive of the vehicle at the window
3. Car wash (coin-operated)	Two vehicles in advance of the washing bay and storage for one and one-half vehicles beyond the washing bay as a drying and vacuum area
4. Car wash (tunnel wash)	Four times the maximum capacity of the car wash in advance of the tunnel and three vehicles beyond the tunnel for drying areas
5. Child care centers	One vehicle per 15 children inclusive of the vehicle at the drop-off point; no parking area or maneuvering lanes shall be permitted between the drop-off point and the principal entrance to the building
6. Dry cleaners	Two vehicles per lane inclusive of the vehicle at the window
7. Quick oil change	Three vehicles per lane inclusive of the vehicle being serviced
8. Convenience market	Three vehicles per lane inclusive of the vehicle at the window
9. Other uses	For uses not listed above, the Planning Commission shall make a determination of minimum required vehicle stacking at the time of site plan review, based upon analysis by the Traffic Engineer and City Planner

(C) No such space shall be located closer than 50 feet to any lot in any residence district, unless wholly within a completely enclosed building or enclosed on all sides facing the residence district by a wall or uniformly painted solid board or masonry fence of uniform appearance that is not less than six feet in height.

(D) In cases where the use is not listed, regulations for the most similar use shall apply. In cases where a similar use cannot be found, the Planning Commission shall determine the number of parking spaces required.

(Ord. passed 11-2-2005)

§ 154.074 INDUSTRIAL DISTRICTS.

Every parcel of land used as a public or private parking area in any industrial district shall be developed and maintained in accordance with the following requirements.

(A) Parking shall be provided and maintained to service any building that involves a use requiring the receipt or distribution of materials or merchandise in vehicles. Parking shall be determined by the Planning Commission.

(B) If retail sales or services exist within an Industrial site, required spaces shall be determined by using § 154.075.

(Ord. passed 11-2-2005)

§ 154.075 NUMBER OF PARKING SPACES REQUIRED.

(A) Parking or storage of motor vehicles shall be provided for in all districts in connection with all industrial, commercial, business, trade, institutional, recreational or dwelling uses and similar uses.

(B) In the case of a building, structure or premises, the use of which is not specifically mentioned, the provisions for a use that is mentioned and to which the use in question is similar, shall apply.

(C) Handicapped parking shall be provided.

<i>Table of Parking Uses and Spaces</i>	
<i>Uses</i>	<i>Number of Spaces</i>
<i>Table of Parking Uses and Spaces</i>	
<i>Uses</i>	<i>Number of Spaces</i>
Barber, salons, beauty shops	One space for each chair or booth
Bowling centers	One space for each lane. If, in addition to bowling lanes, patrons are provided with assembly hall, bars, restaurants or other businesses, additional off-street parking spaces will be required in accordance with those uses
Commercial recreation, indoor	One space for 200 square feet of usable building floor space
Commercial recreation, outdoor	25% of the lot area shall be devoted to parking lots, but in no case less than ten parking spaces
Funeral homes	One space per 50 square feet of building
Furniture sales, retail	One space for each 1,000 square feet of sales display area
Gasoline/service stations	One space for each service bay
Hospitals, nursing homes, health care facilities	One space for each hospital bed and one space for each four beds in longer-term care facilities
Laundromats	One space for every three washing machines or 400 square feet of usable building floor area, whichever is greater

<i>Table of Parking Uses and Spaces</i>	
<i>Uses</i>	<i>Number of Spaces</i>
<i>Table of Parking Uses and Spaces</i>	
<i>Uses</i>	<i>Number of Spaces</i>
Motels, hotels, motor courts, tourist or lodging homes	One space for each sleeping room. If, in addition to sleeping rooms, patrons are provided with assembly halls, bars, restaurants or other businesses, additional off-street parking spaces will be required in accordance with those uses
Office building, banks, business and professional offices	One space for each 400 square feet of usable building floor area, but in no case less than five spaces
Places of public assembly without fixed seating, including dance halls, clubs and roller rinks	The parking lot shall be 200% of the building floor area used for public activity
Places of public assembly; clubs with seating provided	One space for each four seats
Restaurants; eat-in, including taverns, bars, cocktail lounges and similar eating establishments	One space for each four seats for patron use
Restaurants; carry out, grocery/food markets	One space per 250 square feet of public floor space
Restaurants; drive through	One space per 100 square feet of public floor space
Retail sales and personal services	One space per 300 square feet of the public floor area. In any case, parking greater than one space per 100 square feet shall not be required

Theaters	One space for each four public seats
Vehicle sales	One space per 1,000 square feet of sales display area
Vehicle service garages	One space per 1,000 square feet of usable floor area

(Ord. passed 11-2-2005)

SIGN REGULATIONS

§ 154.090 INTENT.

The intent and purpose of this subchapter is to regulate all exterior signs so as to protect health and safety, reduce traffic hazards and visual disturbance and to meet a community-based standard for aesthetic qualities. Nothing in this subchapter should be taken as a constraint upon freedom of speech.

(Ord. passed 11-2-2005; Ord. 187, passed - -2007)

§ 154.091 FEES.

Application fees for sign permits shall be established by the City Commission.

(Ord. passed 11-2-2005)

§ 154.092 ISSUANCE OR DENIAL OF PERMITS.

The City Administrator or designated agent shall approve the application for a sign permit when it is found that a sign will comply with the provisions of this chapter. When a sign permit is denied by the Administrator or designated agent, written notice of the denial shall be given to the applicant, together with a written statement of the reason for such denial.

(Ord. passed 11-2-2005)

§ 154.093 REGULATIONS WITHIN BUSINESS AND INDUSTRIAL ZONES.

(A) *Generally.* For the following regulations, in the event of a conflict between regulations of signs, resolution shall be based on the principle of the greater restriction shall apply. The signs are listed in this manner:

- (1) Freestanding (pole/ground/highway);
- (2) Wall;
- (3) Unified development signs;
- (4) Portable;
- (5) Temporary signs;
- (6) Directional signs;
- (7) Political signs and posters; and
- (8) Real estate signs.

(B) *Freestanding signs.* Each property is limited to one unless it is a corner parcel with 300 feet or more of frontage on both streets. The sign may be a pole sign or a ground sign. Although there may be multiple businesses or establishments on the property, the limit does not change.

(1) *Pole signs.*

- (a) In a permit application, each sign will require drawings of sign structure, electrical circuits, foundation and materials.
- (b) Maximum height: 16 feet above the grade of the frontage street. Base of sign shall be a minimum of eight feet from that grade to the bottom of the sign.
- (c) Maximum area per side: 50 square feet
- (d) Minimum setback: no portion of the sign shall be nearer than ten feet to any street easement or dedicated public right-of-way.
- (e) Identification: sign cabinet must display address number of property on the leading edge to the road.
- (f) Illuminated sign: if internal lighting is part of a sign, the lighting equipment that is part of the sign shall have UL listings and shall be labeled for easy reading.

(2) *Ground signs.*

- (a) In a permit application, each sign will require drawings of sign structure, any electrical circuits, foundation and materials.
- (b) Maximum height: six feet above normal ground level.

(c) Maximum area per side: 50 square feet.

(d) Minimum setback: no portion of the sign shall be nearer than eight feet to any street easement or dedicated public right-of-way.

(e) Identification: sign cabinet must display address number of property on the leading edge to the road.

(f) Illuminated sign: if internal lighting is part of a sign, the lighting equipment that is part of the sign shall have UL listings and shall be labeled for easy reading.

(3) *High-rise or highway billboard signs.*

(a) Permit application requires engineered and approved drawings of pole structure, any electrical circuits and structures used for illumination, base and all sign cabinet structures.

(b) These signs are allowed if property is within 735 feet from the state right-of-way for the westbound exit ramp from U.S. 10 to Garfield Road. Other than that specific area, no billboard shall be erected or maintained in any district within 100 feet of any sidewalk or public highway, nor within 300 feet of any residential or business building, nor within any distance from adjoining property of less than twice the height of the billboard. The provisions of this code are not intended to conflict with any provisions controlling signs regulated under the authority of Public Act 106 of 1972, the Highway Advertising Act, being M.C.L.A. §§ 252.301 through 252.325, as amended.

(c) Maximum square feet allowed is 275 square feet.

1. Maximum height not to exceed 90 feet from average grade of property.

2. Wind load: because signs must resist a minimum of 135 mph wind load, the base hole must be inspected before installation is to begin. Failure to have a base hole inspected shall be cause for removal of the sign structure at the expense of the sign owner.

(C) *Wall signs.*

(1) *Permit required.* In a permit application, details of structure and dimensions are required of the sign and wall that it is attached to. Outside window signs, if permanent, are covered by this section. Interior window signs are not regulated.

(2) *Maximum sign area.* Total number of wall sign(s) shall not exceed an area equal to 15% of the area of the wall to which it is affixed. No wall sign shall have an area greater than 100 square feet; except that, if the sign has a setback greater than 50 feet from its frontage street, its area may be increased by one square foot for each additional foot of setback up to a maximum of 150 square feet.

(D) *Unified development signs.*

(1) *Permit required.* In a permit application, each sign will require drawings of sign structure, any electrical circuits, foundation and materials.

(2) *Maximum height.* Sixteen feet above the grade of the frontage street.

(3) *Maximum area.* Eighty square feet.

(4) *Increase of area.* For every foot of street frontage in excess of 200 feet, maximum sign area may be increased by one square foot for each 12 inches over 200 feet of property frontage.

(E) *Portable signs.*

(1) *Permit required.* In a permit application, each sign will require drawings or a description of the sign structure, electrical circuits and power supply if illuminated, and materials.

(2) *Portable signs.* These can be displayed for 14 consecutive days; however, if a display is taken down for any reason prior to that period ending, there is another 14 consecutive days required before a display will be allowed to be displayed again.

(a) The intended dates to put such temporary advertisements and banners in place shall be detailed in requests that shall be put on file at City Hall prior to putting the display out.

(b) Permits can cover the sign(s) and the time period(s) they shall be permitted to be displayed. Multiple signs can be described in one permit.

(c) The intended schedule for using the sign(s) over the year can be detailed in one permit.

(3) *Size.* The size of portable signs shall not exceed 32 square feet or seven feet in height.

(F) *Temporary signs.*

(1) *Permit required.* In a permit application, each sign will require drawings or a description of the sign structure, period of use, electrical circuits and power supply if illuminated, and materials.

(2) *Attached to a permanent structure.* To qualify as a temporary sign, the signage must be attached to a permanent structure. The point of attachment must be detailed in the permit.

(a) Buildings: if a building wall is to be used for temporary signage, there must be a specific framed area of the wall where the sign will be attached. Whether there is a natural architectural frame on the wall or one that is designated, the cumulative size of the sign(s) placed within that designated area shall be consistent with the size regulations for a permanent wall sign; however, these temporary signs can be changed as often as the business desires. The city can require that out-of-date signs be removed. A history of

“out-of-date” signs can be considered in denying a permit for these signs. City Hall has the authority to determine what constitutes a “framed” area.

(b) Between permanent structures or attached to a permanent structure that is not a building. These signs are regulated in the following manner.

1. A fence shall be considered a wall and the total temporary signage attached to the fence shall not exceed an area equal to 15% of the area of the fence to which it is affixed. Fence signage shall be confined to single area defined in the permit. Space used for signage shall not have an area greater than 100 square feet; except that, if the signage area has a setback greater than 50 feet from its frontage street, its area may be increased by one square foot for each additional foot of setback up to a maximum of 150 square feet.

2. Temporary signs attached to a permanent structure other than a building or fence shall be prohibited unless the structure is more than 90 feet from the street. The total signage allowed for a property is 32 square feet per 100 feet of frontage.

(G) *Directional signs.*

- (1) Permit required: permit application requires drawings, any electrical circuits if illuminated, and base.
- (2) Maximum square feet: four and one-half square feet.
- (3) Maximum height: three feet from average grade of property.
- (4) Setback: at least five feet from easement and right-of-way.
- (5) Two directional signs shall be allowed for a single access drive. One sign for each entrance and another for each exit shall be allowed if there are two or more access drives.

(H) *Political signs and posters.*

- (1) No permit required but signs shall conform to this section.
- (2) The size of the sign or poster shall not exceed two feet by three feet.
- (3) The owner of the property where the sign or poster is to be placed must be notified and must give approval for its placement.

(I) *Real estate signs.*

- (1) No permit required but signs shall conform to this section.
- (2) The size of the real estate sign or poster shall not exceed two feet by three feet, provided that a “sold” sign not to exceed five inches by 16 inches may be affixed to the sign to indicate a sale.

(Ord. passed 11-2-2005: Ord. 187, passed - -2007)

§ 154.094 REGULATIONS WITHIN RESIDENTIAL ZONES.

(A) In residential zones R-1 and R-2, one of three signs may be used.

<i>Type</i>	<i>Size Limit</i>	<i>Placement</i>	<i>Height Limit</i>
Home occupation	2 square feet	Any wall	NA
Non-dwelling use; permit required	24 square feet	Within required yard	5 feet
Small freestanding; no permit	6 square feet	Within required yard	4 feet
Wall sign; no permit	6 square feet	Any wall	Height of wall

(B) In Residential Zones R-3 and R-4, the signage for ownership, leasing or rental of multi-family dwellings is regulated by the standards for business and industrial.

(C) Political signs in residential areas R-1 and R-2 are also governed by the same restrictions as political signs in business or industrial.

(D) Home occupations may be identified to the public by a non-illuminated wall sign no greater than two square feet.

(Ord. passed 11-2-2005; Ord. 187, passed - -2007)

§ 154.095 PROHIBITED SIGNS.

(A) The following signs are prohibited under this chapter.

(B) Temporary exceptions to certain prohibited signs are noted in this section:

- (1) Signs or billboards that advertise a commodity or service that is not available on the premises on which the sign is located;
- (2) Roof signs;
- (3) Projecting wall signs exceeding eight square feet in area;

(4) Abandoned signs, including the related sign structure. Once determined to be abandoned, structures supporting these signs cannot be reused unless they are brought into compliance with the sign regulations.

(a) Owners of abandoned signs shall be responsible for removing the sign's message.

(b) If the status of an abandoned sign is challenged, it is the obligation of the owner or lessee to provide to the Zoning Enforcement Officer documentation that a business is still being conducted on the premises.

(c) Proof that a business exists on paper is not sufficient proof for this chapter that the business is operating on a particular site.

(5) Signs using such words as "stop", "danger" or similar words, phrases, symbols or characters, in such a manner to interfere with, mislead or confuse the public in matters of public safety as determined by the city;

(6) Portable signs and temporary signs will be prohibited in these situations:

(a) Signs that fail to meet the height and setback requirements that apply to ground signs will be prohibited; and

(b) Electrified portable/temporary signs when the power source is not in compliance with safety requirements as deemed applicable by the City Inspector will be prohibited.

(7) No signs, except those established and maintained by the city, county, state or federal governments, shall be located in, project into or overhand a street right-of-way or dedicated public easement. This regulation includes railroad rights-of-way;

(8) Signs that block the required clear vision areas for intersections; and

(9) Electronic message signs when placement is judged by a public safety officer and City Administrator to be a public safety concern.

(Ord. passed 11-2-2005)

§ 154.096 MAINTENANCE AND REPAIR.

Every sign, regardless of its permit requirement, shall be maintained in a safe and presentable condition at all times, including, but not limited to, the replacement of defective parts, painting and cleaning; however, a sign that is not conforming to the sign regulations at the time of its adoption shall be allowed to remain, provided the structure of such nonconforming signs shall not be enlarged or otherwise changed. Maintenance shall be limited to replacement of defective parts, painting and cleaning.

(Ord. passed 11-2-2005)

§ 154.097 MANDATORY SIGN REMOVAL.

(A) *Emergency conditions.* Should the City Administrator or designated agent determine that a sign is so dangerous that it requires immediate removal, the Administrator shall attempt to provide the sign owner or property owner with a notice of the danger and the need for immediate abatement. If such notice is not possible due to the emergency nature of the danger, the Administrator or designated agent shall abate the danger. The cost of the abatement shall be billed to the owner or become a lien against the property.

(B) *Nuisance abatement.* Any other sign regulated by this chapter that fails to comply with the provisions of this chapter, but which does not require emergency action, shall constitute a nuisance. The owner of such sign and the property owner shall be given written notice of 30 days by certified mail for the abatement thereof. If such abatement is not accomplished within the 30-day period, the Administrator or designated agent shall abate the nuisance. The cost of the abatement shall be billed to the owner of the sign or become a lien against the property.

(Ord. passed 11-2-2005)

§ 154.098 APPEALS.

Any person directly or indirectly affected by the strict application of the provisions of this chapter may appeal by filing the request in writing to the Zoning Board of Appeals. The Zoning Board of Appeals will consider the appeal in accordance with established procedures.

(Ord. passed 11-2-2005)

SPECIAL USE PERMIT REGULATIONS

§ 154.110 INTENT, PURPOSE AND PROCESS OF A SPECIAL USE PERMIT.

(A) *Intent.* In contrast to the definitive and objective process desired for most zoning decisions, the special use permit process is intended to be at least partly subjective. It relies upon the judgment of the Planning Commissioners, the sincerity of the applicant, and the opinions or feelings of people who live or own property near the site of a proposed special use. The special uses that are designated for a particular zoning district are generally complementary to the uses permitted by right; however, because of their unique characteristics or more intensive natures, these uses require special consideration of the welfare of adjacent properties and the community as a whole.

(B) *Purpose.* This chapter provides procedures and standards for regulating activities identified as uses by special use permit for each zoning district. Special uses represent a middle range between uses that are clearly permitted and uses that are clearly denied in any zoning district. The purpose of designating special uses is to allow practical latitude for a property owner or developer to use a parcel of

land while maintaining protection of the health, safety, comfort, convenience and general welfare of neighbors and the community at large.

(C) *Process.* Regulation of special uses includes two separate steps. First is the review of the site plan for the proposed use. Second is the decision of whether a special use permit will be granted.

(1) *Standards.* During the special use permit process, various considerations will be explored before approval of the site plan or the special use permit. Some of these are defined in this chapter as additional site plan review standards for various special uses. These standards are intended to reduce the impact of a special use on surrounding properties. They are minimum requirements that must always be met.

(2) *Conditions.* The Planning Commission may attach additional conditions to the approval of the site plan or the special use permit. These conditions must be based on requirements or concerns defined by this chapter.

(3) *Precaution.*

(a) No person should think that compliance with the standards defined by this chapter automatically grants them the right to establish a special use in a given zoning district. Rather, the privilege of establishing a special use is granted or denied by the Planning Commission following the process outlined in this chapter.

(b) This process includes notification of nearby residents and property owners who may voice their opinions at a public hearing before a decision is made to grant a special use permit. Since special uses generally impose physical, visual or psychological impacts on neighboring parcels, the input of neighboring residents or property owners is a legitimate factor for the Planning Commission to consider when deciding whether to allow such uses.

(4) *Permanence.* Note that once a special use permit has been granted, it may only be revoked if the conditions mentioned above, or other requirements of this chapter, have been violated. Otherwise, the special use permit “runs with the land” and is one of the rights that transfers when the parcel is rented or sold. Therefore, this chapter does not provide for placement of any time limit on a special use permit, except that the special use permit may expire or be revoked.

(Ord. passed 11-2-2005)

§ 154.111 HOW A SPECIAL USE PERMIT IS REVIEWED.

(A) *Submission of application.* The application package is to be submitted to the City Zoning Administrator.

(1) *Contents.* The application package consists of a special use permit application form completed in full by the applicant, accompanied by a fee as established by the City Commission and a site plan.

(2) *Application deadline.* The complete application package must be submitted to the Zoning Administrator at least 20 days before the Planning Commission meeting at which it will be considered.

(B) *Simultaneous consideration of rezoning and special use permit.* In the event that allowance of a desired use requires both a rezoning (change in zoning district designation for the parcel) and a special use permit, both requests may be submitted jointly and considered at a single meeting of the Planning Commission, subject to the following requirements.

(1) *Separate.* The rezoning shall be considered separately from the special use permit.

(2) *Procedures.* The ordinance procedures for each decision shall be followed as specified. Any special use permit approval must be conditioned upon adoption of the rezoning by the City Commission.

(3) *Standards.* All standards required by this chapter shall be observed for each action.

(4) *Public hearings.* The public shall be given the opportunity for input on both the rezoning and special use decisions. Thus, two separate public hearings shall be held at the same meeting.

(C) *Planning Commission review and hearing.* The special use permit application package shall be the subject of both a site plan review and a public hearing conducted by the Planning Commission. If the applicant wishes to have the site plan review and special use permit considered at a single Planning Commission meeting, the following process occurs.

(1) *Public hearing on special use.* The Planning Commission shall hold a public hearing on the application as part of the meeting in which the special use permit is considered.

(a) *Notice.* A notice of public hearing shall be mailed to all parties specified in § 154.154 and published in a newspaper of general circulation in the city not less than five nor more than 15 days before the date of such hearing.

(b) *Delay at applicant's request.* If a site plan for a special use has been denied, the applicant may ask that the special use permit, including the public hearing, be postponed; however, postponing the hearing prior to the hearing taking place requires an additional notification of neighboring property owners and newspaper publication of another notice. Therefore, the applicant will be required to pay an additional application fee to offset the Commission's added cost.

(2) *Consideration of special use permit.* Following the close of the public hearing, consideration of the special use permit shall take place.

(a) *Open meeting.* Note that the Open Meetings Act requires this vote to take place in an open public meeting.

(b) *Prompt decision.* In the interest of fairness and a timely response for all concerned parties, the Planning Commission shall

render their decision on the special use permit during the same meeting in which the public hearing is held, unless further information must be obtained before a decision can be made. In such cases, action upon the special use permit may be tabled to a public meeting of the Planning Commission to be held on a specific date that is identified in the motion to table.

(3) *Site plan review.* The Planning Commission shall conduct a site plan review for the proposed use, using the procedure and standards presented in § 154.135, and any specific standards identified for the special use by this chapter. The Planning Commission may approve the site plan as presented, approve it with conditions, deny it or table approval of it to a specific meeting date.

(a) *Public input.* The site plan review may be completed before public input is heard on the question of granting the special use permit. This is because the site plan review process is intended to be an objective review of factual information to determine whether precise standards have been met; however, the Planning Commission may choose to accept public comments or questions relating only to design considerations of the site plan.

(b) *If the site plan is denied.* In the event the site plan is denied, consideration of the special use permit shall still occur, including the public hearing. The special use permit may still be approved with the condition that site plan approval must be obtained before the special use permit is valid.

(D) *Re-application.* An application for a special use permit that has been denied may not be resubmitted until one year after the date of denial has passed.

(E) *Terms of permit.* A special use permit consists of a permit that specifies the special use which is to be allowed and any conditions which were attached by the Planning Commission. If a use established under a special use permit is discontinued for a period of one year, the special use permit shall expire. To reestablish the use after such expiration will require granting a new special use permit, starting with a new application.

(F) *Revocation.* The privilege of a special use permit is subject to all the conditions that have been attached to it during the process described above. Except as noted in division (F)(4) below, the permit remains valid as long as all of those conditions are met; however, the city, via the Planning Commission, shall revoke any special use permit after it has been proven that the permit conditions have been violated.

(1) *First notice.* The Zoning Administrator shall send written notice of a violation to the holder of the permit by certified mail. The notice shall state that correction must be made within 30 days or the Planning Commission will revoke the special use permit and order the use to cease.

(2) *Considered nonconforming.* From the time the Zoning Administrator's notice of violation is issued, until compliance with all special use permit conditions is restored, the use in question shall be treated as an unacceptable nonconforming use.

(3) *Planning Commission action.*

(a) The Zoning Administrator shall notify the Planning Commission of the violation of conditions of the special use permit at the next regular Planning Commission meeting, and revocation of the special use permit shall be considered then.

(b) The Planning Commission's meeting will usually take place before the 30-day period for the first notice has expired. In that case, the resolution to revoke the special use permit should be worded so that it takes effect only if compliance with all requirements is not restored.

(c) It shall also include authorization for the Zoning Administrator to order the permit holder to cease the permitted use if the violations are not corrected by the end of the first notice period.

(4) *Second notice and order.* After expiration of the 30-day period, the Zoning Administrator shall notify the permit holder by certified mail that the special use permit has been revoked, and the use for which the permit was granted must cease within 60 days from the date of this second notice.

(5) *Enforcement of order.* Failure to comply with the order to cease an activity for which a special use permit has been revoked is a violation of this chapter, subject to all penalties thereof.

(G) *Standards to consider when reviewing a special use permit.*

(1) *Standards attached to site plan review.* Before approving or denying a special use permit Application, the Planning Commission reviews the site plan for said use, to establish that all applicable standards are satisfied. The site plan review shall determine compliance with the applicable district regulations, the site plan review standards from § 154.135 and any applicable standards from this chapter.

(2) *Additional conditions.*

(a) The Planning Commission may stipulate any additional conditions or safeguards deemed necessary to achieve the objectives of this chapter.

(b) These may be defined during the site plan review process or during consideration of whether to grant the special use permit.

(c) All conditions attached to the approval of the site plan are also conditions of the special use permit. These conditions, and the reasoning behind them, must be documented in the Planning Commission's minutes, written on the site plan itself and communicated to the applicant in writing.

(d) The permit will not take effect until the conditions of approval are accepted by the applicant, signified by the signatures on the site plan itself, of both the applicant and the Planning Commission Chairperson.

(3) *Enforcement of conditions.* The breach of any condition shall be cause for the Planning Commission to revoke a special use permit.

(Ord. passed 11-2-2005)

§ 154.112 BED AND BREAKFAST.

(A) *Licensing.* A bed and breakfast must be licensed by city according to current licensing regulations.

(B) *Single-family construction.* Each premises must have been originally designed and constructed as a single-family residence and must be occupied and operated by its owner. The structure shall remain a residential structure; i.e., the kitchen shall not be remodeled into a commercial kitchen.

(C) *Maximum floor area.* Not more than 25% of the total floor area of the dwelling unit shall be used for bed and breakfast sleeping rooms.

(D) *Location of rooms.* No bed and breakfast sleeping rooms shall be located in a basement or attic.

(E) *Cooking.* Cooking for bed and breakfast guests shall take place in the same kitchen as used by the property owner. There shall be no separate cooking facilities in the rented rooms for bed and breakfast stay. Breakfast is the only meal that may be served to guests.

(F) *Bedroom size.* Bed and breakfast bedrooms shall contain a minimum of 120 square feet for the first two occupants, with an additional 30 square feet for each additional occupant.

(G) *Occupants.* Bed and breakfast occupants shall be limited to four in one room at any one time.

(H) *Length of stay.* The stay of bed and breakfast guests shall be no more than 14 consecutive days and not more than 30 days in any one calendar year.

(I) *Restroom.* If one restroom, no more than six people (residents and guests) shall occupy the residence overnight. For each additional restroom, six additional people shall be permitted for overnight stays provided all other aspects of this ordinance are satisfied.

(J) *Sign.* A two-foot square sign, affixed flat against the dwelling and not illuminated, will be permitted.

(K) *Parking surface and screening.* All parking required per §§ 154.070 through 154.075, shall be off the street, in the side or back (not front) yard. In addition to parking places for the owners of a bed and breakfast, one additional parking place must be provided for each room available to be rented. All parking spaces shall be paved or graded to city standards with materials that maintain the historical character of the neighborhood. Natural screening by use of plant materials or other screening may be required to screen parking areas from adjoining residential properties.

(L) *Structural additions.* No additions to existing structures will be approved for the purpose of adding bed and breakfast space. New construction in residential zones will be permitted subject to review and approval of the Planning Commission.

(M) *Common areas.* Bed and breakfast guests shall have access to all common areas, including, but not limited to, dining rooms, parlors, screened-in porches and the like.

(Ord. passed 11-2-2005)

§ 154.113 CAR WASH.

(A) Minimum lot size shall be 12,000 square feet; minimum lot width shall be 100 feet.

(B) All washing activities must be carried on within a building.

(C) The entrances and exits of the facility shall be from within the lot and not directly to or from an adjoining street or alley. A street or alley shall not be used as maneuvering or parking space for vehicles to be serviced by the subject facility.

(D) Ingress and egress drives shall not be less than 15 feet wide.

(E) The entire lot, excluding the area occupied by a building, shall be hard surfaced with concrete or a plant-mixed bituminous material except desirable landscaped areas that shall be separated from all paved areas by a low barrier or curb.

(Ord. passed 11-2-2005)

§ 154.114 HIGH INTENSITY USES.

(A) Standards in this section shall apply to all of the following uses in zoning districts where they are identified as special uses in the district regulations for each zone.

(B) These uses are: petroleum or inflammable liquids production, refining, storage, junk yard, incinerator, incarceration facility, high intensity food processing, fireworks storage and sewage treatment and disposal facility.

(1) *General.* All uses shall be established and maintained in accordance with all applicable state statutes. If any of the requirements of this division are less than those in applicable state statutes, the state requirements shall prevail. All permitted installations shall be maintained in a neat, orderly condition so as to prevent injury to any single property and individual, or to the community in general.

(2) *Tree buffers for junkyards.* Buffers of tree cover shall be provided on the periphery of the property. The buffer shall be no less than 50 feet in width, and may be natural vegetation or planted evergreens if the existing cover is destroyed.

(3) *No hazardous or toxic waste.* No hazardous or toxic wastes, as defined by the Department of Environmental Quality, may be deposited or stored by any use in this group.

(4) *Truck access.* Routes for truck movement to and from the site shall be identified by the County Road Commission. Wear on public roads, traffic hazards and encroachment of noise, dust and other nuisances upon adjacent uses must be considered.

(5) *Activity restrictions.* No open burning shall be permitted and all industrial processes involving the use of equipment for cutting, compressing (other than landfill compaction operations), or packaging shall be conducted within a completely enclosed building.

(6) *Fence requirements.*

(a) *Around incinerator.* Berms and fences shall be constructed around any landfill or incinerator as required by the regulations promulgated by solid waste laws of the state. The berms and fences shall be placed on the interior of the vegetated buffers mentioned above and shall not decrease their width. Fences shall have a gate entrance that can be locked during hours when no operation is taking place.

(b) *Around junk yard or resource recovery.* A solid fence or wall at least eight feet in height shall be provided around the active area of a junk yard or resource recovery operation to screen said activity from surrounding property. Such fence or wall shall be of sound construction, painted or otherwise finished neatly and inconspicuously. All activities shall be confined within the fenced-in area. There shall be no stacking of material above the height of the fence or wall, except that moveable equipment used on the site may exceed the wall or fence height. No equipment, material, signs or lighting shall be used or stored outside the fenced-in area. Aesthetic and structural qualities of fencing shall be regulated by the Planning Commission at the time of site plan review.

(c) *Around sewage treatment or disposal facility.* All operations shall be completely enclosed by a wire link fence not less than eight feet high.

(Ord. passed 11-2-2005)

§ 154.115 INDUSTRIAL PARK.

(A) *Permitted uses in industrial park.* Uses primarily engaged in research and light manufacturing activities.

(1) Uses are allowed that do not have or create external noise, light or a discharge that cannot be disposed of in a municipal sanitary sewer. Uses that meet these requirements are at the determination of the Planning Commission.

(2) Distribution and warehousing plants.

(3) Administrative, professional and business offices associated with and accessory to a permitted use.

(4) Cafeteria, café, restaurant or auditorium accessory with and incidental to any of the foregoing uses.

(5) Agricultural uses, pending development.

(B) *Development standards.*

(1) Setbacks: no building shall be located on any one or more lots nearer to the front line or nearer to the side lot line than the minimum setback set forth below.

(2) Front yard setback: 20 feet, except that unsupported roofs or sun screens may project six feet into the setback area.

(3) Side yard setback: ten feet, provided that a single building is constructed on two or more lots. No fences shall be constructed within the required side yard.

(4) Rear yard setback: the rear yard shall be 30 feet.

(C) *Site coverage.* Maximum building coverage of 50% of a site is allowed. Parking structures shall not be calculated as a building area; however, said structures shall be used only for the parking of company vehicles, employees' vehicles or vehicles belonging to persons visiting the subject firm.

(D) *Building height.* The maximum building height shall be 35 feet.

(E) *Building construction and materials.*

(1) All buildings shall create a credible and acceptable appearance on all four sides. Buildings, including buildings associated with the principal structure, shall be constructed of a material other than unfinished galvanized steel or sheet aluminum for exterior walls. All associated equipment, including roof mounted units, shall be screened from view from any public street. At least 35% of the wall area on the front of the building shall be of face brick, stone, exposed aggregate or of other architectural masonry of equal standard.

(2) The owner shall take appropriate measures to minimize dust, storm water runoff and construction debris during construction and shall be prohibited from allowing construction activities from injuring other properties.

(F) *Parking.* Each owner of a parcel shall provide adequate off-street parking to accommodate all parking needs for the parcel. Required off-street parking shall be provided on the parcel of the use served, or on a contiguous parcel or within 800 feet of the subject parcel. Where parking is provided on other than the parcel concerned, a recorded document shall be filed with the city and signed by the owners of the alternate parcel stipulating to the permanent reservation of the use of the parcel for said parking.

(1) Exceptions to these guidelines shall be made where an approved ride-sharing program to service the industrial park is implemented.

(3) The following guide shall be used to determine parking requirements: office, manufacture, research and assembly: one space for each full time employee (per shift) and one space per 2,000 square feet of total office space (excluding such areas as pedestrian corridors, restrooms, elevator shafts, equipment areas). Warehouse: one parking space for each full time employee (per shift).

(G) *Landscaping.* The front yard setback area of each site shall be landscaped with an effective combination of trees, ground cover and shrubbery. All unpaved areas not utilized for parking shall be landscaped in a similar manner. The entire area between the right-of-way and a point ten feet in back of the front property line shall be landscaped, except for any access driveway in said area.

(1) Side and rear yard setback areas not used for parking or storage shall be landscaped utilizing ground cover and/or shrub and tree materials.

(2) Undeveloped areas proposed for future expansion shall be maintained in a weed-free condition.

(H) *Loading areas.* No loading shall be allowed that is visible from adjacent streets. Street side loading shall be allowed provided the loading dock is set back a minimum of 90 feet from the street right-of-way line, or 130 feet from the street centerline, whichever is greater. Said loading area must be screened from view from adjacent streets.

(I) *Storage areas.* No outdoor storage shall be allowed.

(J) *Refuse collection areas.* All outdoor refuse collection areas shall be visually screened from access streets, freeways and adjacent property by a complete opaque screen made of materials compatible with the building materials used in the principal structure. No refuse collection areas shall be permitted between a frontage street and building line.

(K) *Lighting.* All employee, public and loading entrances shall be lighted. Lights shall be deflected in such a way as to not create a traffic hazard or affect adjoining residents.

(L) *Telephone and electrical service.* All on-site electrical lines and telephone lines shall be placed underground. Transformer or terminal equipment shall be visually screened from view streets and adjacent properties.

(M) *Nuisances.* No portion of the park shall be used in such a manner as to create a nuisance to adjacent sites, such as, but not limited to, vibration, sound, electro-mechanical disturbance, radiation, air or water pollution, dust emission of odorous, toxic or noxious matter. The result of every action or omission whereby any restriction or covenant in this document is violated in whole or in part is hereby declared to be a nuisance.

(Ord. passed 11-2-2005)

§ 154.116 INSTITUTIONS.

(A) *Standards.* Standards in this section shall apply to all of the following uses in zoning districts where they are identified as special uses in the district regulations chapter for each zone. These uses are: religious, social, educational, rehabilitation, incarceration institutions, kennels, museums, libraries and state licensed residential facilities for seven or more residents.

(B) *Site location principles.*

(1) It is desirable that any institutional structure or use to be located within a residential district should be located at the edge of a residential district, abutting either a business or industrial district or adjacent to public open space.

(2) Motor vehicle entrances should be made on a major thoroughfare, or as immediately accessible from a major thoroughfare. This is to avoid the impact of traffic generated by the institutional use upon the residential area.

(3) Site locations that offer a natural or human-made barrier that would lessen the effect of the intrusion of the institutional use into a residential area are preferred.

(C) *Development requirements.* Ambulance and delivery areas shall be obscured from all residential view by a solid masonry wall six feet in height. Access to and from the delivery and ambulance area shall be directly from a major, minor or principal collector thoroughfare.

(D) *Substance abuse rehabilitations center.*

(1) Such uses shall front onto a primary road. The main means of access to the facility for patients, visitors and employees shall be via the primary road. In no case shall access be from a residential street.

(2) The principal building shall be set back at least 50 feet from side and rear property lines. The front yard setback shall meet the requirements of the district in which the facility is located.

(3) Open space will be required and will be site specific.

(4) Screening will be required and will be site specific.

(E) *Kennels, animal shelters and veterinary hospitals.* No animal runs shall be less than 150 feet from a lot line abutting a residential district.

(Ord. passed 11-2-2005)

§ 154.117 MINI-STORAGE.

(A) Site shall be enclosed on side lot lines of development to the front of the building and on the rear lot line by a privacy fence with a

minimum height of five feet and a maximum height of six feet.

(B) Site shall be enclosed at the front setback line of the development by an open-face fence with a minimum height of four feet and maximum height of five feet.

(C) All parking and driveways shall be paved and supplied with proper drainage structures.

(D) Hours of operation must be approved as part of the site plan review process.

(E) No storage of hazardous or flammable liquids, solids or gases.

(F) No business activity shall occur from the storage units.

(G) Site must contain a minimum of 40,000 square feet.

(H) No additional uses will be permitted per 40,000 square feet in addition to mini-storage.

(I) No open storage will be permitted excluding RVs. If RVs are being stored, they must be fully screened from residential view.

(J) Buffering meeting the requirements of § 154.009(A) is required.

(K) All access aisles and entrances to the site shall be paved with asphalt or concrete with appropriate storm water drainage. Where possible, access to individual units shall face the interior of the site to avoid perimeter traffic.

(Ord. passed 11-2-2005)

§ 154.118 OUTDOOR ASSEMBLY.

(A) *Exempt activities.* School fund raising activities are exempt from the special use permit requirements of this section. Private garage and yard sales in any R District are exempt from the special use permit requirements of this section.

(B) *Evidence of ownership or permission.* Evidence of ownership, lease or permission for use of any site for which a temporary permit or approval is sought must accompany all permit requests.

(C) *Length of permit.* A temporary permit may be granted by the Planning Commission for a maximum of three consecutive months. Additional temporary permits for the same proponent on the same site may be granted no sooner than one month following the expiration of the previous permit. The total time period for all temporary permits granted to one proponent shall not exceed six months in one calendar year.

(D) *Temporary structures.* Temporary structures used to support outdoor assembly activities are those with no foundation.

(1) No portion of the structure may become unattached or move as the result of wind.

(2) The temporary structure must be anchored to withstand a 30 pounds per square foot wind stress factor.

(3) Temporary structures must be removed prior to expiration of the permit.

(4) Temporary structures used to support outdoor assembly activities for which the permit is requested shall not be used to provide overnight shelter for people participating in or requesting the special use.

(E) *Uses requiring an official site plan and Planning Commission review.* If the use is for greater than three days, within a 30-day period, a site plan, in conformance with the requirements outlined in Chapter 9, site plan review, must be submitted to the Planning Commission, and all other provisions of this section must be followed, but no fee is required. The owner of the property on which the temporary use is located is responsible for providing the site plan showing the temporary indoor or outdoor use and its conformance with ordinance requirements. This site plan may be an addition to the original plan for the property. Any violations of the temporary use are the responsibility of the owner of the property on which it is located.

(1) *Overnight residing on temporary site.* The temporary site may not be occupied for more than 12 hours per day. In no event shall overnight occupation be automatically permitted. Overnight residing on a temporary site of outdoor assembly is only allowed if specific permission is granted by the Planning Commission or Zoning Administrator.

(2) *Temporary signs.* Temporary signs shall be allowed, by permit, for a total of 30 days in any six-month period. A total of two temporary sign permits may be granted for one parcel in a year.

(3) *Sanitary facilities.* Sites selling items for human consumption must have access to hand washing and toilet facilities. Sites selling items not for human consumption must have access to toilet facilities only.

(4) *Display of goods.* Display and sale of goods may not be within the required yards for the zoning district.

(F) *Uses not requiring an official site plan or Planning Commission approval.* Private temporary outdoor uses and those associated with nonprofit organizations meeting the definition of "nonprofit organizations" in § 154.005, may be granted temporary use permits by the Zoning Administrator, at no cost to the organization. The site plan must be approved by the Fire and Police Departments.

(Ord. passed 11-2-2005)

§ 154.119 PLANNED UNIT DEVELOPMENT.

(A) *Intent.* This section is intended to encourage innovation in land use patterns and variety in design for development of parcels as

well as encouraging economy and efficiency in provision of public services, the use of land, natural resources and energy. These regulations provide flexibility for developers while protecting public values.

(B) *Permitted uses and standards.*

(1) A planned unit development (PUD) may include all uses by right and special uses listed for the zoning district that applies to its site, and for the zoning district that immediately precedes and follows it in the following list of districts:

- (a) R-1;
- (b) R-2;
- (c) R-3;
- (d) B; and
- (e) I.

(2) For example, a PUD proposed for a parcel zoned R-2 could include all uses identified for the R-1, R-2 and B Zoning Districts.

(3) When a Use is listed only as a special use for the applicable zoning districts, all special use permit standards for said use will apply. When a use is listed as a special use in one of the applicable zoning districts, and as a use by right in another, it may be treated as a use by right for the PUD.

(C) *Use density and parcel coverage.* Parcel coverage limits for the applicable zoning district must be met overall, with the following additions.

(1) *Residential coverage in business zoning districts.* For a PUD located in the B Zoning Districts, up to 50% of the allowable parcel coverage may be devoted to structures for residential uses.

(2) *Nonresidential coverage in residential zoning districts.* For a PUD located in the R-1 or R-2 Zoning Districts, up to 20% of the allowable parcel coverage may be devoted to structures for nonresidential uses.

(3) *Residential density.* The maximum residential density shall be one dwelling unit for every 4,000 square feet of parcel area. Single-family or two-family dwellings shall meet the dwelling unit area requirements specified for the R-2 Zoning District. Multiple-family dwellings shall conform to the R-2 requirements.

(D) *Dimensional requirements.* Front yard setback requirements for the applicable zoning district shall apply to all boundaries of the PUD. Building height limitations and minimum yards between dwelling structures shall be as specified for the C-1 Zoning District; however, if plots of land in a PUD are proposed for resale as either fee simple parcels or site condominiums, said parcels or condominium units, and any buildings thereon, must meet the parcel dimension and yard requirements for the R-3 Zoning District.

(E) *Buffering for residential uses.* When a PUD contains a mix of residential and other uses, the following provisions shall be enforced.

(1) *Separate buildings.* In any PUD, a building devoted to nonresidential use must be separated from adjacent residential buildings by a yard area not less than 30 feet across, developed as landscaped open space and not used for parking or circulation of motor vehicles. This area may apply toward satisfaction of the PUD's open space requirement, as noted below.

(2) *Within same building.* When residential and nonresidential uses occupy space in a single building in a PUD, a continuous physical separation must be provided between spaces devoted to said uses. Access doorways are allowed, but the separation must provide at least a one-hour fire rating between residential and nonresidential space.

(F) *Open space.* At least 10% of any parcel containing a PUD must be devoted to landscaped open space. Forest, wetland or other unique environmental areas may be left in a natural state. Cropland may not be counted as landscaped open space, nor may yard areas of individual residential lots be included; however, landscaped yard areas for multiple dwellings or nonresidential uses may be included. If the PUD includes multiple dwellings, it must have at least 1,000 square feet of open space per dwelling unit.

(G) *Parking and circulation.* Parking for uses in a PUD shall conform to the requirements of individual uses. Roadways in a PUD are intended to be public streets, and must be built to the standards of the applicable public agency.

(Ord. passed 11-2-2005)

§ 154.120 RECREATIONAL VEHICLE (RV) PARK.

(A) *Occupancy.* Spaces in RV parks or campgrounds may be used by motor homes, travel trailers, campers, tents or other short-term housing or shelter arrangements.

(B) *Resident manager.* Each RV park or campground shall be directly supervised by a resident manager who may share such duties with other members of his or her family. Management shall be accessible to park tenants at all times (24 hours) when park spaces are rented. The manager's residence shall include the business office for the park and at least 1,000 square feet of living area for the manager's family.

(C) *Regulatory compliance required.* RV parks or campgrounds must maintain compliance with all regulations of the State Department of Community Health and the State Department of Natural Resources that apply to such enterprises. Failure to comply with any such regulation shall constitute a violation of this chapter.

(D) *Greenbelt, fence and setback.* The entire perimeter of any RV park or campground shall be enclosed by a fence at least four feet high. Further, there shall be a greenbelt planting strip not less than 15 feet wide around the entire site. Said greenbelt shall contain at least one straight or staggered row of deciduous or evergreen trees, spaced not more than 20 feet apart and at least two rows of deciduous or evergreen shrubs that will grow to an ultimate height of at least six feet planted not more than six feet apart. All individual campsites are to be set back at least 75 feet from any street right-of-way or neighboring property line.

(E) *Access and circulation.* Each park shall be served by not more than one point of access to each abutting street or road. No such access shall require a turn at an acute angle for vehicles moving in the direction intended. Design of curbs and pavements at such access points shall be such as to facilitate easy movements for vehicles with trailers attached. Clear vision areas shall be maintained for drivers, extending 150 feet in each direction on any abutting road and for 25 feet on the park entrance road. Roadways within the park shall be hard surfaced, dust free and at least 24 feet wide for two-way traffic or 12 feet wide for one-way traffic. Parking shall not be permitted on these roadways, and they shall be posted for a maximum speed of ten mph.

(F) *Personal care facilities.* Each RV park or campground shall include men's and women's restroom and bathing facilities in all-weather, heated structures. These facilities shall include adequate water outlets, washbasins, toilets, showers and waste containers. These facilities shall be provided uniformly through out the park at a ratio not less than one toilet and sink for each eight camping or RV sites. These facilities shall be kept in good working order and each structure shall be cleaned thoroughly daily.

(G) *Other public facilities.* Each park shall have waste pump-out facilities for recreational vehicles that shall have an approved connection to a municipal sewage collection and treatment system or shall have waste removed by a licensed waste hauler for treatment at a municipal treatment facility. Each park shall be served by a commercial solid waste disposal service, providing on-site storage container(s) large enough to accommodate a three-day accumulation of solid waste with all sites in the park occupied. Said service shall provide pick up of waste at least weekly when the park is operating and frequently enough to insure that said container(s) are never overloaded. Finally, at least 15% of the site, not including the greenbelt and setback areas as defined in this section, shall be devoted to shared open space uses, including, but not limited to, playgrounds, picnic areas, court or field sports, or natural areas. This shall not include parking and vehicle circulation areas.

(H) *Individual campsite requirements.* Each RV parking site or campsite shall be a minimum of 1,200 square feet in area and shall include the following amenities: an electrical power outlet and fixed facilities for cooking using charcoal or wood as fuel with a fire that is not placed directly upon the ground, unless in a specified metal fire ring in a specified location. Metal trash container with a lid and volume of at least two cubic feet that shall be emptied daily by park personnel to the solid waste facility and a gravel or hard surfaced parking area of at least 200 square feet.

(Ord. passed 11-2-2005)

§ 154.121 SEXUALLY ORIENTED BUSINESSES/ADULT MEDIA STORES.

(A) *Intent.* There are some uses that because of their very nature are recognized as having serious objectionable operational characteristics, particularly when several of them are grouped. Such uses may have deleterious effects upon the adjacent areas. Special regulation of these uses is necessary to ensure that these adverse affects will not contribute to blighting or downgrade the surrounding neighborhood. These special regulations are itemized in this section. The primary control or regulation is for the purpose of preventing a concentration of these uses in any one area or next to residential zones or certain institutional uses.

(B) *Distance restrictions.*

(1) Sexually oriented businesses or adult media stores shall not be permitted to be established within 1,000 feet of each other. This distance shall be measured from the property lot line of one sexually oriented business or adult media store to the property lot line of the other sexually oriented business or adult media store.

(2) It shall be unlawful to hereafter establish any sexually oriented business or adult media store, as defined, within 1,500 feet of any agriculturally or residentially zoned property or within 1,500 feet of any religious or educational institution, library, day care center, public park or recreational land use. This distance shall be measured from the property lot line of the sexually oriented business to the property lot line of the agriculturally or residentially zoned property or the property lot line of any religious or educational institution, public park or recreational land use.

(C) *Signs and public or exterior display.*

(1) Window displays, signs, decorative or structural elements of buildings shall not include or convey specific examples of actual adult uses, and are limited to the sign provisions of this chapter.

(2) No sexually oriented business or adult media store shall be conducted in any manner that permits the observation of any material depicting, describing or relating to "specific sexual activities", "specified anatomical areas" or "sexually oriented toys or novelties" (as defined in this chapter) from any public way or from any property not licensed as a sexually oriented business or adult media store. This provision shall apply to any display, decoration, sign, show window, structural elements or other opening.

(D) *Precautionary note to the Zoning Board of Appeals.* When considering any appeal from a sexually oriented business or adult media store for reduction of spacing or separation standards established herein, the Zoning Board of Appeals shall address each of the following issues and include the findings regarding each point in their minutes.

(1) *Chapter intent.* The proposed use shall not be contrary to the intent and purpose of this chapter, or injurious to nearby properties.

(2) *Blighting influence.* The proposed use shall not enlarge or encourage the development of a concentration of such uses or blighting influences.

(3) *Neighborhood conservation.* The proposed use shall not be contrary to any program of neighborhood conservation, revitalization or urban renewal.

(4) *Other standards.* The proposed use, and its principal building, shall comply with all other regulations and standards of this chapter.

(Ord. passed 11-2-2005)

§ 154.122 SOIL RESOURCE EXTRACTION, MINING AND POND CONSTRUCTION.

(A) *Scope of regulations.*

(1) This section regulates extraction, filling or repositioning of soil, sand, gravel, clay or other geologic deposit involving disturbance of more than 1,000 cubic yards of material, when such disturbance is not related to construction of a building, structure or parking lot.

(2) This section also applies to artificial ponds created by soil excavation or intervention in watercourses, surface drainage or groundwater aquifers, regardless of size and whether the creation of the pond is an end in itself or merely a by-product of soil extraction activity.

(3) Ponds created by embankments or dams across streams or watercourses are not permitted in the city.

(4) Finally, oil wells are specifically exempted from this section, because they are regulated solely by the State Department of Natural Resources.

(B) *Additional information required for site plan.* The site plan for any activity regulated by this section must include the following additional information.

(1) A profile of the proposed excavation, illustrating elevations and changes in slope, with elevations noted in five-foot intervals. If water is expected to accumulate in the excavation, the projected water level must also be shown.

(2) A soil evaluation report describing the excavation site and any needed drainage or seepage corrections.

(3) The specifications for any spillway or drain for a proposed, including the proposed methods of foundation preparation or fill placement.

(C) *Excavation site requirements.*

(1) Avoid sites of ecological significance, such as wetlands or mature forest. If wetlands are to be affected, a state permit may be needed.

(2) Excavations that create ponds should be located to minimize the chance of pollution from sources such as feedlots, corrals or septic tanks.

(3) Excavations may be no closer than 50 feet, measured horizontally, to a power line, and may not be within a public utility or transportation easement.

(D) *Construction and operation requirements.*

(1) An excavation should not change surface drainage or underwater aquifers so as to adversely impact neighboring uses.

(2) Any pond banks shall have a maximum slope of one foot vertical to four feet horizontal that extends below the projected low water surface elevation to a depth of at least eight feet.

(3) Minimum designed water depth of a pond must be 15 feet to ensure proper aeration and circulation of the water.

(4) All required environmental permits shall be obtained and obeyed, including the soil and sedimentation control permit under Public Act 347 of 1972, being M.C.L.A. §§ 324.9101 through 324.9123a.

(5) Any excavated material not removed from the site shall be graded to a continuous slope that does not exceed one foot vertical to three feet horizontal and arranged to prevent runoff from impacting adjacent properties. Said fill shall blend visually with the surrounding landscape.

(6) By October 15 of each year, the completed portion of an excavation and any disturbed area around it shall be graded and seeded.

(7) No machinery or equipment shall operate, and no trucks, trailers or other conveyances shall arrive at any excavation site before 7:00 a.m. or after 8:00 p.m..

(8) Proper measures shall be taken to minimize the nuisance of traffic noise and flying dust or soil while a site is being excavated.

(9) When two or more dwellings are located within 200 feet of the edge of any water body on an excavation site or on any parcel, said water body shall be enclosed by a fence at least four feet high with a lockable gate.

(10) Ponds constructed for recreational purposes must be located behind the principal structure and outside of the rear and side yards.

(Ord. passed 11-2-2005)

§ 154.123 WIRELESS COMMUNICATION FACILITIES.

(A) *Intent and purpose.* The intent and purpose of these regulations is to accommodate the communications needs of people while protecting the public health, safety and general welfare of the community. These regulations will:

- (1) Facilitate the provision of wireless telecommunication services to the residents and businesses of the city;
- (2) Minimize adverse visual effects of towers through design and siting standards;
- (3) Avoid potential damage to adjacent property from tower failure through structural standards and setback requirements; and
- (4) Maximize the use of existing approved towers and buildings to accommodate new wireless telecommunication facilities in order to reduce the number of towers necessary to serve the community.

(B) *Existing towers and/or structural supports.* A wireless communication facility shall require a building permit in all instances and may be permitted in all districts as follows.

(1) A wireless service facility may locate on any existing commercial guyed tower, lattice tower, monopole, electric utility transmission tower, fire tower or water tower, provided that the installation of the new facility does not increase the height of the existing structure except as provided in the height regulations in this chapter. Such installations shall be permitted by right in all zoning districts and be permitted through city staff review.

(2) Towers supporting amateur radio antennas and conforming to all applicable provisions of this chapter shall be allowed in the rear yard of parcels. Amateur towers shall not support any commercial use antennas.

(3) Commercial or municipal towers conforming to all applicable provisions of this chapter shall be allowed only on the following sites by right and shall be permitted through the site plan review procedures outlined in this chapter:

- (a) Church sites, when camouflaged as steeples or bell towers;
- (b) Park sites, when compatible with the nature of the park; and
- (c) Government, school, utility and institutional sites, according to the statement of priority of users and minimum requirements for use of city-owned properties.

(4) Wireless telecommunication antennas on roofs, walls and existing towers may be approved by the city staff provided the antennas meet the requirements of this chapter after submittal of a final site plan and a report prepared by a licensed professional engineer indicating the existing structure or tower's suitability to accept the antenna and the proposed method for affixing the antenna to the structure. Complete details of all fixtures and couplings and the precise point of attachment shall be indicated.

(C) *Newly constructed towers.* A wireless communication facility shall require a building permit in all instances and may be permitted in all districts as follows.

(1) Newly constructed towers in residentially zoned areas are only permitted if they are towers supporting amateur radio antennas and conforming to all applicable provisions of this chapter. Amateur radio towers shall only be allowed in the rear yard of parcels. Amateur towers shall not support any commercial use antennas.

(2) Newly constructed towers in business or industrial district areas are allowed by special use permit under the following situations. The City Commission finds that the telecommunications equipment planned for the proposed tower cannot be accommodated on an existing or approved tower or building within a one and one-half mile radius of the proposed tower location due to one or more of the following reasons:

(a) The planned equipment would exceed the structural capacity of the existing or approved tower or building, as documented by a qualified and licensed engineer, and the existing or approved tower cannot be reinforced, modified or replaced to accommodate planned or equivalent equipment at a reasonable cost;

(b) The planned equipment would cause interference materially impacting the usability of other existing or planned equipment at the tower or building as documented by a qualified and licensed professional engineer and the interference cannot be prevented at a reasonable cost;

(c) Existing or approved towers and buildings within the search radius cannot accommodate the planned equipment at a height necessary to function reasonably as documented by a qualified and licensed professional engineer; and/or

(d) Other unforeseen reasons make it infeasible to locate the planned telecommunications equipment upon an existing or approved tower or building.

(D) *Collocation.*

(1) Licensed carriers shall share wireless service facilities and sites where feasible and appropriate, thereby reducing the number of wireless service facilities that are stand-alone facilities.

(2) All applicants for a special use permit for a wireless service facility shall demonstrate a good faith effort to collocate with other carriers.

(3) Such good faith effort includes:

- (a) A survey of all existing structures that may be feasible sites for collocating wireless service facilities;
- (b) Contact with all the other licensed carriers for commercial mobile radio services operating in the county; and

(c) Sharing information necessary to determine if collocation is feasible under the design configuration most accommodating to collocation.

(4) In the event that collocation is found to be infeasible, a written statement of the reasons for the lack of feasibility shall be submitted to the city.

(5) The city may retain a technical expert in the field of RF engineering to verify if collocation at the site is not feasible or is feasible given the design configuration most accommodating to collocation. The cost for such a technical expert will be at the expense of the applicant. The city may deny a special use permit to an applicant who has not demonstrated a good faith effort to provide for collocation.

(E) *Tower construction.*

(1) Any proposed commercial wireless telecommunication service tower shall be designed, structurally, electrically and in all respects to accommodate both the applicant's antennas and comparable antennas for at least two additional users.

(2) Towers must be designed to allow for future rearrangement of antennas upon the tower and to accept antennas mounted at varying heights. Towers shall be constructed to ANSI EIA TIA-222-F *Structural Standards for Steel Antenna Towers and Antenna Supporting Structures* and National Building Code construction standards for steel structures.

(F) *Tower, and accessory building design.* Proposed or modified towers and antennas shall meet the following design requirements.

(1) Towers and antennas shall be designed to blend into the surrounding environment through the use of color and camouflaging architectural treatment, except in instances where the color is dictated by federal or state authorities such as the Federal Aviation Administration.

(2) Commercial wireless telecommunication service towers shall be of a monopole design unless the City Commission determines that an alternative design would better blend into the surrounding environment.

(3) All utility buildings and structures accessory to a transmission structure shall be architecturally designed to blend in with the surrounding environment and shall meet the minimum setback requirements of the underlying zoning district. Ground-mounted equipment shall be screened from view by suitable vegetation, except where a design of non-vegetative screening better reflects and complements the architectural character of the surrounding neighborhood.

(G) *Tower setbacks.* Towers shall conform to each of the following minimum setback requirements.

(1) Towers shall meet the setbacks of the underlying zoning district with the exception of industrial zoning districts, where towers may encroach into the rear setback areas, provided that the rear property line abuts another industrially zoned property and the tower does not encroach upon any easements.

(2) Towers shall be set back from planned public rights-of-way as shown on the city's Master Plan by a minimum distance equal to one-half of the height of the tower including all antennas and attachments.

(3) Towers shall not be located between a principal structure and a public street, with the following exceptions:

(a) In industrial zoning districts, towers may be placed within a side yard abutting an internal industrial street; and

(b) On sites adjacent to public streets on all sides, towers may be placed within a side yard abutting a local street.

(4) A tower's setback may be reduced or its location in relation to a public street varied at the discretion of the City Planning Commission to allow the integration of a tower into an existing or proposed structure such as a church steeple, light standards, power line support device or similar structure.

(5) Towers and associated structures, including fencing, may not be constructed within 500 feet of a dwelling unit, except where they are being collocated on existing towers or structures.

(H) *Tower height.* In all zoning districts, the maximum height of any tower, including antennas and other attachments, shall not exceed 150 feet, except as granted by the Zoning Board of Appeals.

(I) *Tower lighting.* Towers shall not be illuminated by artificial means and shall not display strobe lights unless such lighting is specifically required by the Federal Aviation Administration or other federal or state authority for a particular tower. When incorporated into the approved design of the tower, light fixtures used to illuminate ball fields, parking lots or similar areas may be attached to the tower.

(J) *Signs and advertising.* The use of any portion of a tower for signs or other forms of advertising other than warning or equipment information signs are prohibited.

(K) *Abandoned or unused towers or portions of towers.* Abandoned or unused towers or portions of towers shall be removed as follows.

(1) All abandoned or unused towers and associated facilities shall be removed within 12 months of the cessation of operations at the site unless a time extension is approved by the Zoning Administrator. A copy of the relevant portions of a signed lease that requires the applicant to remove the tower and associated facilities upon cessation of operations at the site shall be submitted at the time of application. In the event that a tower and associated facilities are not removed within 12 months of the cessation of operations at a site, the tower and associated facilities may be removed by the city and the costs of removal assessed against the property.

(2) Unused portions of towers above a manufactured connection shall be removed within six months of the time of antenna

relocation. The replacement of portions of a tower previously removed requires the issuance of a new special use permit.

(3) If the abandoned status of a tower or facility is contested, it is the obligation of the owner or lessee to provide documentation that the tower is currently in use within 30 days of written notification of abandoned status.

(L) *Interference with public safety telecommunications.*

(1) No new or existing telecommunications service shall interfere with public safety telecommunications.

(2) All applications for new service shall be accompanied by an inter-modulation study that provides a technical evaluation of existing and proposed transmission and indicates all potential interference problems.

(3) Before the introduction of new service or changes in existing service, telecommunication providers shall notify the city at least ten calendar days in advance of such changes and allow the city to monitor interference levels during the testing process.

(M) *Modifications.* A modification of a wireless service facility may be considered equivalent to an application for a new wireless service facility and will require a special use permit when the following events apply:

(1) The applicant and/or co-applicant wants to alter the terms of the special use permit by changing the wireless service facility in one or more of the following ways:

(a) Change in the number of facilities permitted on the site; and/or

(b) Change in the technology used for the wireless service facility.

(2) The applicant and/or co-applicant wants to add any equipment or additional height not specified in the original design filing.

(N) *Site plan submission requirements.*

(1) *General filing requirements.*

(a) Name, address and telephone number of applicant and any co-applicants as well as any agents for the applicant or co-applicants;

(b) Co-applicants may include the landowner of the subject property, licensed carriers and tenants for the personal wireless service facility; and

(c) Original signatures for the applicant and all co-applicants applying for the special permit. If the applicant or co-applicant will be represented by an agent, original signature authorizing the agent to represent the applicant and/or co-applicant. Photo reproductions of signatures will not be accepted.

(2) *Location filing requirements.*

(a) Identify the subject property by including the municipality as well as the name of the locality, name of the nearest road or roads, and street address, if any;

(b) Tax map and parcel number of subject property;

(c) Zoning district designation for the subject parcel; and

(d) A line map to scale showing the lot lines of the subject property and all properties within 300 feet and the location of all buildings, including accessory structures, on all properties shown.

(3) *Siting filing requirements.*

(a) A one-inch equals 40-feet vicinity plan showing the following:

1. Property lines for the subject property;

2. Property lines of all properties adjacent to the subject property within 300 feet;

3. Tree cover on the subject property and adjacent properties within 300 feet, by dominant species and average height, as measured by or available from a verifiable source;

4. Outline of all existing buildings, including purpose (e.g., residential buildings, garages, accessory structures and the like) on subject property and all adjacent properties within 300 feet;

5. Proposed location of antenna mount and equipment shelter(s);

6. Proposed security barrier, indicating type and extent as well as point of controlled entry;

7. Location of all roads, public and private, on the subject property and on all adjacent properties within 300 feet, including driveways proposed to serve the personal wireless service facility;

8. Distances, at grade, from the proposed personal wireless service facility to each building on the vicinity plan;

9. All proposed changes to the existing property, including grading, vegetation removal and temporary or permanent roads and driveways; and

10. Representations, dimensioned and scale, of the proposed mount, antennas, equipment shelters, cable runs, parking areas and

any other construction or development attendant to the personal wireless service facility.

(b) Siting elevations, or views at-grade from the north, south, east and west for a 50-foot radius around the proposed personal wireless service facility plus from all existing public and private roads that serve the subject property. Elevations shall be at either one-quarter inch equals one foot or one-eighth-inch-equals-one-foot scale and show the following:

1. Antennae, mounts and equipment shelter(s), with total elevation dimensions and AGL of the highest point;
2. Security barrier. If the security barrier will block views of the personal wireless service facility, the barrier drawing shall be cut away to show the view behind the barrier;
3. Any and all structures on the subject property; and
4. Existing trees and shrubs at current height and proposed trees and shrubs at proposed height at time of installation, with approximate elevations dimensioned.

(4) *Design filing requirements.*

(a) Equipment brochures for the proposed personal wireless service facility such as manufacturer's specifications or trade journal reprints shall be provided for the antennas, mounts, equipment shelters, cables as well as cable runs, and security barrier, if any.

(b) Materials of the proposed personal wireless service facility specified by generic type and specific treatment (e.g., anodized aluminum, stained wood, painted fiberglass and the like). These shall be provided for the antennas, mounts, equipment shelters, cables, as well as cable runs, and security barrier, if any.

(c) Dimensions of the personal wireless service facility specified for all three directions: height, width and breadth. These shall be provided for the antennas, mounts, equipment shelters and security barrier, if any.

(d) Landscape plan including existing trees and shrubs and those proposed to be added, identified by size of specimen at installation and species.

(e) If lighting of the site is proposed, the applicant shall submit the manufacturer's computer-generated point-to-point printout, indicating the horizontal foot candle levels at grade, within the property to be developed and 25 feet beyond the property lines. The printout shall indicate the locations and types of luminaries proposed.

(Ord. passed 11-2-2005)

§ 154.124 SPECIAL USE FOR GRID SYSTEMS.

Utility grid wind energy systems, on-site use wind energy system over 60 feet high, and anemometer towers over 60 feet high.

(A) *Intent and purpose.* The intent and purpose of these regulations for the utility grid wind energy systems, on-site use wind energy systems over 60 feet high, and anemometer towers over 60 feet high shall meet the following standards in addition to the general special use standards (§§ 154.110 and 154.111). These regulations will:

- (1) Facilitate the safe development of wind conversion energy on the scale that supports the state utility grid or for those larger installations for on-site use;
- (2) Minimize adverse visual effects of towers through design and siting standards; and
- (3) Avoid potential damage to adjacent property from tower failure through structural standards and setback requirements.

(B) *Property setback.*

- (1) Anemometer tower setback shall be the greater distance of the following:
 - (a) The setback from property lines of the respective zoning district;
 - (b) The setback from the road right-of-way; and
 - (c) A distance equal to the height of the tower from property lines or from the lease unit boundary, whichever is less.
- (2) Utility grid and on-site use wind energy system setback shall be greater distance the following:
 - (a) The setback from property lines of the respective zoning district;
 - (b) The setback from the road right-of-way; and
 - (c) A distance equal to the 110% of the height of the system including the top of the blade in its vertical position from property lines or from the lease unit boundary, whichever is less.

(3) An operations and maintenance office building, a sub-station, or ancillary equipment shall comply with any property set-back requirement of the respective zoning district. Overhead transmission lines and power poles shall comply with the setback and placement requirements applicable to public utilities.

(C) *Sound pressure level.* The sound pressure level shall not exceed 55 dB(A) measured at the property lines or the lease unit boundary, whichever is farther from the source of the noise. This sound pressure level shall not be exceeded for more than three minutes in any hour of the day. If the ambient sound pressure level exceeds 55 dB(A), the standard shall be ambient dB(A) plus 5 dB(A).

(D) *Safety*. Shall be designed to prevent unauthorized access to electrical and mechanical components and shall have access doors that are kept securely locked at all times when service personnel are not present.

(1) All spent lubricants and cooling fluids shall be properly and safely removed in a timely manner from the site of the wind energy system.

(2) A sign shall be posted near the tower or operations and maintenance office building that will contain emergency contact information.

(3) Signage placed at the road access shall be used to warn visitors about the potential danger of falling ice.

(4) The minimum vertical blade tip clearance from grade shall be 20 feet for a wind energy system employing a horizontal axis rotor.

(E) *Post-construction permits*. Construction codes, towers and interconnection standards shall comply with all applicable state construction and electrical codes and local building permit requirements.

(F) *Pre-application permits*.

(1) Utility infrastructure: shall comply with Federal Aviation Administration (FAA) requirements, the Michigan Airport Zoning Act (Public Act 23 of 1950 as amended, being M.C.L.A. §§ 259.431 *et seq.*), the Michigan Tall Structures Act (Public Act 259 of 1959 as amended, being M.C.L.A. §§ 259.481 *et seq.*) and local jurisdiction airport overlay zone regulations. The minimum FAA lighting standards shall not be exceeded. All tower lighting required by the FAA shall be shielded to the extent possible to reduce glare and visibility from the ground. The tower shaft shall not be illuminated unless required by the FAA. Utility grid wind energy systems shall comply with applicable utility, the State Public Service Commission and Federal Energy Regulatory Commission interconnection standards.

(2) Environment:

(a) The site plan and other documents and drawings shall show mitigation measures to minimize potential impacts on the natural environment including, but not limited to wetlands and other fragile ecosystems, historical and cultural sites, and antiquities, as identified in the environmental analysis.

(b) Comply with applicable parts of the Michigan Natural Resources and Environmental Protection Act (Public Act 451 of 1994, being M.C.L.A. §§ 324.101 *et seq.*) including, but not limited to:

1. Part 31 Water Resources Protection (M.C.L.A. §§ 324.3101 *et seq.*)

2. Part 91 Soil Erosion and Sedimentation Control (M.C.L.A. §§ 324.9101 *et seq.*)

3. Part 301 Inland Lakes and Streams (M.C.L.A. §§ 324.30101 *et seq.*)

4. Part 303 Wetlands (M.C.L.A. §§ 324.30301 *et seq.*) as shown by having obtained each respective permit with requirements and limitations of those permits reflected on the site plan.

(G) *Performance bond*. Performance bond, pursuant to § 154.135, shall be provided for the applicant making repairs to public roads damaged by the construction of the wind energy system

(H) *Utilities*. Power lines should be placed underground, when feasible, to prevent avian collisions and electrocutions. All above-ground lines, transformers or conductors should comply with the Avian Power Line Interaction Committee (APLIC, <http://www.aplic.org/>) published standards to prevent avian mortality.

(I) *Application*. The following standards apply only to utility grid wind energy systems.

(1) Visual impact: utility grid wind energy system projects shall use tubular towers and all utility grid wind energy systems in a project shall be finished in a single, non-reflective matte finished color. A project shall be constructed using wind energy systems of similar design, size, operation and appearance throughout the project. No lettering, company insignia, advertising or graphics shall be on any part of the tower, hub or blades. Nacelles may have lettering that exhibits the manufacturer's and/or owner's identification. The applicant shall avoid state or federal scenic areas and significant visual resources listed in the local unit of government's plan.

(2) Avian and wildlife impact: site plan and other documents and drawings shall show mitigation measures to minimize potential impacts on avian and wildlife, as identified in the avian and wildlife impact analysis.

(3) Shadow flicker: site plan and other documents and drawings shall show mitigation measures to minimize potential impacts from shadow flicker, as identified in the shadow flicker impact analysis.

(4) Decommissioning: a Planning Commission approved decommissioning plan indicating:

(a) The anticipated life of the project;

(b) The estimated decommissioning costs net of salvage value in current dollars;

(c) The method of ensuring that funds will be available for decommissioning and restoration; and

(d) The anticipated manner in which the project will be decommissioned and the site restored.

(5) Complaint resolution: a Planning Commission approved process shall be put in place to resolve complaints from nearby residents concerning the construction or operation of the project.

(6) Electromagnetic interference: no utility grid wind energy system shall be installed in any location where its proximity to existing fixed broadcast, retransmission or reception antennas for radio, television or wireless phone or other personal communication systems would produce electromagnetic interference with signal transmission or reception, unless the applicant provides a replacement signal to the affected party that will restore reception to at least the level present before operation of the wind energy system.

(J) *Installation.* No utility grid wind energy system shall be installed in any location within the line of sight of an existing microwave communications link where operation of the wind energy system is likely to produce electromagnetic interference in the link's operation unless the interference is insignificant.

(Ord. 190, passed 6-7-2010)

SITE PLAN REVIEW

§ 154.135 GENERAL PROVISIONS.

(A) Various provisions of this chapter require review of site plans before certain types of administrative approval may be granted. This section defines the procedures and standards to be used for such a review.

(1) *Situations requiring a formal site plan review.*

(a) The City Planning Commission must review and approve site plans before granting approval to special use permits, except in those cases such as bed and breakfasts and outdoor assembly where the City Administrator judges a site plan to be unnecessary.

(b) In addition, and in the case of new development, site plan review before the City Planning Commission is required for any project meeting one of the following conditions:

1. The proposed project will have more than two dwelling units;
2. The proposed project is in a business zoning district; or
3. The proposed project is in an industrial district. In the case of existing development, a site plan review is required when:
 - a. The project involves increasing the footprint by 10% or more of any residential structure with more than two units, or any business or industrial structure or use;
 - b. The project involves expansion of a legal nonconforming use, building or structure under the terms of this chapter. Illegal or unacceptable nonconforming uses may not expand; or
 - c. The project is a special use.

(2) *Required.* At no time shall a site plan review be required as a part of the decision process for a rezoning. This is because the decision to rezone property should be based on consideration of its effects on long-range plans for the city, and on the merits of the proposed zoning district, and the uses it would allow, as they relate to the subject property and surrounding area.

(B) *Site plan review process.*

(1) *Application deadlines.* If a zoning application requires a site plan review by the Planning Commission, a complete application package must be received at least 30 days before the date of a Planning Commission meeting in order to be reviewed at said meeting. If a site plan review is being conducted for a special use permit or subdivision plat, the application timetable specified for that process applies.

(2) *Application material.* Applications requiring site plan review must be accompanied by a fee as established by the City Commission, and by at least ten 11-inch by 17-inch copies of a site plan that meets the following requirements stipulated below. The application will not be reviewed until the complete application package has been submitted, including the fee.

(3) *Site plan requirements.* All applicants shall complete the site plan review checklist. The site plan review checklist is available at the city offices. Site plans shall conform to the provisions approved on the checklist. All site plans must bear the stamp of a licensed engineer or architect with civil engineering or architecture qualifications. Note that any proposed construction, landscaping, retention of natural features or other property conditions depicted in the site plan submission will be relied upon by the Planning Commission in its review. Therefore, these conditions become requirements for approval of the site plan. Failure to abide by such conditions constitutes a violation of the terms of the site plan approval.

(a) *Scale.* The site plan must be drawn to a consistent scale of not less than one inch equals 50 feet for sites of three acres or less, or one inch equals 200 feet for larger sites.

(b) *Identification.* The applicant's name, address and telephone number and the name and address of the firm(s) responsible for preparation of the site plan must be included. If the applicant does not own the property, the owner must be identified and must sign a statement certifying that the applicant is acting in the owner's behalf.

(c) *Property information.* The site plan must accurately depict the subject property and land adjacent to and across any thoroughfare from it, including all existing and proposed easements or rights-of-way. Zoning of the site, and of adjacent properties, must be identified. A legal description and computation of the area of the property must accompany the site plan. Where more than one description exists for a parcel of land, the legal description on file with the County Register of Deeds will be the legal description upon which a site plan decision is based.

(d) *Site features.* The site plan should depict existing environmental conditions, including the locations of wooded areas or isolated trees over six inches in diameter, topography, drainage features showing the type and direction of flow, wetlands, any existing

structures, including those proposed for removal, and other significant conditions. The approximate location and use of structures and the location of the nearest driveways on adjacent or opposing parcels should be shown.

(e) *Transportation features.* The site plan must show the location and surface type of all existing and proposed public and private roads, access drives, internal vehicle circulation areas, parking lots (including number and location of handicapped parking spaces), sidewalks (required for all development), loading areas or docks, truck bays and refuse pickup stations.

(f) *Shared access.* The Planning Commission must require shared access between and among uses where feasible, excluding single-family residential uses. Feasibility is determined with respect to the physical design of the site and not the effort or costs involved with achieving joint access. This requirement applies to driveways and access drives associated with site redevelopment or new construction. In the case of new development, a joint driveway easement must be signed by all property owners involved prior to a construction permit being issued. Driveways must be designed to allow joint access in the future, where feasible, and an easement to allow future use of the drive for joint access must be signed at the time of site plan approval. Shared drives must be shown on site plans at the time of review by the Planning Commission. Refusal to design a site with provisions for joint access or refusal to participate in a joint access easement is justification for site plan denial by the Planning Commission.

(g) *Utilities.* The site plan must show the location and size of all existing and proposed public utilities. Water line information shall include locations of existing and proposed fire hydrants and valves. Sanitary sewer information shall include location of any pumping stations and approximate location of manholes. Storm drainage information shall include any enclosed drains, flow restrictors and on-site retention. The site plan must also include any existing or proposed private utilities, such as natural gas, electricity, telephone and cable television.

(h) *Structures.* The site plan must show the location and dimensions, including height, of all proposed buildings, accessory structures and related features. For multi-family housing developments, the number of units in each building must be identified. Schematic plans and elevations of all structures exceeding 5,000 square feet of total floor area must be included. The site plan should also show the location, arrangement, dimensions and type of proposed signs, lighting, landscaping, dumpsters, screening, fences and decorative walls.

(i) *Supplementary material.* The site plan shall be complemented by any additional information that, in the Zoning Administrator's discretion, is important for the site plan review process. This could include, but not be limited to, an assessment of the proposed project's impact on environmental, historic social or economic conditions; traffic studies; or proposed measures to control or mitigate such impacts as noise, smoke, particulates, vibration, odors or fire hazards.

(j) *Performance bond.* Further, the Planning Commission is empowered to require and at its option may require a performance bond or certified check in an amount equal to the estimated cost of improvements associated with the project. Such performance guarantee shall be deposited with the City Clerk at the time of the issuance of the permit authorizing the activity or project to insure faithful completion of the improvements indicated with the approved site development plan; if not, the performance bond shall be forfeited. The city shall rebate a proportional share of the deposit, when requested by the depositor, based on the percent of improvements completed, as attested to by the depositor and verified by the City Administrator. The City Administrator may, at his or her discretion, call upon professional assistance from the City Engineer, or Building Inspectors. In cases where the provisions above have not been met, the amount of the aforementioned performance guarantee shall be used by the city to return the property to a safe and healthy condition and the balance, if any, shall be returned to the applicant.

(4) *Staff review of site plan.*

(a) *Persons involved.* Before the site plan is reviewed by the Planning Commission, the City Building Inspector, Engineer or contracted engineering services, Public Works Director and Fire Chief, or their designees, shall be given an opportunity to review and comment upon it. In addition, the Zoning Administrator may submit the site plan to any other department of city government that he or she believes would have an interest in some aspect of the proposed project. Staff members wishing to comment upon the site plan must transmit their comments in writing to the Zoning Administrator at least five days before the Planning Commission meeting at which the site plan is to be reviewed. After receiving any staff comments, the Zoning Administrator shall recommend to the Planning Commission what action should be taken.

(b) *Standards to be used.* Reviewers shall address the considerations identified by the review standards in this chapter. If a site plan review is being conducted for a proposed special use permit, the additional special use permit review standards listed for the particular use and zoning district shall be considered also.

(5) *Planning Commission review of site plan.* The Planning Commission shall address the site plan review at a public meeting. A public hearing will be held only if any party submits a written request to the City Clerk prior to the Planning Commission meeting at which the site plan is to be considered. In such cases, the public shall be heard before the Planning Commission acts upon the site plan; however, a site plan review does not require either a public hearing or special notification of anyone. The findings of a staff review of the site plan and any public comments shall be taken into consideration by the Planning Commission, but are not binding upon it in any way. In the interest of providing a timely response to the applicant, the Planning Commission must take one of the following actions at the meeting during which the site plan review is conducted:

(a) *Approval.* An affirmative vote of the majority of Planning Commission members present at the meeting is necessary to approve a site plan;

(b) *Conditional approval.* The Planning Commission may elect to attach conditions to its approval of a site plan. Conditions must be justified by one or more requirements of this chapter, or by provisions of other local, state or federal laws. These conditions, together with the regulatory authority and reasoning that justifies them, must be identified in the motion for site plan approval and communicated to the applicant in writing. The conditions shall become a part of the site plan, as inseparably as if they were part of the applicant's original submission. Approval of any proposed site plan that must also receive approvals from other public agencies must obtain

approvals from those agencies before seeking site plan review. This shall include any variances that must be issued by the City Zoning Board of Appeals. Approval of a variance for conditions that differ from those depicted on the site plan must be obtained prior to site plan review by the Planning Commission; or

(c) *Denial with explanation.* Failure to comply with one or more of the review standards is the only justification for denial of a site plan. The vote of a majority of Planning Commission members present at the meeting in which the site plan is reviewed is required to deny it. The motion to deny must state which of the review standards was not met by the site plan, and how the plan failed to meet the standard. The motion to deny may also suggest methods by which the shortcoming might be corrected. The applicant shall be notified in writing of the Planning Commission's denial of the site plan, with the full text of the motion to deny reproduced in the communication.

(6) *Deviations from approved site plan.*

(a) It is recognized that unforeseen circumstances can necessitate changes in a project during its development. Therefore, minor deviations from an approved site plan are permitted if the Zoning Administrator determines that all site plan review standards have been complied with.

(b) However, if the Zoning Administrator finds that a deviation from the approved site plan does not comply with the review standards, he or she shall notify the permit holder immediately, the City Building Inspector, and the Planning Commission, in writing that the site plan approval has been suspended. The permit holder's notice shall be delivered by certified mail. If construction has begun, a stop-work order shall be issued by the Building Inspector, affecting that portion of the project that is not in compliance with the site plan review standards.

(c) Once a site plan approval for a project has been suspended, the permit holder has the option of changing the project plans to conform to the review standards, or of restarting the site plan review process. When the issue has been resolved, the Zoning Administrator shall send a written notice to the permit holder, the Building Inspector and the Planning Commission that the project's site plan has again been approved.

(d) This provision should not be construed to prohibit phased development of a project, provided that each phase complies with the requirements of the review standards and with the approved site plan.

(e) If any deviations from an approved site plan are made, an "as built" version of the site plan shall be provided to the Zoning Administrator before the Building Inspector issues final approval for the project and before any performance guarantee may be fully refunded.

(7) *Record to be maintained.* The record relating to any approved site plan shall be maintained by the Zoning Administrator. This record shall include an official copy of the final site plan as it was approved by the Planning Commission, dated and signed by the permit holder, the Planning Commission Chairperson and the Zoning Administrator. The record shall also include documentation of any conditions attached to the site plan approval and evidence of the satisfaction of these conditions. It shall also include documentation of any allowed deviations from the approved site plan, dated and signed by the permit holder and the Zoning Administrator.

(C) *Site plan review standards.* All site plan reviews shall use only the following set of standards to judge whether the site plan should be approved or denied. No off-site improvements can be required as conditions for site plan approval, unless the applicant had volunteered to construct such improvements as documented by his or her original site plan drawing(s); however, if the lack of such off-site improvements will create unacceptable conditions, said lack is sufficient justification for denial of a site plan.

(1) *District regulations.* The project must comply with the applicable district regulations regarding use, dimensions, off-street parking and any other aspects. (When the site plan review is being conducted as part of the consideration process for a special use permit or a planned unit development, the use of the site will be addressed after the site plan review. Therefore, it must be presumed for this purpose that the use of the site will conform to the district regulations.)

(2) *Supplementary regulations.* The project must comply with any and all of the supplementary regulations that may apply to it.

(3) *Special use standards.* If the site plan review is being conducted for a proposed special use permit, any special use standards relating to the proposed use must be satisfied.

(4) *Building arrangements.* Site plans will be evaluated on the basis of scale, circulation of air, provisions of adequate access to and around buildings for police and fire protection services, establishment of pleasant vistas, arrangements conducive to enhancing the environmental quality of the site when developed, minimizing the extent of impervious ground cover and minimizing the destruction of natural features that contribute to environmental quality.

(5) *Transportation.* Transportation facilities serving the parcel must be sufficient to provide safe and efficient access to the parcel and circulation within it. Consideration shall be given to road rights-of-way, surface type, number of lanes, driveway design and location, vehicular circulation within the parcel, parking, snow removal from transportation facilities, public transit, pedestrian circulation, emergency vehicle access and accessibility for handicapped persons.

(6) *Driveways.* All driveways serving customer or employee parking lots shall provide two-way traffic, unless otherwise part of a one-way entrance and exit system. All driveways shall be a minimum of 20 feet wide. A lesser width may be permitted if it can be proven that the driveway will be increased to 20 feet due to a joint arrangement with an adjacent property owner. Driveways must have a raised curb that continues to the edge of the travel portion of the public street if curbing is in place or planned for the public right-of-way. Except for large parking lots, driveways shall be limited to one per development.

(7) *Utilities.* Public utilities, including water, sewer and storm drainage facilities, must be adequate to serve the proposed use, or sufficient provisions shall be made to provide these services on the site. Private utility services, including electricity, telephone, natural gas and cable television, must also be sufficient to serve the needs of the project. When the adequacy of any public utility service to the

site is in question, the input of the appropriate public utility provider shall be sought.

(8) *Signs and lighting.* Lighting is intended to illuminate parking and vehicular areas for the purpose of increasing the safety of the users. Appropriate lighting standards should be located on separate ground-mounted standards adjacent to or the parking lot or vehicular use areas.

(9) *Fire protection.* The proposed project must comply with applicable fire safety regulations. Also, current City Fire Department personnel and equipment must be sufficient to serve the project. Finally, location, number and capacity of fire hydrants must be adequate to serve fire suppression needs.

(10) *Environment.* Natural features of the landscape should be retained wherever practicable to furnish a buffer between the project and adjoining property(ies) or help to control erosion, contain storm water runoff, absorb noise, deflect wind currents, reduce glare or otherwise benefit the general health, safety or appearance of the neighborhood. Any buildings, fences, lighting, vegetation or other features that are introduced into the landscape should be designed to complement the site's surrounding environment and enhance the positive features of the project. The site plan should be developed with the goal of controlling any negative impacts the project may have, such as noise, smoke, vibration, odor, glare, heat or dust so that they will not be discernible beyond the property boundaries. Further, projects shall fully adhere to applicable environmental regulations promulgated by the State Department of Natural Resources or other agencies.

(11) *Storm drainage.* Surface drainage, otherwise referred to as sheet drainage, to the right-of-way, or adjacent properties is unacceptable.

(12) *Consistency with ordinance intent.* The site plan should be generally consistent with the purpose and objectives of this chapter, as stated in § 154.002, and with the purpose of the district in which the subject parcel is located, as expressed in the intent and purpose table in § 154.030.

(Ord. passed 11-2-2005; Ord. 192, passed 3-21-2011)

ADMINISTRATION, ENFORCEMENT AND AMENDMENTS

§ 154.150 PEOPLE INVOLVED IN THE ZONING PROCESS.

The provisions of this chapter shall be carried out by the City Planning Commission, the Zoning Board of Appeals, the City Commission, and the City Zoning Administrator in conformance with applicable state enabling legislation.

(A) Zoning Administrator.

(1) The City Commission, with the recommendation of the Planning Commission, shall employ a Zoning Administrator to carry out day-to-day administration and enforcement of this chapter. The City Commission may designate the Building Inspector as the Zoning Administrator. Conditions of the Zoning Administrator's employment, including compensation, shall be established by the City Commission. Additional staff may be employed, under the supervision of the Zoning Administrator, to assist with administration and enforcement of this chapter.

(2) The Zoning Administrator's duties shall include the following items and any other tasks that may be assigned by the City Commission or provisions of this chapter.

(a) *Accept and record applications, issue and record permits.* All applications for site plans shall be submitted to the Zoning Administrator who shall keep a record of all applications that have been submitted and their disposition. When all applicable provisions of this chapter have been met regarding any application, the Zoning Administrator shall allow a building permit to be issued for the proposed use. When conditions are not met, the Zoning Administrator shall consult with the applicant to determine the proper course of action (see "review process" table in § 154.151(G)). The Zoning Administrator shall maintain a record of all applications, including documentation for each.

(b) *Issue written denial.* When any application for a site plan is denied, the Zoning Administrator shall provide the applicant with a written denial, stating the reasons for the denial.

(c) *Notice of hearings.* Whenever a zoning matter is the subject of a public hearing before the Planning Commission or the Zoning Board of Appeals, the Zoning Administrator shall prepare notices of the hearing and disseminate said notices as required by this chapter.

(d) *Inspections.* The Zoning Administrator shall be empowered to make inspections of buildings or premises to carry out enforcement of this chapter.

(e) *Record nonconforming uses.* The Zoning Administrator shall record all nonconforming uses existing at the effective date of this chapter.

(f) *Record special uses.* The Zoning Administrator shall keep a record of all special use permits issued under the terms of this chapter.

(g) *Record interpretations of chapter.* The Zoning Administrator shall maintain a concise record of all interpretations of this chapter rendered by the Zoning Board of Appeals. Interpretations of this chapter do not include dimensional or administrative issues. This record shall be consulted whenever questions arise concerning interpretation of any provision of this chapter to determine whether any applicable precedents have been set.

(h) *Public information.* The Zoning Administrator shall respond to inquiries and dispense information or copies of this chapter to make the public aware of and familiar with the provisions of this chapter. Public awareness and acceptance of this chapter will help to

maintain compliance with it.

(i) *Respond to complaints.* The Zoning Administrator shall respond within five business days, whenever possible, to any complaint regarding an alleged violation of the terms or conditions of this chapter or any permit issued pursuant to it. The Zoning Administrator shall provide a report at each regular Planning Commission meeting summarizing the nature and disposition of complaints that have been received. A written record of all complaints, responses and dispositions of the complaint will be maintained.

(j) *May not change chapter.* Under no circumstances is the Zoning Administrator permitted to make changes in this chapter or to vary the terms of this chapter.

(B) *Planning Commission.*

(1) *Membership.* The Planning Commission shall be composed of nine members, appointed by the Mayor with the approval of the City Commission.

(2) *Terms of office.* The term of service for each member shall be three years. Rotation of membership is encouraged.

(3) *Rules of procedure.* The Planning Commission shall adopt its own rules of procedure as may be necessary to conduct its meetings and carry out its function. The Commission shall choose its Chairperson, Vice Chairperson and Secretary.

(4) *Meetings.* The Planning Commission shall meet monthly and by resolution shall determine the time and place of meetings. All meetings shall be properly noticed and open to the public.

(5) *Per diem or expenses.* Members of the Planning Commission may be compensated for their services as provided by the City Commission. The Planning Commission may make and administer regulations relative to compensation for the travel of its members and employees when engaged in the performance of activities authorized by the Planning Commission.

(6) *Development plan.* The Planning Commission shall make and adopt a basic plan as a guide for the development of the city. Plan contents, adoption, amendment, approval by the County Planning Commission, hearing and publication shall be according to M.C.L.A. §§ 125.3101 through 125.3702 and M.C.L.A. §§ 125.3801 through 125.3885, as amended.

(7) *Zoning ordinance.* The zoning ordinance shall be based on a plan designed to promote the public health, safety and general welfare.

(8) *Administration and enforcement.* The Planning Commission shall be responsible for the following administrative and enforcement activities under this chapter.

(a) *Site plan approval.* The Planning Commission shall review site plans and issue its approval, conditional approval or denial.

(b) *Special use permits.* The Planning Commission shall conduct a public hearing on any application for a special use permit. Following a public hearing, the Planning Commission shall review and approve or deny said application. The Planning Commission shall also take any necessary action to revoke a special use permit.

(c) *Rezoning or amendment.* The Planning Commission shall conduct public hearings for proposals to rezone property or amend the text of this chapter. Following a public hearing, the Planning Commission shall make its recommendation regarding the proposed rezoning or text change to the City Commission. The Planning Commission may initiate a text change or rezoning, subject to the requirements for notice, hearing and City Commission approval.

(C) *Zoning Board of Appeals.* See §§ 154.165 and 154.166.

(D) *City Commission.*

(1) On recommendation of the Planning Commission, the City Commission has adopted the zoning ordinance, making it the enforceable policy of city government.

(2) Likewise, the City Commission may amend the text of this chapter or the boundaries of zoning districts (rezoning).

(3) The City Commission may review all zoning decisions of the Planning Commission. The City Commission shall, by resolution, set fees to be charged for any administrative action under this chapter. The Commission may also act to waive any fee.

(Ord. passed 11-2-2005)

§ 154.151 ADMINISTRATIVE PROCESSES.

(A) *Building permit required.* The issuance of a building permit, showing compliance with this chapter, signifies compliance with the requirements of this chapter. A building permit must be obtained from the Building Official before any of the following activities may legally take place:

(1) Occupancy and use of vacant land (including parking lot construction);

(2) Any change in the use of a parcel of land or a building, including any construction or structural alteration of a building that requires issuance of a building permit by the City Building Inspector;

(3) Any use of land or a building that would be identified as a use by special use permit by the Uses Table in § 154.030, for the zoning district in which the parcel is located; and

(4) Any change of a nonconforming use or building.

(B) *Application for building permit.* Application for a building permit shall be made ten days before construction of a new or enlarged building or structure, or a new or enlarged use of a parcel, is intended to begin. Form and content of the application package shall be as specified by the following material:

(1) *Application form.*

(a) Applicants for a building permit shall submit a zoning application form with all requested information completely filled in.

(b) If the City Building Inspector also acts as Zoning Administrator, the Inspector may elect to accept information submitted for a building permit without duplicating it on the building application form.

(2) *Property information.* The building application form must be accompanied by a copy of a property survey, deed or tax records sufficient to allow identification of the parcel in the City Assessor's property maps. When the applicant is anyone other than the property owner identified by the Assessor's records, evidence of the owner's concurrence or a change in ownership must also be submitted.

(3) *Plot plan.*

(a) The Building Application Form must also be accompanied by a plot plan drawn at size and scale sufficient to clearly identify the exact dimensions of the parcel, all abutting streets, alleys or easements, and the size, position and height of all existing and proposed buildings or structures thereon.

(b) The Zoning Administrator may also require any other information deemed necessary for the proper enforcement of this chapter.

(C) *Application review process.*

(1) On submission of an application for a site plan, the Zoning Administrator will review the application material as described by the Review Process Table in division (G) below.

(2) Whenever possible, it is desirable for this review to be conducted with the applicant present to facilitate any necessary explanation.

(3) The review will address each question identified by the Review Process Table in order, moving through each column in the question from left to right.

(D) *Record maintained.* The Zoning Administrator shall keep a record of each application for a site plan that has been submitted, including the disposition of each one. This record shall be a public record, open for inspection upon request.

(E) *Validity of building permit.*

(1) A building permit remains in effect for a period of one year from the date it is issued. By that time, the activity authorized by the permit must have begun.

(2) This means that any use of land or of an existing building must be underway, or a building permit for any new construction must have been issued and construction commenced.

(3) The validity of a building permit may be extended by the Zoning Administrator not more than one time, for a period not to exceed one additional year.

(4) Said extension must be requested in writing by the permit holder before the expiration of the initial permit period.

(F) *Voiding of a building permit.*

(1) (a) If the permit holder fails to initiate the activity authorized by the building permit by the end of the one-year extension, the building permit is automatically null and void.

(b) Any additional rights associated with the building permit that have been granted by the Planning Commission or the Zoning Board of Appeals, such as special use permits or variances, expire together with the building permit.

(2) Any performance guarantee shall be refunded to the permit holder unless the failure to initiate activity has resulted in costs to the city that were to be covered by the guarantee. If any amount of the guarantee remains after said costs are satisfied, the balance of the guarantee shall be released and returned to the permit holder.

(3) Re-issuance of a building permit that has expired requires a new building application form to be filed with the Zoning Administrator and processed without consideration of any previous action.

(G) *Review process table.* This table follows on the next two pages.

<i>Review Process Table; Initial Review Process</i>					
<i>Question</i>	<i>Refer To</i>	<i>If All Standards Are Met, Next Step</i>	<i>If Standards Are Not Met</i>		
			<i>Situation</i>	<i>Applicant's Options</i>	<i>Next Step</i>
<i>Review Process Table; Initial Review Process</i>					

<i>Question</i>	<i>Refer To</i>	<i>If All Standards Are Met, Next Step</i>	<i>If Standards Are Not Met</i>		
			<i>Situation</i>	<i>Applicant's Options</i>	<i>Next Step</i>
#1 Is proposed activity permitted in this zoning district?	§ 154.030	Activity is a use by right: go to question #2; or activity is a special use; go to Actions Table: Special Use Permit. Continue to Question #2	Activity is permitted in a different zoning district	Request a rezoning	Actions Table: Rezoning
			Activity is not listed for any zoning district	Request an interpretation appeal	Actions Table: Interpretation
			Applicant does not agree with Administrator's finding	Request an administrative appeal	Actions Table: Administrative appeal
			Any situation	Withdraw	Denial letter
#2 Does the parcel meet standards for this zoning district?	§ 154.031 - "Lot Size"	Go to Question #3	Any situation	Request a dimensions variance	Actions Table: Variance
			Applicant does not agree with Administrator's finding	Withdraw	Denial letter
				Request an administrative appeal	Actions Table: Administrative appeal
#3 Does existing or proposed structure or building meet yard and area standards?	§ 154.031	Go to Question #4	Existing facility violates standards	Request a dimensions variance	Actions Table: Variance
				Continue with process as is	Nonconformities
			Proposed facility will violate standards	Request a dimensions variance	Actions Table: Variance
				Amend application to meet all standards	Go to Question #4
			Applicant does not agree with Administrator's finding	Request an administrative appeal	Actions Table: Administrative appeal
			Any situation	Withdraw	Denial letter

Review Process Table; Initial Review Process

<i>Question</i>	<i>Refer To</i>	<i>If All Standards Are Met, Next Step</i>	<i>If Standards Are Not Met</i>		
			<i>Situation</i>	<i>Applicant's Options</i>	<i>Next Step</i>

Review Process Table; Initial Review Process

<i>Question</i>	<i>Refer To</i>	<i>If All Standards Are Met, Next Step</i>	<i>If Standards Are Not Met</i>		
			<i>Situation</i>	<i>Applicant's Options</i>	<i>Next Step</i>
			Existing facility violates standards	Request a dimensions variance	Actions Table: Variance
				Continue with process as is	§ 154.006 - Nonconformities

#4 Will proposed activity meet parking requirements?	Parking Table and Off-Street Parking Requirements	Go to Question #5	Proposed facility will violate standards	Request a dimensions variance	Actions Table: Variance
				Amend application to meet all standards	Go to Question #5
				Withdraw	Denial letter
			Applicant does not agree with Administrator's finding	Request an administrative appeal	Actions Table: Administrative appeal
#5 Will proposed activity meet all supplementary regulations?	§§ 154.006 through 154.010	Go to Question #6	Proposed activity will violate measurable standards	Request a dimensions variance	Actions Table: Variance
				Amend application to meet all standards	Go to Question #6
				Withdraw	Denial letter
			Proposed activity will violate non-measurable, written standards	Request a text change	Actions Table: Text change
				Amend application to meet all standards	Go to Question #6
				Withdraw	Denial letter
			Applicant does not agree with Administrator's finding	Request an administrative appeal	Actions Table: Administrative appeal
#6 Has permit fee been paid?	Fee schedule	Issue permit	Fee represents a serious hardship to applicant	Request a fee waiver	Actions Table: Fee waiver
				Withdraw	Denial letter

(Ord. passed 11-2-2005)

§ 154.152 ENFORCEMENT.

(A) *Responsibility.* The Zoning Administrator shall enforce the provisions of this chapter.

(B) *Violations and penalties.* Violations of any provisions of this chapter are declared to be a nuisance per se. Any and all building or land use activities that are considered to be possible violations of the provisions of this chapter, and that are observed by or communicated to a city official or employee, shall be reported to the Zoning Administrator.

(1) *Inspection of violation.* The Zoning Administrator shall inspect each alleged violation he or she observes or is made aware of and shall order correction, in writing, of all conditions found to be in violation of this chapter.

(2) *Correction period.* All violations shall be corrected within a reasonable time period determined by the Zoning Administrator, but not to exceed 30 days.

(3) *Action by city attorney.*

(a) A violation not corrected within this period shall be reported to the City Attorney, who shall initiate procedures to eliminate such violation.

(b) Once a violation has been referred to the City Attorney, any legal action that the Attorney deems necessary to restore compliance with all terms and conditions of this chapter is hereby authorized.

(4) *Cumulative rights and remedies.* The rights and remedies provided herein are cumulative and in addition to any other remedies provided by law.

(C) *Conflicting regulations.* In the interpretation, application and enforcement of the provisions of this chapter, whenever any of the provisions or limitations imposed or required by this chapter are more stringent than any other law or ordinance, then the provisions of this chapter shall govern, provided also that whenever the provisions of any other law or ordinance impose more stringent requirements than are imposed or required by this chapter, the provisions of such other law or ordinance shall govern.

(Ord. passed 11-2-2005)

§ 154.153 AMENDMENT.

(A) *City Commission may amend.* The regulations and provisions stated in the text of this chapter and the boundaries of zoning districts shown on the zoning district map may be amended, supplemented or changed by ordinance by the City Commission in accordance with the applicable enabling legislation of the state.

(B) *Initiation of amendments.* Proposals for amendments, supplements or changes may be initiated by the City Commission of its own action, by the Planning Commission or by petition of one or more persons having an interest, by ownership or option to purchase, in property to be affected by the proposed amendment.

(C) *Amendment procedure.*

(1) *Petition to City Clerk and payment of fee.*

(a) Each petition by one or more owners or their agents for an amendment shall be submitted upon an application of standard form to the City Clerk.

(b) A fee as established by the City Commission shall be paid at the time of application to cover costs of necessary advertising for public hearings and processing of the amendment request.

(c) The City Clerk shall transmit the application to the Planning Commission for recommended action.

(2) *Recommendation.* The Planning Commission shall consider each proposed amendment in terms of the likely effect of such proposal upon the development plans for the community as well as in terms of the merits of the individual proposal. The Planning Commission may recommend any additions or modifications to the original amendment petition.

(3) *Public hearing.* Before voting on any proposed amendment to this chapter, the Planning Commission shall conduct a public hearing, with notice being given as specified by the following section.

(4) *Notice requirements for public hearing.* Preparation, publication and distribution of notices for the public hearing shall be the responsibility of the City Clerk.

(a) *Content.* Every notice of said hearing shall contain all information required by § 154.154.

(b) *Distribution.*

1. *Published.* Notice shall be given by one publication in a newspaper of general circulation in the community, printed not less than 15 days before the date of such hearing.

2. *Certified mail.* Not less than 20 days notice shall also be given by certified mail to each public utility company servicing the community, at the mailing address identified by each company for the purpose of receiving such notice, if they request notification.

3. *Other mailed notice.* In any instance involving the rezoning of one or more parcels, or when the owner or other party having an interest in any parcel has requested a text change, notice of the proposed amendment shall be mailed to the owner of the property in question and to all persons residing, doing business or owning property within 300 feet of the premises in question. These persons shall be identified as specified by § 154.154.

4. *Affidavit of mailing.* An affidavit of mailing, identifying all parties to whom notice has been sent, shall be prepared and filed with other material relating to the proposed amendment prior to the Planning Commission meeting at which the hearing is to be conducted.

5. *Bay County Planning Commission.* Following the conclusion of the public hearing and review by the City Planning Commission, the proposed amendment and any applicable zoning district map may be submitted to the County Planning Commission for their review. The approval of the County Planning Commission shall be presumed, conclusively, unless such Commission notifies the City Commission of its approval or disapproval within 30 days of its receipt of the amendment.

6. *Amendment to conform to court decree.* An amendment for the purpose of conforming a provision of this chapter to the decree of a court of competent jurisdiction as to any specific lands may be adopted by the City Commission and the notice of the adopted amendment published without referring the amendment to any other board or agency provided for in this chapter.

7. *City Commission change.* If the City Commission deems advisable any changes to the amendment recommended by the Planning Commission, it shall refer these changes back to the Planning Commission for a report thereon within 30 days. The City Commission may deny or adopt the amendment with or without changes, by a majority vote of its membership, following the Commission's standard procedures for adoption of ordinances.

8. *Resubmittal.* No application for a rezoning that has been denied by the City Commission 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 which, upon inspection by the City Commission, are found to be valid.

(Ord. passed 11-2-2005)

§ 154.154 NOTICE REQUIREMENTS FOR PUBLIC HEARINGS.

(A) *Content.* Each notice for any public hearing required by this chapter shall include the following information:

(1) Identification of the applicant, if any;

- (2) Identification of the property that is the subject of the request;
- (3) Nature of the matter to be considered;
- (4) Identification of the public body that will be conducting the public hearing and will decide upon the matter;
- (5) Date, time and place of the public hearing;
- (6) The places and times at which any proposed text and/or map amendment to this chapter may be examined; and
- (7) Statement of where and when written comments will be received concerning the request.

(B) *Notification of residents, businesses or property owners within 300 feet.* Whenever provisions of this chapter require mailing of public hearing notices to persons who reside, do business or own property within 300 feet of a certain parcel, the mailing list shall be compiled from the following sources:

- (1) The owner(s) of property for which approval is being considered;
- (2) All persons to whom real property is assessed where any part of their parcel lies within 300 feet of the boundary of the property in question; and
- (3) Occupants of all structures where any part of the structure lies within 300 feet. Each dwelling unit or rental area within said structures shall receive one notice; however, separate notice need not be sent for accessory structures where the primary structure also lies within the 300 foot distance.
 - (a) If the name of the occupant is not known, the term ***OCCUPANT*** may be used in making notification.
 - (b) In the case of a single structure containing more than four dwelling units or other distinct areas, the notice may be mailed to the manager or owner of the structure who shall be requested to post the notice at the primary entrance of the structure.

(Ord. passed 11-2-2005)

§ 154.155 SPECIAL ZONING DECISIONS TABLE.

<i>Type of Action</i>	<i>Parties Who May Initiate Action</i>	<i>Body Making Decision</i>	<i>Public Hearing Required?</i>	<i>Published Notice(s); Number of Days Before Hearing</i>	<i>Notice to All Owners and Occupants Within 300 Feet</i>	<i>Body to Which Applicant May Appeal a Denial</i>
Variance	Applicant or Administrator	Zoning Board of Appeals	No; meeting open to public	Reasonable notice	Reasonable notice	Circuit Court only
Interpretation	Applicant or Administrator	Zoning Board of Appeals	No; meeting open to public	Reasonable notice	Reasonable notice	Circuit Court only
Appeal of administrative decision	Any aggrieved party or state, officer, board bureau or dept.	Zoning Board of Appeals	No; meeting open to public	Reasonable notice	Reasonable notice	Circuit Court only
Site plan approval	Applicant or Administrator	Planning Commission	No	Not required	Not required	Planning Comm. after 1 year, or City Commission
Special use permit	Applicant or Administrator	Planning Commission	If requested by property owner within 300 feet	Once, between 5-15 days before date	Once, between 5-15 days before date	Planning Comm. after 1 year, or Circuit Court

<i>Type of Action</i>	<i>Parties Who May Initiate Action</i>	<i>Body Making Decision</i>	<i>Public Hearing Required?</i>	<i>Published Notice(s); Number of Days Before Hearing</i>	<i>Notice to All Owners and Occupants Within 300 Feet</i>	<i>Body to Which Applicant May Appeal a Denial</i>
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<i>Type of Action</i>	<i>Parties Who May Initiate Action</i>	<i>Body Making Decision</i>	<i>Public Hearing Required?</i>	<i>Published Notice(s); Number of Days Before Hearing</i>	<i>Notice to All Owners and Occupants Within 300 Feet</i>	<i>Body to Which Applicant May Appeal a Denial</i>
Planned unit development	Applicant or Administrator	Planning Commission	Yes	Once, between 5-15 days before date	Once, between 5-15 days before date	Planning Comm. after 1 year, or Circuit Court
Rezoning	Applicant, Planning Commission or City Commission	Planning Commission recommends to City Commission	Yes	Once, not less than 15 days before date	Once, not less than 15 days before date	Planning Commission after 1 year
			If requested by any party	Once, between 5-15 days before date	Not required	Circuit Court
Zoning ordinance or zoning map text change	Applicant, Planning Commission or City Commission	Planning Commission recommends to City Commission	Yes	Once, not less than 15 days before date	Once, not less than 15 days before date	Planning Commission after 1 year
			If requested by any party	Once, not less than 15 days before date	Not required	Circuit Court
Development plan or map change	Applicant, Planning Commission or City Commission	Planning Commission recommends to City Commission	Yes	Once, not less than 15 days before date	Not required	Planning Commission after 1 year or Circuit Court
Fee waiver	Applicant	City Commission	No	Not required	Not required	Circuit Court

(Ord. passed 11-2-2005)

ZONING BOARD OF APPEALS

§ 154.165 GENERALLY.

(A) *Establishment.* The City Commission, exercising the authority of M.C.L.A. §§ 125.3101 through 125.3702 and M.C.L.A. §§ 125.3801 through 125.3885, as amended, hereby provides that a City Zoning Board of Appeals be established. Upon adoption of this chapter, the Zoning Board of Appeals established under the terms of the previous zoning ordinance shall remain in office, including all members thereof.

(B) *Membership.* The City Zoning Board of Appeals shall consist of five members. The first member of the Board of Appeals shall be a member of the City Planning Commission; two members shall be property owners within the city. An elected officer of the city may not serve as Chairperson of the Zoning Board of Appeals. An employee or contractor of the City Commission may not serve as a member or employee of the Zoning Board of Appeals. The City Commission shall have the power to remove members of the Board of Appeals for nonperformance of duty or misconduct in office upon written charges and after a public hearing.

(C) *Terms of office.* Terms of Zoning Board of Appeals members shall be for three years, except for members serving because of their membership on the Planning Commission or City Commission, whose terms shall be limited to the time they are members of said bodies and the period stated in the resolution appointing them. A successor shall be appointed not more than one month after the term for the preceding member has expired. All vacancies for unexpired terms shall be filled for the remainder of the term. Rotation of membership is encouraged.

(D) *Rules of procedure.* The Board of Appeals may adopt its own rules of procedure as may be necessary to conduct its meetings and carry out its function. The Board shall choose its Chairperson, and in the Chairperson's absence, an acting Chair may be appointed.

(E) *Meetings.* Meetings shall be held at the call of the Chairperson and at such times as the Board of Appeals may determine. A simple majority of the membership of the Board of Appeals shall constitute a quorum and may conduct any items of business brought before the Board. All meetings of the Board shall be open to the public. The Board may declare any meeting, or part of any meeting, a study meeting to pursue matters of business with out comment or interruption from the public in attendance.

(F) *Records.* Minutes shall be recorded of all proceedings that shall contain evidence and dates relevant to every case considered together with the votes of the members and the final disposition of each case. Such minutes shall be filed in the office of the City Clerk

and shall be public records.

(G) *Decisions.* The Zoning Board of Appeals shall return a decision upon each case within 30 days of the filing of a request or appeal unless a further time is agreed upon by the parties concerned. Any decision of the Zoning Board of Appeals shall not take effect until the expiration of five days after the date of said decision, unless the Board of Appeals certifies on the record that the decision must be given immediate effect for the preservation of property or personal rights.

(H) *Majority vote.* The concurring vote of a majority of the membership of the Zoning Board of Appeals shall be necessary to decide upon any issue brought before the Board. For example, if three members are present, out of a total of five members, all three must concur to pass a motion.

(I) *Conflict of interest.* A member of the Zoning Board of Appeals shall disqualify himself or herself from discussion and voting in which the member has a conflict of interest. Failure of a member to disqualify himself or herself from a vote in which the member has a conflict of interest shall constitute misconduct in office.

(J) *Duties.* The City Zoning Board of Appeals shall have the power to act on those matters where this chapter provides for an administrative review, interpretation or variance as defined in this section. The Board of Appeals shall not have the power to alter or change the zoning district classification of any property, or to make any change in the terms or intent of this chapter.

(1) *Administrative review.* The Board of Appeals shall hear and decide appeals where it is alleged by the appellant that there is an error in any order, requirement, permit, decision or refusal made by the Zoning Administrator or by any other official administering or enforcing provisions of this chapter.

(2) *Interpretation.* The Board of Appeals shall have the power to interpret, upon request, the provisions of this chapter in such a way as to carry out the intent and purpose of this chapter.

(3) *Variations.* The Board of Appeals shall have the power to authorize variances from any quantifiable requirements of this chapter where practical difficulties or unnecessary hardships prevent carrying out the strict letter of this chapter. Creation of nonconforming lots is prohibited.

(Ord. passed 11-2-2005)

§ 154.166 ADMINISTRATIVE ACTIONS BY THE ZONING BOARD OF APPEALS.

(A) *Duties of the Board of Appeals.* The Board of Appeals may only hear requests for a variance, administrative review or interpretation of this chapter or zoning map. Circumstances resulting from an act of the applicant, after adoption of this chapter, shall not be allowed to be heard by the Board of Appeals.

(1) *Variance.* The Zoning Board of Appeals is empowered to grant variances to such requirements as lot area and width regulations, yard and depth regulations, and off-street parking and loading space requirements. Any requirement of this chapter that can be expressed in terms of numbers may be brought before the Zoning Board of Appeals to be considered for a variance.

(2) *Administrative review.* The Zoning Board of Appeals is empowered to review and reverse or modify any order, decision or determination made by an administrative official charged with enforcing or administering this chapter. The Board is not empowered to overturn decisions of the Planning Commission regarding special use permits, including such permits for planned unit developments. The Board may not overturn the denial of a site plan in connection with any special use permit proceedings.

(a) *Requests for administrative review.* An administrative review by the Zoning Board of Appeals may be requested by any person aggrieved, or by any officer, department or board of the local government. Any such request must be made in writing not more than ten days after the date of the Zoning Administrator's decision. The request shall be filed with the Zoning Administrator and shall specify the grounds for the review. The Zoning Administrator shall immediately transmit to the Chairperson of the Board of Appeals any papers constituting the record upon which the action being reviewed was taken.

(b) *Stay.* An administrative review shall stay all proceedings in furtherance of the action being reviewed, except as follows. If the Zoning Administrator certifies in writing to the Zoning Board of Appeals, after a request for an administrative review has been filed, that a stay would cause imminent peril to life or property, the proceedings shall not be stayed unless a restraining order is issued by the Zoning Board of Appeals or by court action.

(3) *Interpretation.*

(a) The Zoning Board of Appeals may interpret provisions of this chapter as outlined below.

(b) Each such interpretation shall establish the precedent for future treatment of the issue being addressed.

(c) To achieve the objective of consistent enforcement of this chapter, whenever an interpretation question arises that has been addressed previously by the Zoning Board of Appeals, the earlier interpretation shall apply without requiring further action by the Board. Interpretation issues do not include dimensional variance issues.

(d) The Zoning Administrator shall keep a concise record of all interpretations made by the Zoning Board of Appeals to facilitate such reference.

1. The Board may determine the precise location of the boundary lines between zoning districts.

2. The Board may classify any activity that is not specifically mentioned in the Uses Table in § 154.030 for any zoning district as a use by right or special use within at least one zoning district, provided that said classification shall be consistent with the classification of similar uses and with the purpose and intent of each zoning district.

3. The Board may determine the off-street parking and loading space requirements of any use for which these requirements are not determinable using the information provided in the parking subchapter (§§ 154.070 through 154.075).

4. The Board may interpret any portion of this chapter when the Zoning Administrator is unable to clearly determine its intent or effect.

(B) *Conditions for granting a variance.* A variance may be granted when any one of the following special conditions can be demonstrated clearly:

(1) There are practical difficulties or unnecessary hardships that prevent carrying out the strict letter of this chapter. These hardships or difficulties shall not be deemed economic, but shall be evaluated in terms of the use of a particular parcel of land;

(2) There are exceptional circumstances or physical conditions such as narrowness, shallowness, shape or topography of property involved; or, due to the intended use of the property, that will not apply to other property or uses in the same zoning district. Circumstances resulting from an act of the applicant, after the adoption of this chapter, shall not be allowed a variance; or

(3) Variation is necessary for the preservation of a substantial property right possessed by other properties in the same zoning district.

(C) *Fees.* A fee as established by the City Commission shall be paid to the City Treasurer at the time of filing application with the Board of Appeals. The purpose of such fee is to cover, in part, the necessary advertisements, investigations and other expenses incurred by the Board of Appeals in connection with the appeal.

(D) *Rules for Zoning Board of Appeals actions.*

(1) A public hearing must be held by the Zoning Board of Appeals prior to making a decision on a variance, an administrative review or interpretation that relates to a specific parcel; mailed notice shall be given not less than five days nor more than 15 days before the date of the meeting at which the action will be considered. The contents and distribution of said notice shall be as specified by this chapter.

(2) Any decision by the Zoning Board of Appeals must not be contrary to the public interest or to the intent and purpose of this chapter.

(3) In no way may a variance, site plan approval or finding of an administrative review be construed to allow the establishment within a zoning district of any use that is not permitted by right or by special use permit within that zoning district. The Zoning Board of Appeals may only expand the list of permitted uses for any zoning district as a result of an interpretation regarding a use that is not listed anywhere in the Uses Table in § 154.030.

(4) Prior to any decision by the Board of Appeals, the Planning Commission may comment on the issue before the Board and provide a written recommendation of action.

(5) In making any decision, the Zoning Board of Appeals must endeavor to avoid causing a substantial adverse effect upon property values in the immediate vicinity of the subject property. Nor shall such actions have the effect of substantially impacting property values for land in the zoning district in which the subject property is located.

(6) Any action brought before the Zoning Board of Appeals may relate only to a single parcel that must be under control of the applicant. If the applicant is not the owner of the property, evidence must be provided that the owner concurs with the request for Zoning Board of Appeals action.

(7) Approval by the Zoning Board of Appeals of any request may not be granted simply to prevent an economic loss. Improving an owner's chance to profit from sale of a parcel is not an objective of this chapter.

(8) Any request that has been denied wholly or in part by the Zoning Board of Appeals may not be resubmitted for a period of one year from the date of the last denial; however, if new evidence or changed conditions are found, the Board may elect to rehear a case, subject to all notice requirements defined by the Actions Table.

(9) The Board of Appeals may attach any reasonable conditions to the approval of any request to secure the objectives and purposes of this chapter. The breach of any such condition shall automatically invalidate any permits granted pursuant to the Zoning Board of Appeals action. When it attaches any conditions to the approval of a request, the Board of Appeals may require that a bond of ample sum be furnished to ensure compliance with the conditions imposed. Said bond shall not exceed \$5,000.

(10) A variance must be necessary to overcome practical difficulties or unnecessary hardships that prevent carrying out the strict letter of this chapter. These hardships or difficulties are to be evaluated in terms of the applicant's ability to physically locate a permitted use on the particular parcel of land. Creation of a nonconforming lot is prohibited.

(11) When a variance is being considered to overcome unique circumstances or physical conditions regarding the configuration of the property involved, these circumstances or conditions must not have resulted from any act of the applicant or property owner subsequent to the adoption of this chapter.

(12) A variance granted under the provisions of this chapter becomes a condition of any permit granted pursuant to the variance or approval. If a building permit issued pursuant to such action is allowed to expire under the provisions of this chapter, any rights granted by the action expire together with the building permit.

(13) The minutes of the Zoning Board of Appeals meeting at which any decision was made regarding a variance, administrative review or interpretation shall include the grounds used by the Board in making said decision, and any conditions that may have been attached to authorization for issuance of a building permit.

(14) If the specific conditions relating to a certain class of property are so general or recurrent in nature as to make similar variances a perennial issue for the Board of Appeals, the Board shall suggest a general regulation for such conditions for the Planning Commission's consideration. Distribution:

(a) *Published.* Notice shall be given by one publication in a newspaper of general circulation in the community, printed not less than 15 days before the date of such hearing.

(b) *Certified mail.* Not less than 20 days' notice shall also be given by certified mail to each public utility company servicing the community, at the mailing address identified by each company for the purpose of receiving such notice, if they request notification.

(c) *Other mailed notice.* In any instance involving the rezoning of one or more parcels, or when the owner or other party having an interest in any parcel has requested a text change, notice of the proposed amendment shall be mailed to the owner of the property in question and to all persons residing, doing business or owning property within 300 feet of the premises in question. These persons shall be identified as specified by § 154.154.

(d) *Affidavit of mailing.* An affidavit of mailing, identifying all parties to whom notice has been sent, shall be prepared and filed with other material relating to the proposed amendment prior to the Planning Commission meeting at which the hearing is to be conducted.

(e) *County Planning Commission.* Following the conclusion of the public hearing and review by the City Planning Commission, the proposed amendment and any applicable zoning district map may be submitted to the County Planning Commission for its review. The approval of the County Planning Commission shall be presumed, conclusively, unless such Commission notifies the City Commission of its approval or disapproval within 30 days of its receipt of the amendment.

(f) *Amendment to conform to court decree.* An amendment for the purpose of conforming a provision of this chapter to the decree of a court of competent jurisdiction as to any specific lands may be adopted by the City Commission and the notice of the adopted amendment published without referring the amendment to any other board or agency provided for in this chapter.

(g) *City Commission change.* If the City Commission deems advisable any changes to the amendment recommended by the Planning Commission, it shall refer these changes back to the Planning Commission for a report thereon within 30 days. The City Commission may deny or adopt the amendment with or without changes, by a majority vote of its membership, following the Commission's standard procedures for adoption of ordinances.

(h) *Resubmittal.* No application for a rezoning that has been denied by the City Commission 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 which, upon inspection by the City Commission, are found to be valid.

(Ord. passed 11-2-2005)

WIND ENERGY CONVERSION SYSTEMS

§ 154.180 PURPOSE.

The regulation of wind energy conversion systems is intended to provide for an alternative source of power generation while protecting the health, safety or welfare of residents. This subchapter addresses issues such as height, construction, minimum distances from lot lines and noise generated. As shown below, there is a distinction between on-site wind energy systems vs. utility grid wind energy systems.

(Ord. 190, passed 6-7-2010)

§ 154.181 SCOPE OF REGULATIONS.

Wind energy conversion systems may be erected, relocated, enlarged, structurally changed or altered in accordance with the provisions of this subchapter.

(Ord. 190, passed 6-7-2010)

§ 154.182 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning. Words and phrases not defined by these definitions but defined in § 154.005 shall be given the meanings set forth in § 154.005.

AMBIENT. The sound pressure level exceeded 90% of the time or L_{90} .

ANEMOMETER TOWER. A freestanding tower containing instrumentation such as anemometers that is designed to provide present moment wind data.

APPLICANT. The person or entity filing an application under this subchapter.

dB(A). The sound pressure level in decibels. It refers to the "a" weighted scale defined by ANSI. A method for weighting the frequency spectrum to mimic the human ear.

DECIBEL. The unit of measure used to express the magnitude of sound pressure and sound intensity.

FAA. Federal Aviation Administration.

HEIGHT FOR WIND GENERATORS. The height of the wind energy conversion system measured from grade to the tip of the rotor

blade or assembly at its highest point or blade tip height.

IEC. International Electrotechnical Commission: the leading global organization that prepares and publishes international standards for all electrical, electronic and related technologies.

ON-SITE USE WIND ENERGY SYSTEM. A land use for generating electric power from wind and is an accessory use that is intended to primarily serve the needs of the consumer at that site.

PEDESTAL. A structure no taller than 12 feet that is designed and constructed primarily for the purpose of supporting one wind turbine.

ROOF MOUNTED. Any part of a wind energy conversion system that is located on the roof of a building, fire or parapet walls, stage lofts, chimneys, smokestacks, water tower or roof structures for the housing of elevators, stairways, tanks, ventilating fans or similar equipment required to operate and maintain a building.

ROTOR. An element of a wind energy system that acts as a multi-bladed airfoil assembly, thereby extracting, through rotation, kinetic energy directly from the wind.

SHADOW FLICKER. Alternating changes in light intensity caused by the moving blade of a wind energy system casting shadows on the ground and stationary objects, such as, but not limited to, a window at a dwelling.

SYSTEM OWNER. The entity or entities having controlling or majority equity interest in the wind energy conversion system, including their respective successors and assignees.

TOWER. Any structure, including its supports, that is ground mounted, taller than 12 feet, and designed and constructed primarily for the purpose of supporting one or more wind energy conversion systems. This includes self supporting lattice towers, guyed lattice towers or monopole towers.

UTILITY GRID WIND ENERGY SYSTEM. A land use for generating power by use of wind at multiple tower locations in a community and includes accessory uses such as but not limited to a SCADA tower, electric substation. A **UTILITY GRID WIND ENERGY SYSTEM** is designed and built to provide electricity to the electric utility grid.

WIND ENERGY SYSTEM. A land use for generating power by use of wind; utilizing use of a wind turbine generator and includes the turbine, blades and tower as well as related electrical equipment. This does not include wiring to connect the wind energy system to the grid. See also **ON-SITE USE WIND ENERGY SYSTEM** and **UTILITY GRID WIND ENERGY SYSTEM**.

(Ord. 190, passed 6-7-2010)

§ 154.183 ON-SITE WIND ENERGY DEVELOPMENT STANDARDS.

All on-site wind energy conversion systems and supporting anemometer towers, if under 60 feet in height, shall conform to the following standard.

(A) *Purpose.* Designed to primarily serve the needs of a home, farm or small business.

(B) *Height.* Shall have a height of 60 feet or less. Applicants may request special use approval from the Planning Commission to waive height restrictions for towers located at school, institutional or governmental properties.

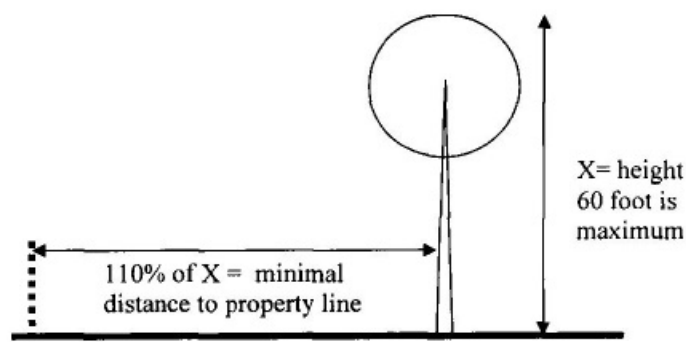
(C) *Property setback.*

(1) The distance between an on-site use wind energy system and the owner's property lines shall be equal to 110% of the height of the wind energy system including the top of the blade in its vertical position.

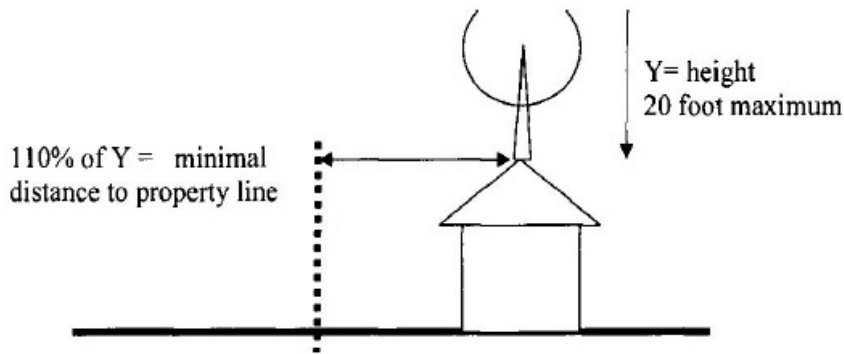
(2) If a system is installed on a roof, the setback shall be calculated based on the total system height above the roof, not including the structure below the point it is mounted on the roof.

(3) The distance between an anemometer tower and the owner's property lines shall be equal to the height of the tower. No part of the wind energy system structure, including guy wire anchors, may extend closer than ten feet to the owner's property lines, or the distance of the required setback in the respective zoning district, whichever results in the greater setback. Wind energy conversion systems shall not be located between the front lot line and the front wall of a dwelling.

Graphic 1 Ground systems



Graphic 1 B Roof Mounted



(D) *Sound pressure level.* On-site use wind energy systems shall not exceed 55 dB(A) at the property line closest to the wind energy system. This sound pressure level may be exceeded during short-term events such as utility outages and/or severe wind storms. If the ambient sound pressure level exceeds 55 dB(A), the standard shall be ambient dB(A) plus 5 dB(A).

(E) *Construction codes and towers.* On-Site Use wind energy systems including towers shall comply with all applicable state construction and electrical codes and local building permit requirements. On-site use wind energy systems including towers shall comply with Federal Aviation Administration (FAA) requirements, the Michigan Airport Zoning Act (Public Act 23 of 1950, M.C.L.A. §§ 259.431 *et seq.*), the Michigan Tall Structures Act (Public Act 259 of 1959, M.C.L.A. §§ 259.481 *et seq.*), and local jurisdiction airport overlay zone regulations.

(F) *Interconnection standards.* An interconnected on-site use wind energy system shall comply with the State Public Service Commission and Federal Energy Regulatory Commission standards. Off-grid systems are exempt from this requirement.

(G) *Braking.* An on-site use wind energy system shall have automatic braking, governing or a feathering system to prevent uncontrolled rotation or over speeding.

(H) *Lightning protection.* All wind towers shall have lightning protection.

(I) *Guy wires.* If a tower is supported by guy wires, the wires shall be clearly visible to a height of at least six feet above the guy wire anchors.

(J) *Blade to ground clearance.* The minimum vertical blade tip clearance from grade shall be 20 feet for a wind energy system employing a horizontal axis rotor.

(K) *Engineering approval.* Engineering considerations in this subchapter shall involve the approval of a certified engineer. That shall include, but not be limited to: FAA compliance; airport zoning; tall structures; public service commission; federal energy regulations; braking; and lightning protection. The structural integrity shall conform to the design standards of the International Electrical Commission, specifically:

- (1) IEC 61400- 1 *Wind Turbine Safety and Design*; and/or
- (2) IEC 61400- 2 *Small Wind Turbine Safety*;
- (3) IEC 61400-22 *Wind Turbine Certification*; and
- (4) IEC 61400-23 *Blade Structure Testing or any similar successor standards.*

(L) *Illumination.* Wind energy conversion systems may not be artificially lighted unless otherwise required by the FAA or approved authority or authorized by the Planning Commission.

(M) *Access.*

(1) *Ground access.* Towers that are not roof-mounted shall be enclosed with a six-foot tall fence or the base of the tower or pedestal shall not be climbable for a distance of 12 feet.

(2) *Roof access.* When roof mounted wind energy conversion systems are meant to be accessed by the public, the Planning Commission or City Manager may require additional guards or warnings to ensure safety.

(N) *Unsafe or inoperative systems.*

(1) Any wind energy conversion systems found to be unsafe by a City Building Official shall be repaired by the system owner to meet all code requirements or be removed as directed by the city.

(2) If any wind energy conversion systems are not used for a period of 12 months, the system owner will be notified by certified mail to set forth reasons for the operational difficulty and provide a reasonable timetable for corrective action. If one is not provided to the satisfaction of the city, the landowner shall remove the wind energy conversion system(s) with 60 days of receipt of a certified mail notice to remove.

(O) *Signal interference.* wind energy conversion systems shall not interfere with communication systems such as, but not limited to, radio, telephone, television, satellite or emergency communication.

(P) *Number.* Wind energy conversion systems in residential areas may consist of one to five wind turbines, tower or pedestals and

their associated control or conversion electronics.

(Ord. 190, passed 6-7-2010)

§ 154.999 PENALTY.

(A) Every person, whether as principal agent, servant, employee or otherwise, including the owners of any building, structure or premise or part thereof where any violation of this chapter shall exist or shall be created, who shall violate or refuse to comply with any of the provisions of this chapter, shall be guilty of maintaining a nuisance per se and upon conviction thereof shall be punished by a fine of not less than \$100, and not more than \$500 by imprisonment for a term not to exceed 90 days, or by both such fine and imprisonment, within the discretion of the court.

(B) For each and every day the violation continues beyond the correction, a separate offense shall be declared.

(C) Additionally, the proper court shall have power and authority to issue an injunctive order in connection with any violation of the provisions of this chapter.

(Ord. passed 11-2-2005)

TABLE OF SPECIAL ORDINANCES

Table

I. FRANCHISES

II. REZONING

TABLE I: FRANCHISES

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
125	5-2-1988	Consumers Power Company; gas and electric

TABLE II: REZONING

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
155	9-19-1994	Rezones three parcels from R-1 to I
158	6-26-1995	Rezoning from R-3 to B
168	- -1997	Rezones seven properties from B to R-1
165	7-7-1997	Rezoning from R-2 to B
166	7-7-1997	Rezones seven properties from B to R-1
174	3-20-2000	Rezones parcels from B to R-2; rezones parcels from B to R-1; rezones parcels from B to R-3
180	- -2002	Rezones property from R-1 to R-2
Res. 2006-02	4-3-2006	Changes zoning of parcel to Business
193	5-2-2011	Changes zoning of parcel to Light Industrial
195	5-21-2012	Changes zoning of parcel to Light Industrial

PARALLEL REFERENCES

References to Michigan Compiled Laws Annotated

References to 1991 Code

References to Resolutions

REFERENCES TO MICHIGAN COMPILED LAWS ANNOTATED

<i>M.C.L.A. Reference</i>	<i>Code Section</i>
<i>M.C.L.A. Reference</i>	<i>Code Section</i>
15.231	10.17
15.231—15.246	31.07; 112.04, 112.17
15.231 et seq.	10.17
15.261—15.275	10.21, 31.07
15.261 et seq.	30.01
28.451—28.471	132.04
41.801—41.813	34.02
117.1—117.38	92.01
117.3	70.02
125.1501—125.1531	150.25; 151.001; 151.020
125.1651—125.1680	31.01; 31.02; 31.03; 31.09
125.1651—125.1681	34.25
125.1655	31.06
125.3101—125.3702	154.150; 154.165
125.3801—125.3885	154.150; 154.165
125.3801 et seq.	32.01; 32.11
125.3831—125.3851	153.01
168.1—168.992	30.15
168.642(a)(4)	30.15
211.741	33.05
247.651—247.675	112.13
252.301—252.325	154.093
259.431 et seq.	154.124; 154.183
259.481 et seq.	154.124
324.101 et seq.	154.124
324.3101 et seq.	53.001; 53.147; 154.124
324.9101 et seq.	154.124
324.9101—324.9123a	154.122
324.11101 et seq.	53.096; 53.210
324.30101 et seq.	154.124
324.30301 et seq.	154.124
418.101—418.941	30.47
484.2102	112.03
484.2251	112.04
484.3101—484.3120	112.01; 112.03
559.101—559.272	150.01
560.101—560.293	150.01; 154.005
600.8101 et seq.	71.01
600.8701—600.8735	35.01
722.111—722.128	154.005
750.1—750.568	154.005
750.243—750.243e	130.02
764.9c	30.47

REFERENCES TO 1991 CODE

<i>1991 Code Section</i>	<i>2013 Code Section</i>
<i>1991 Code Section</i>	<i>2013 Code Section</i>
1.4	10.18
1.5	10.05
1.6	10.19
1.9	10.20
1.10	10.21
1.11	10.22
1.12	10.23
1.14	10.24
1.31	30.15
1.32	30.16
1.71	30.30
1.72	30.31
1.73	30.32
1.81	30.45
1.82	30.46
1.83	30.47
1.91	30.60
1.92	30.61
1.93	30.62
1.94	30.63
1.121	30.01
1.122	30.02
1.171	33.01
1.172	33.02
1.173	33.03
1.174	33.04
1.175	33.05
1.176	33.06
1.177	33.07
1.178	33.08
1.179	33.09
1.180	33.10
1.181	33.11
1.182	33.12
1.183	33.13
1.184	33.14
1.185	33.15
1.186	33.16
1.187	33.17
1.188	33.18
1.189	33.19
1.190	33.20
1.191	33.21
1.192	33.22
1.193	33.23
1.194	33.24
1.195	33.25

1.211	31.01
1.212	31.02
1.213	31.03
1.214	31.04
1.215	31.05
1.216	31.06
1.217	31.07
1.218	31.08
1.219	31.09
2.0	50.01
2.1	50.02
2.2	50.03
2.3	50.04
2.4	50.05
2.5	50.06
2.6	50.07
2.31	51.01
2.32	51.02
2.33	51.03
2.34	51.04
2.35	51.05
2.39	51.06
2.40	51.07
2.41	51.08
2.42	51.09
2.43	51.10
2.44	51.11
2.45	51.12
2.46	51.13
2.48	51.14
2.49	51.15
2.50	51.16
2.131	52.01
2.133	52.03
2.134	52.04
2.135	52.05
2.151	110.01
2.152	110.02
2.153	110.03
2.154	110.04
2.155	110.05
2.156	110.06
2.157	110.07
2.158	110.08
2.159	110.09
2.160	110.10
2.161	110.11
2.162	110.12
2.163	110.13
2.164	110.14
2.265	110.15

2.166	110.16
2.167	110.17
2.168	110.18
2.169	110.19
2.170	110.20
2.231	110.35
2.232	110.36
2.233	110.37
2.234	110.38
2.235	110.39
2.236	110.40
2.237	110.41
2.238	110.42
2.239	110.43
2.240	110.44
2.241	110.45
2.242	110.46
2.243	110.47
2.244	110.48
2.245	110.49
2.246	110.50
2.247	110.51
2.248	110.52
2.249	110.53
3.1	93.01
3.2	93.02
3.3	93.03
3.4	93.04
4.1	95.001
4.2	95.002
4.3	95.003
4.4	95.004
4.5	95.005
4.6	95.006
4.7	95.007
4.8	95.008
4.9	95.009
4.17	95.020
4.18	95.021
4.26	95.035
4.27	95.036
4.31	95.050
4.32	95.051
4.34	95.065
4.36	95.080
4.37	95.081
4.38	95.082
4.39	95.083
4.81	95.095
4.82	95.096
4.83	95.097
4.84	95.098

4.85	95.099
4.86	95.100
4.87	95.101
4.88	95.102
4.89	95.103
5.331	153.01
5.335	153.02
5.336	153.03
5.341	153.15
5.342	153.16
5.343	153.17
5.344	153.18
5.345	153.19
5.352	153.30
5.353	153.31
5.357	153.45
5.358	153.46
5.359	153.47
5.360	153.48
5.381	152.01
5.382	152.02
5.383	152.03
5.384	152.04
5.385	152.05
5.386	152.06
5.387	152.07
6.1	94.01
6.2	94.02
6.7	94.03
6.10	94.15
6.11	94.16
6.12	94.17
6.21	94.30
6.22	94.31
6.41	94.45
6.42	94.46
6.43	94.47
6.44	94.48
6.61	131.01
6.62	131.02
6.63	131.03
6.64	131.04
6.65	131.05
6.66	131.06
6.67	131.07
6.68	131.08
6.69	131.09
6.70	131.10
6.71	131.11
6.72	131.12
6.73	131.13
6.74	131.14

6.84	91.01
6.85	91.02
6.86	91.03
6.87	91.04
6.88	91.05
6.89	91.06
7.71	111.01
7.72	111.02
7.73	111.03
7.74	111.04
7.75	111.05
7.76	111.06
7.77	111.07
7.78	111.08
7.79	111.09
8.1	151.001
8.2	151.002
8.3	151.003
8.4	151.004
8.5	151.005
8.11	151.020
8.12	151.021
8.13	151.022
8.21	151.035
8.22	151.036
8.23	151.037
8.24	151.038
8.25	151.039
8.26	151.040
8.27	151.041
8.28	151.042
8.29	151.043
8.30	151.044
8.31	151.045
8.32	151.046
8.33	151.047
8.35	151.048
8.51	151.060
8.52	151.061
8.53	151.062
8.54	151.063
8.71	151.075
8.72	151.076
8.73	151.077
8.74	151.078
8.75	151.079
8.76	151.080
8.78	151.081
8.79	151.082
8.80	151.083
8.81	151.084

8.82	151.085
8.83	151.086
8.84	151.087
8.85	151.088
8.86	151.089
8.87	151.090
8.88	151.091
8.89	151.092
8.90	151.093
9.1	130.01
9.2	130.02
9.11	130.03
9.21	130.04
9.61	90.01
9.62	90.02
9.63	90.03
9.65	90.05
9.91	92.01
9.92	92.02
9.93	92.03
9.94	92.04
9.95	92.05
9.96	92.06
9.97	92.07
10.51	71.01
10.52	71.02
10.53	71.03
10.54	71.04
10.55	71.05
10.56	71.06

REFERENCES TO RESOLUTIONS

<i>Res. No.</i>	<i>Date Passed</i>	<i>Description</i>
2006-02	4-3-2006	TSO, Table II

REFERENCES TO ORDINANCES

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
-	--	90.04
122	7-6-1987	151.035; 151.075
123	9-21-1987	50.01
125	5-2-1988	TSO, Table I
134	7-10-1989	151.020

138	8-20-1990	94.47
139	10-22-1990	71.06
140	5-6-1991	31.09
147	3-16-1992	31.04
148	4-6-1992	151.001; 151.020; 151.035; 151.060; 151.075
150	6-7-1993	153.03; 153.30
153	10-18-1993	110.35—110.53
155	9-19-1994	TSO, Table II
158	6-26-1995	TSO, Table II
159	1-12-1996	150.01—150.09
168	- -1997	TSO, Table II
165	7-7-1997	TSO, Table II
166	7-7-1997	TSO, Table II
173	9-20-1999	151.105—151.109
174	3-20-2000	TSO, Table II
176	8-20-2001	151.001
177	8-20-2001	151.035
178	8-20-2001	151.060
179	8-20-2001	151.075
180	- -2002	TSO, Table II
181	4-1-2002	34.01—34.10
182	1-24-2003	70.01—70.05
-	11-2-2005	154.001—154.009; 154.025—154.032; 154.045—154.056; 154.070—154.075; 154.090—154.098; 154.110—154.123; 154.135; 154.150—154.155; 154.165; 154.166; 154.999
185	4--2006	53.001—53.004; 53.020; 53.030; 53.040; 53.050—53.055; 53.065—53.079; 53.090—53.100; 53.115—53.125; 53.140—53.150; 53.165; 53.166; 53.180—53.183; 53.200; 53.210; 53.220; 53.221; 53.235—53.240; 53.255—53.266; 53.280—53.285; 53.295—53.299; 53.310; 53.999
187	- -2007	154.005; 154.006; 154.090; 154.093; 154.094
190	6-7-2010	154.005; 154.030; 154.124; 154.180—154.183
191	9-20-2010	150.25—150.27
192	3-21-2011	154.005; 154.007; 154.010; 154.135
193	5-2-2011	TSO, Table II
194	5-2-2011	34.25; 34.26
195	5-21-2012	TSO, Table II
196	8-13-2012	132.01—132.07; 132.99
198	10-21-2013	Adopting Ordinance; 30.15; 70.01—70.06
199	7-14-2014	34.40—34.49