

CITY OF GLADWIN, MICHIGAN

CODE OF ORDINANCES

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ADOPTING ORDINANCE

ORDINANCE NO. 212

ENACTING AS AN ORDINANCE, A CODE OF ORDINANCES FOR THE CITY OF GLADWIN REVISING, AMENDING, RESTATING, CODIFYING AND COMPILING CERTAIN EXISTING GENERAL ORDINANCES OF THE CITY DEALING WITH SUBJECTS EMBRACED IN SAID CODE.

WHEREAS, the present general ordinances of the City of Gladwin are incomplete and inadequate and the manner of arrangement, classification and indexing thereof is insufficient to meet the immediate needs of the City; and

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

WHEREAS, the Legislative Body of the City of Gladwin has authorized a general compilation, revision and codification of the ordinances of the City of a general and permanent nature and publication of such ordinances in book form;

NOW, THEREFORE, BE IT ORDAINED by the Legislative Body of the City of Gladwin that:

Section 1. The general ordinances of the City of Gladwin as herein revised, amended, restated, codified and compiled in book form are adopted as and shall constitute the "Code of Ordinances of the

City of Gladwin."

Section 2. Said Code as adopted in Section 1 shall consist of the following titles, to-wit:

Title I General Provisions

Title III Administration

Title V Public Works

Title VII Traffic Code

Title IX General Regulations

Title XI Business Regulations

Title XIII General Offenses

Title XV Land Usage

Tables of Special Ordinances

Parallel References

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Section 3. All prior ordinances pertaining to the subjects treated in said Code shall be deemed repealed from and after the effective date of said Code except as they are included and reordained in whole or in part in said Code; provided such repeal shall not affect any offense committed or penalty incurred or any right established prior to the effective date of said Code, 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, naming or vacating or setting the boundaries of streets, alleys or other public places, nor to any other ordinance of a temporary or special nature or pertaining to subjects not contained therein.

Section 4. Said Code shall be deemed published as of the day of its adoption and approval by the City Legislative Body and the Clerk of the City of Gladwin is hereby authorized and ordered to file a copy of said Code in the Office of the City Clerk.

Section 5. Said Code shall be in full force and effect 15 days from the date of its publication and filing thereof in the Office of the Clerk, and said 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.

PASSED AND ADOPTED by the City Legislative Body of the City of Gladwin this 3rd day of April, 1995.

Earl Schuster /s/

Mayor

ATTEST:

Elizabeth A. Barnebee /s/

City Clerk

ORDINANCE NO. 215

AN ORDINANCE ENACTING AND ADOPTING A SUPPLEMENT TO THE CODE OF ORDINANCES FOR THE CITY OF GLADWIN.

WHEREAS, American Legal Publishing Corporation of Cincinnati, Ohio has completed the 1996 S-1 Supplement to the Code of Ordinances of the City of Gladwin, which supplement contains all ordinances of a general nature enacted since the prior supplement to the Code of Ordinances of this municipality; and

WHEREAS, said American Legal Publishing Corporation has recommended the revision or addition of certain sections of the Code of Ordinances which are based on or make reference to sections of the Michigan Code; and

WHEREAS, it is the intent of Council to accept these updated sections in accordance with the changes of the laws of the State of Michigan:

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Gladwin, State of Michigan:

Section 1. That the 1996 S-1 Supplement to the Code of Ordinances of the City of Gladwin, State of Michigan, as submitted by American Legal Publishing Corporation of Cincinnati, and as attached hereto, be and the same is hereby adopted by reference as if set out in its entirety.

Section 2. That this ordinance shall take effect and be in force from and after its date of passage.

PASSED AND ADOPTED by the City Council of the City of Gladwin this 6th day of May, 1996.

Earl Schuster /s/

Mayor

Elizabeth A. Barnebee /s/

City Clerk

CERTIFICATE

I, Elizabeth A. Barnebee, City Clerk of the City of Gladwin, do hereby certify that the foregoing ordinance was adopted by the Gladwin City Council at a regular meeting held on May 6, 1996, and the following is a record of the vote of the members of City Council:

Ayes: Crawford, Hindman, Jungman, Mienk, Vannest, Winarski

Nays: None

Absent: Kemp, Matteson

Elizabeth A. Barnebee /s/

City Clerk

ORDINANCE NO. 233

AN ORDINANCE ENACTING AND ADOPTING A SUPPLEMENT TO THE CODE OF ORDINANCES FOR THE CITY OF GLADWIN.

WHEREAS, American Legal Publishing Corporation of Cincinnati, Ohio has completed the 1998 S-3 Supplement to the Code of Ordinances of the City of Gladwin, which supplement contains all ordinances of a general nature enacted since the prior supplement to the Code of Ordinances of this municipality; and

WHEREAS, said American Legal Publishing Corporation has recommended the revision or addition of certain sections of the Code of Ordinances which are based on or make reference to sections of the Michigan Code; and

WHEREAS, it is the intent of Council to accept these updated sections in accordance with the changes of the laws of the State of Michigan; and

WHEREAS, it is necessary to provide for the usual daily operations of the City of Gladwin and for the immediate preservation of the public peace, health, safety and general welfare of the City of Gladwin that his ordinance take effect at an early date;

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Gladwin, State of Michigan:

Section 1. That the 1998 S-3 Supplement to the Code of Ordinances of the City of Gladwin, State of Michigan, as submitted by American Legal Publishing Corporation of Cincinnati, and as attached hereto, be and the same is hereby adopted by reference as if set out in its entirety.

Section 2. Such supplement shall be deemed published as of the day of its adoption and approval by the City Council of the City of Gladwin and the Clerk of the City of Gladwin is hereby authorized and ordered to insert such supplement into the copy of the Code of Ordinances kept on file in the Office of the Clerk.

Section 3. 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 the City of Gladwin, and shall take effect at the earliest date provided by law.

Roll Call Vote:

Ayes: Crawford, Hindman, Jungman, Kemp, Matteson, Mienk, Winarski

Nays: None

Absent: Shea

Abstain: None

PASSED AND ADOPTED by the City Council of the City of Gladwin this 31st day of August, 1998.

Earl Schuster /s/

Mayor

Connie Davis /s/

City Clerk

ORDINANCE NO. 246

AN ORDINANCE ENACTING AND ADOPTING A SUPPLEMENT TO THE CODE OF ORDINANCES FOR THE CITY OF GLADWIN AND DECLARING AN EMERGENCY.

WHEREAS, American Legal Publishing Corporation of Cincinnati, Ohio, has completed the 1999 S-4 supplement to the Code of Ordinances of the City of Gladwin, which supplement contains all ordinances of a general and permanent nature enacted since the prior supplement to the Code of Ordinances of the City of Gladwin; and

WHEREAS, American Legal Publishing Corporation has recommended the revision or addition of certain sections of the Code of Ordinances which are based on or make reference to sections of the Michigan code; and

WHEREAS, it is the intent of Council to accept these updated sections in accordance with the changes of the law of the State of Michigan; and

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

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Gladwin, State of Michigan:

Section 1. That the 1999 S-4 supplement to the Code of Ordinances of the City of Gladwin as submitted by American Legal Publishing Corporation of Cincinnati, Ohio, and as attached hereto, be and the same is hereby adopted by reference as if set out in its entirety.

Section 2. Such supplement shall be deemed published as of the day of its adoption and approval by the City Council of the City of Gladwin and the Clerk of the City of Gladwin is hereby authorized and ordered to insert such supplement into the copy of the Code of Ordinances kept on file in the Office of the Clerk.

Section 3. 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 the City of Gladwin, and shall take effect at the earliest date provided by law.

Roll Call Vote:

Ayes: Crawford, Hindman, Jungman, Kemp, Matteson, Mienk, Novak, Winarski

Nays: None

Absent: None

Abstain: None

PASSED AND ADOPTED by the Council of the City of Gladwin on this 16th day of August, 1999.

Earl Schuster /s/

Mayor

Connie Davis /s/

City Clerk

ORDINANCE NO. 254

AN ORDINANCE ENACTING AND ADOPTING A SUPPLEMENT TO THE CODE OF ORDINANCES FOR THE CITY OF GLADWIN AND DECLARING AN EMERGENCY.

WHEREAS, American Legal Publishing Corporation of Cincinnati, Ohio, has completed the 2000 S-5 supplement to the Code of Ordinances of the City of Gladwin, which supplement contains all ordinances of a general and permanent nature enacted since the prior supplement to the Code of Ordinances of the City of Gladwin; and

WHEREAS, American Legal Publishing Corporation has recommended the revision or addition of certain sections of the Code of Ordinances which are based on or make reference to sections of the Michigan Code; 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 City Council of the City of Gladwin, State of Michigan:

Section 1. That the 2000 S-5 supplement to the Code of Ordinances of the City of Gladwin as submitted by American Legal Publishing Corporation of Cincinnati, Ohio, and as attached hereto, be and the same is hereby adopted by reference as if set out in its entirety.

Section 2. Such supplement shall be deemed published as of the day of its adoption and approval by the City Council of the City of Gladwin and the Clerk of the City of Gladwin is hereby authorized and ordered to insert such supplement into the copy of the Code of Ordinances kept on file in the Office of the Clerk.

Section 3. 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 the City of Gladwin, and shall take effect at the earliest date provided by law.

Roll Call Vote:

Ayes: Caffrey, Crawford, Jungman, Novak, Winarski

Nays: None

Absent: Hindman, Matteson, Mienk

Abstain: None

PASSED AND ADOPTED by the Council of the City of Gladwin on this 21st day of August, 2000.

Earl Schuster /s/

Mayor

John G. Simpson /s/

Deputy City Clerk

ORDINANCE NO. 273

AN ORDINANCE ENACTING AND ADOPTING A SUPPLEMENT TO THE CODE OF ORDINANCES FOR THE CITY OF GLADWIN, MICHIGAN, AND DECLARING AN EMERGENCY.

WHEREAS, American Legal Publishing Corporation of Cincinnati, Ohio, has completed the City of Gladwin's supplement to the Code of Ordinances of the Political Subdivision, which supplement contains all ordinances of a general and permanent nature enacted since the prior supplement to the Code of Ordinances of this Political Subdivision; and

WHEREAS, American Legal Publishing Corporation has recommended the revision or addition of certain sections of the Code of Ordinances which are based on or make reference to sections of the Michigan Code; and

WHEREAS, it is the intent of the Legislative Authority to accept these updated sections in accordance with changes of the law of the State of Michigan; 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 GLADWIN, MICHIGAN:

Section 1. That the 2003 supplement to the Code of Ordinances of the Political Subdivision as submitted by American Legal Publishing Corporation of Cincinnati, Ohio, and as attached hereto, be and same is hereby adopted by reference as if set out in its entirety.

Section 2. Such supplement shall be deemed published as of the day of its adoption and approval by Legislative Authority and the Clerk of the Political Subdivision is hereby authorized and ordered to insert such supplement into the copy of the Code of Ordinances kept on file in the Office of the Clerk.

Section 3. 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.

PASSED AND ADOPTED by the Legislative Authority of the Political Subdivision on this 22nd day of July, 2003.

Roll Call Vote:

Ayes: Alward, Crawford, Hindman, Jungman, Matteson, Mienk, Novak

Nays: None

Absent: Caffrey

Thomas L. Winarski /s/

Mayor

Shannon Greaves /s/

City Clerk

ORDINANCE NO. 282

AN ORDINANCE ENACTING AND ADOPTING A SUPPLEMENT TO THE CODE OF ORDINANCES FOR THE CITY OF GLADWIN, MICHIGAN, AND DECLARING AN EMERGENCY

WHEREAS, American Legal Publishing Corporation of Cincinnati, Ohio, has completed the 7th supplement to the Code of Ordinances of the Political Subdivision, which supplement contains all ordinances of a general and permanent nature enacted since the prior supplement to the Code of Ordinances of this Political Subdivision; and

WHEREAS, American Legal Publishing Corporation has recommended the revision or addition of certain sections of the Code or Ordinances which are based on or make reference to sections of the

Michigan Code; and

WHEREAS, it is the intent of the Legislative Authority to accept these updated sections in accordance with the changes of the law of the State of Michigan; 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 GLADWIN, MICHIGAN:

Section 1. That the 7th supplement to the Code of Ordinances of the Political Subdivision as submitted by American Legal Publishing Corporation of Cincinnati, Ohio, and as attached hereto, be and the same is hereby adopted by reference as if set out in its entirety.

Section 2. Such supplement 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 insert such supplement into the copy of the Code of Ordinances kept on file in the Office of the Clerk.

Section 3. 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.

The foregoing resolution was offered by Council Member Jungman and supported by Council Member Crawford.

Resolution declared adopted this 20th day of September, 2004.

Roll Call Vote:

Ayes: Caffrey, Crawford, Hindman, Jungman, Mienk, Novak, Smith

Nays: None

Absent: Alward

Abstain: None

Shannon Greaves, City Clerk

ORDINANCE NO. 296

AN ORDINANCE ENACTING AND ADOPTING A SUPPLEMENT TO THE CODE OF ORDINANCES FOR THE CITY OF GLADWIN AND DECLARING AN EMERGENCY

WHEREAS, American Legal Publishing Corporation of Cincinnati, Ohio, has completed the 10th supplement to the Code of Ordinances of the Political Subdivision, which supplement contains all ordinances of a general and permanent nature enacted since the prior supplement to the Code of Ordinances of this Political Subdivision; and

WHEREAS, American Legal Publishing Corporation has recommended the revision or addition of certain sections of the Code or Ordinances which are based on or make reference to sections of the Michigan Code; and

WHEREAS, it is the intent of the Legislative Authority to accept these updated sections in accordance with the changes of the law of the State of Michigan; 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 GLADWIN, MICHIGAN:

Section 1. That the 10th supplement to the Code of Ordinances of the Political Subdivision as submitted by American Legal Publishing Corporation of Cincinnati, Ohio, and as attached hereto, be and the same is hereby adopted by reference as if set out in its entirety.

Section 2. Such supplement 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 insert such supplement into the copy of the Code of Ordinances kept on file in the Office of the Clerk.

Section 3. 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.

The foregoing resolution was offered by Council Member Jungman and supported by Council Member Alward.

Resolution declared adopted this 5th day of May, 2008.

Roll Call Vote:

Ayes: Alward, Caffrey, Crawford, Hindman, Jungman, Mienk, Novak, Smith

Nays: None

Absent: None

Abstain: None

Shannon Greaves, City Clerk

ORDINANCE NO. 300

AN ORDINANCE ENACTING AND ADOPTING A SUPPLEMENT TO THE CODE OF ORDINANCES FOR THE CITY OF GLADWIN AND DECLARING AN EMERGENCY

WHEREAS, American Legal Publishing Corporation of Cincinnati, Ohio, has completed the 11th supplement to the Code of Ordinances of the Political Subdivision, which supplement contains all ordinances of a general and permanent nature enacted since the prior supplement to the Code of Ordinances of this Political Subdivision; and

WHEREAS, American Legal Publishing Corporation has recommended the revision or addition of certain sections of the Code or Ordinances which are based on or make reference to sections of the Michigan Code; and

WHEREAS, it is the intent of the Legislative Authority to accept these updated sections in accordance with the changes of the law of the State of Michigan; 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 GLADWIN:

Section 1. That the 11th supplement to the Code of Ordinances of the Political Subdivision as submitted by American Legal Publishing Corporation of Cincinnati, Ohio, and as attached hereto, be and the same is hereby adopted by reference as if set out in its entirety.

Section 2. Such supplement 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 insert such supplement into the copy of the Code of Ordinances kept on file in the Office of the Clerk.

Section 3. 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.

The foregoing resolution was offered by Council Member Novak and supported by Council Member Crawford.

Resolution declared adopted this 6th day of April, 2009.

Roll Call Vote:

Ayes: Alward, Crawford, Hindman, Jungman, Mienk, Novak, Smith

Nays: None

Absent: Caffrey

Abstain: None

Shannon Greaves, City Clerk

ORDINANCE NO. 308

AN ORDINANCE ENACTING AND ADOPTING A SUPPLEMENT TO THE CODE OF ORDINANCES FOR THE CITY OF GLADWIN AND DECLARING AN EMERGENCY

WHEREAS, American Legal Publishing Corporation of Cincinnati, Ohio, has completed the 12th supplement to the Code of Ordinances of the Political Subdivision, which supplement contains all ordinances of a general and permanent nature enacted since the prior supplement to the Code of Ordinances of this Political Subdivision; and

WHEREAS, American Legal Publishing Corporation has recommended the revision or addition of certain sections of the Code or Ordinances which are based on or make reference to sections of the Michigan Code; and

WHEREAS, it is the intent of the Legislative Authority to accept these updated sections in accordance with the changes of the law of the State of Michigan; 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 GLADWIN:

Section 1. That the 12th supplement to the Code of Ordinances of the Political Subdivision as submitted by American Legal Publishing Corporation of Cincinnati, Ohio, and as attached hereto, be and the same is hereby adopted by reference as if set out in its entirety.

Section 2. Such supplement 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 insert such supplement into the copy of the Code of Ordinances kept on file in the Office of the Clerk.

Section 3. 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.

The foregoing resolution was offered by Council Member Smith and supported by Council Member Alward.

Ordinance declared adopted this 1st day of March, 2010.

Roll Call Vote:

Ayes: Alward, Caffrey, Crawford, Hindman, Jungman, Mienk, Novak, Smith

Nays: None

Absent: None

Abstain: None

Thomas L. Winarski, Mayor

Shannon Greaves, City Clerk

ORDINANCE NO. 314

AN ORDINANCE ENACTING AND ADOPTING A SUPPLEMENT TO THE CODE OF ORDINANCES FOR THE CITY OF GLADWIN AND DECLARING AN EMERGENCY

WHEREAS, American Legal Publishing Corporation of Cincinnati, Ohio, has completed the 13th supplement to the Code of Ordinances of the Political Subdivision, which supplement contains all ordinances of a general and permanent nature enacted since the prior supplement to the Code of Ordinances of this Political Subdivision; 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 GLADWIN:

Section 1. That the 13th supplement to the Code of Ordinances of the Political Subdivision as submitted by American Legal Publishing Corporation of Cincinnati, Ohio, and as attached hereto, be and the same is hereby adopted by reference as if set out in its entirety.

Section 2. Such supplement 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 insert such supplement into the copy of the Code of Ordinances kept on file in the Office of the Clerk.

Section 3. 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.

The foregoing resolution was offered by Council Member Jungman and supported by Council Member Caffrey.

Ordinance declared adopted this 20th day of December, 2010.

Roll Call Vote:

Ayes: Alward, Caffrey, Crawford, Hindman, Jungman, Mienk, Smith

Nays: None

Absent: Novak

Abstain: None

Thomas L. Winarski, Mayor

Shannon Greaves, City Clerk

ORDINANCE NO. 319

AN ORDINANCE ENACTING AND ADOPTING A SUPPLEMENT TO THE CODE OF ORDINANCES FOR THE CITY OF GLADWIN AND DECLARING AN EMERGENCY

WHEREAS, American Legal Publishing Corporation of Cincinnati, Ohio, has completed the 14th supplement to the Code of Ordinances of the Political Subdivision, which supplement contains all ordinances of a general and permanent nature enacted since the prior supplement to the Code of Ordinances of this Political Subdivision; 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 GLADWIN:

Section 1. That the 14th supplement to the Code of Ordinances of the Political Subdivision as submitted by American Legal Publishing Corporation of Cincinnati, Ohio, and as attached hereto, be and the same is hereby adopted by reference as if set out in its entirety.

Section 2. Such supplement 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 insert such supplement into the copy of the Code of Ordinances kept on file in the Office of the Clerk.

Section 3. 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.

The foregoing resolution was offered by Council Member Caffrey and supported by Council Member Alward.

Ordinance declared adopted this 17th day of October, 2011.

Roll Call Vote:

Ayes: Alward, Caffrey, Crawford, Hindman, Jungman, Mienk, Novak, Smith

Nays: None

Absent: None

Abstain: None

Thomas L. Winarski /s/

Thomas L. Winarski, Mayor

Shannon Greaves /s/

Shannon Greaves, City Clerk

ORDINANCE NO. 327

AN ORDINANCE ENACTING AND ADOPTING A SUPPLEMENT TO THE CODE OF ORDINANCES FOR THE CITY OF GLADWIN AND DECLARING AN EMERGENCY

WHEREAS, American Legal Publishing Corporation of Cincinnati, Ohio, has completed the 15th supplement to the Code of Ordinances of the Political Subdivision, which supplement contains all ordinances of a general and permanent nature enacted since the prior supplement to the Code of Ordinances of this Political Subdivision; 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 GLADWIN:

Section 1. That the 15th supplement to the Code of Ordinances of the Political Subdivision as submitted by American Legal Publishing Corporation of Cincinnati, Ohio, and as attached hereto, be and the same is hereby adopted by reference as if set out in its entirety.

Section 2. Such supplement 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 insert such supplement into the copy of the Code of Ordinances kept on file in the Office of the Clerk.

Section 3. 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.

The foregoing resolution was offered by Council Member Crawford and supported by Council Member Caffrey.

Ordinance declared adopted this 4th day of August, 2014.

Roll Call Vote:

Ayes: Bodnar, Caffrey, Crawford, Hawblitzel, Jungman, Mienk, Smith, Stout

Nays: None

Absent: None

Abstain: None

Thomas L. Winarski /s/

Thomas L. Winarski, Mayor

Shannon Smith /s/

Shannon Smith, City Clerk

CHARTER OF THE CITY OF GLADWIN

The Charter of the City of Gladwin, adopted by the Charter Commission June 10, 2009; approved by the voters November 3, 2009; effective January 1, 2010 is hereby adopted by reference and incorporated into this code of ordinances as if fully set forth herein. Copies of the Charter of the City of Gladwin are available for public inspection during normal business hours at the office of the City Clerk.

TITLE I: GENERAL PROVISIONS

Chapter

10. GENERAL PROVISIONS

CHAPTER 10: GENERAL PROVISIONS

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- 10.17 Ordinances which amend or supplement code
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- 10.99 General penalty

§ 10.01 TITLE OF CODE.

This codification of ordinances by and for the City of Gladwin shall be designated as the Code of Gladwin 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, or ordinary and usual sense. However, technical words and phrases having a peculiar and appropriate meaning in law shall be understood according to their technical import.

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

CITY, MUNICIPALITY or MUNICIPAL CORPORATION. The City of Gladwin, Michigan.

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

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

COUNTY. Gladwin County, Michigan.

MAY. The act referred to is permissive.

MONTH. A calendar month.

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

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

PERSON. Extends to and includes person, persons, firm, corporation, copartnership, 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.

SHALL. The act referred to is mandatory.

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

STATE. The State of Michigan.

SUBCHAPTER. A division of a chapter, designated in this code by a heading in the chapter analysis and a capitalized heading in the body of the chapter, setting apart a group of sections related by the subject matter of the heading. Not all chapters have subchapters.

SUPERINTENDENT. The City Superintendent of the City of Gladwin.

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

YEAR. A calendar year, unless otherwise expressed; equivalent to the words **YEAR OF OUR LORD**.

§ 10.06 RULES OF INTERPRETATION.

The construction of all ordinances of this city shall be by the following rules, unless such construction is plainly repugnant to the intent of the City Council 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, such requisition shall be satisfied by the performance of such act by an authorized agent or deputy.

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

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

§ 10.07 SEVERABILITY.

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

§ 10.09 REFERENCE TO OFFICES.

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

§ 10.10 ERRORS AND OMISSIONS.

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

§ 10.11 OFFICIAL TIME.

The official time, as established by applicable state/federal laws, shall be the official time within this city for the transaction of all city 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 such act or the giving of such 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 EFFECTIVE DATE OF ORDINANCES.

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

§ 10.16 REPEAL OR MODIFICATION OF ORDINANCE.

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

(B) No suit, proceedings, right, fine, forfeiture, or penalty instituted, created, given, secured, or accrued under any ordinance previous to its repeal shall in anyway 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.

§ 10.17 ORDINANCES WHICH AMEND OR SUPPLEMENT CODE.

(A) If the City Council 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 such chapter or section. In addition to such 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.

§ 10.18 SECTION HISTORIES; STATUTORY REFERENCES.

(A) As histories for the code sections, the specific number and passage date of the original ordinance, and the most recent three amending ordinances, if any, are listed following the text of the code section. Example: (Ord. 10, passed 5-13-60; Am. Ord. 15, passed 1-1-70; Am. Ord. 20, passed 1-1-80; Am. Ord. 25, passed 1-1-85)

(B) (1) A statutory cite included in the history indicates that the text of the section reads substantially the same as the statute. Example: (M.S.A. §) (Ord. 10, passed 1-17-80; Am. Ord. 20, passed 1-1-85).

(2) A statutory cite set forth as a "statutory reference" following the text of the section 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:

For provisions concerning the inspection of public records, see M.S.A. §§ 4.1801(1) et seq.

§ 10.99 GENERAL PENALTY.

(A) Any person, firm, or corporation who violates any provision of this code for which another penalty is not specifically provided shall, upon conviction, be subject to a fine not exceeding \$500 and costs or to imprisonment of not more than 90 days or both. A separate offense shall be deemed committed upon each act of violation and each day during which a violation occurs or continues.

(B) In the alternative to division (A) of this section, to the extent permitted by law, the city may issue a civil citation to any person who shall violate any provision of this code. The civil citation shall carry a fine of not more than \$500.

(C) In any prosecution under this Code of Ordinances, if the defendant has been found guilty upon verdict or plea, or otherwise has become subject to the penalties set forth in the Code of Ordinances, the court may proceed to place the defendant on probation, and may enter such orders of delayed sentence as would be available for prosecution of the laws of the state under M.C.L.A. § 771.1, as such may be amended from time to time.

(Am. Ord. 285, passed 6-6-05)

Statutory reference:

Authority, see M.S.A. § 5.2082(11)

TITLE III: ADMINISTRATION

Chapter

30. CITY COUNCIL
31. CITY OFFICIALS
32. DEPARTMENTS, BOARDS AND COMMISSIONS
33. JUSTICE COURT
34. POLICE DEPARTMENT
35. TAXATION
36. PARKS AND RECREATION COMMISSION

CHAPTER 30: CITY COUNCIL

Statutory reference:

Municipal legislative body generally, see M.S.A. § 5.2073

CHAPTER 31: CITY OFFICIALS

Section

Local Officers Compensation Commission

31.01 Authority

- 31.02 Purpose
- 31.03 Commission Composition: Eligibility and Restrictions on Eligibility
- 31.04 Commission Member Terms of Office
- 31.05 Filling of Vacancies
- 31.06 Compensation
- 31.07 Authority to Organize Final Vote; Session Days
- 31.08 Powers and Duties
- 31.09 Superseding Effect of Chapter

LOCAL OFFICERS COMPENSATION COMMISSION

§ 31.01 AUTHORITY.

The City Council does hereby establish a Local's Officers's Compensation Commission for said city pursuant to Act. No. 8 of Public Acts of 1972, being Section 117.5C of Michigan Compiled laws annotated and Section 5.2084 (3) of Michigan Statutes annotated.

(Ord. 168A, passed 12-15-75)

§ 31.02 PURPOSE.

The purpose of and function of said Commission is to determine the salaries of all local elected officials.

(Ord. 168A, passed 12-15-75)

§ 31.03 COMMISSION, COMPOSITION: ELIGIBILITY AND RESTRICTION ON ELIGIBILITY.

The Commission shall consist of five members, who are registered electors of the city, who shall be appointed by the Mayor subject to confirmation by the majority of the City Council. However, no member of employee of the legislative, judicial, or executive branch of any level of government or member of the immediate family of such member or employee shall be eligible to be a member of the commission.

(Ord. 168A, passed 12-15-75)

§ 31.04 COMMISSION MEMBER TERMS OF OFFICE.

(A) The member shall be initially appointed as follows:

- (1) One member for a term of five years.
- (2) One member for a term of four years.
- (3) One member for a term of three years.
- (4) One member for a term of two years.
- (5) One member for a term of one year.

(B) Annually, thereafter, the Mayor, with the approval of the Council, shall appoint one member of said Commission for a term of five years.

(C) All original members shall be appointed within 30 days after the effective date of this chapter. Thereafter, members shall be appointed before October 1 of the year of appointment.

(Ord. 168A, passed 12-15-75)

§ 31.05 FILLING OF VACANCIES.

Vacancies occasioned by removals, resignations, or otherwise, shall be reported to the City Council, and shall be filled for the remainder of the unexpired term in the same manner as original appointments.

(Ord. 168A, passed 12-15-75)

§ 31.06 COMPENSATION.

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

(Ord. 168A, passed 12-15-75)

§ 31.07 AUTHORITY TO ORGANIZE FINAL VOTE; SESSION DAYS.

(A) Immediately after they are appointed, the members shall meet and organize by electing one of their members Chairman and electing such other officers as they may deem necessary. They shall also have the power to adopt such by-laws and regulations as they deem necessary for the carrying on of the business of the Commission.

(B) A majority of the members of the Commission shall constitute a quorum for conducting its business. However, the Commission shall take no action or make determinations without a concurrence of a majority of the appointed and serving on the Commission.

(C) The Commission shall meet for not more than fifteen sessions days in 1976, and every odd numbered years thereafter. A *session day* means any calendar day on which the Commission meets and a quorum is present.

(Ord. 168A, passed 12-15-75)

§ 31.08 POWERS AND DUTIES.

(A) The Commission shall have the power to and shall determine the salaries of all elected officials of the city. The determination of said salaries shall become effective 30 days after being filed with the City Clerk, unless rejected by a vote of two-thirds of the City Council. In case of such rejection, the existing salary shall prevail. The Commission shall make its determination within 45 calendar days of its first meeting.

(B) The Commission shall not be responsible for review, approval or accounting for routine expense allowances or other expenses paid to elected officials in addition to salary.

(Ord. 168A, passed 12-15-75)

§ 31.09 SUPERSEDING EFFECT OF CHAPTER.

This chapter shall supersede and take precedence over all existing Charter provisions and other chapters of the Code Of Ordinances relating to either the fixing of salaries of elected officials and/or establishing a procedure for the fixing of said salaries.

(Ord. 168A, passed 12-15-75)

Statutory reference:

City officials generally, see M.S.A. § 5.2073(a)

CHAPTER 32: DEPARTMENTS, BOARDS AND COMMISSIONS

Section

Economic Development Corporation

32.01 Authorization for incorporation

Housing Commission

32.10 Establishment and appointment of members

32.11 Authority of Commission

Cross-reference:

Downtown Development Authority, see Ch. 150

Planning Commission, see Ch. 152

Parking Violations Bureau, see Ch. 71

ECONOMIC DEVELOPMENT CORPORATION

§ 32.01 AUTHORIZATION FOR INCORPORATION.

The Articles of Incorporation of the Economic Development Corporation, as submitted by the application of the incorporators are approved, pursuant to Public Act 338 of 1974, as amended, being M.S.A. §§ 5.3520(1) et seq. The Economic Development Corporation is deemed a public corporation pursuant to the statutes made and provided.

(Ord. 174, passed 1-7-80)

HOUSING COMMISSION

§ 32.10 ESTABLISHMENT AND APPOINTMENT OF MEMBERS.

(A) Pursuant to Public Act 18 of the Extra Session of 1933, as amended, being M.S.A. §§ 5.3011 et seq., a commission is hereby created, to be known as the City Housing Commission. The Mayor is hereby directed to appoint the members of the said City Housing Commission.

(B) The Gladwin City Housing Commission may act as a borrower for purposes of issuing bonds or notes, under Public Act 18 of the Extra Session of 1933, as amended, being M.S.A. §§ 5.3011 et seq.

(Ord. 149, passed 10-7-68; Am. Ord. 306, passed 10-5-09)

§ 32.11 AUTHORITY OF COMMISSION.

(A) The City Housing Commission is hereby authorized and directed to act as the agent of the city in all matters relating to any housing programs assisted under Section 8 of the United States Housing Act of 1937, as amended, being 42 U.S.C. 1437 et seq.

(B) The City Housing Commission is hereby authorized and directed to approve the creation of the City Housing Development Corporation, a non-profit corporation, as its instrumentality.

(C) The appropriate officers and commissioners of the City Housing Commission are hereby authorized and directed to execute as the city acting by and through the City Housing Commission, any and all documents and instruments which are required under state statutes to be executed by the city in connection with Section 8 of the United States Housing Act of 1937, as amended, being 42 U.S.C. 1437 et seq.

(Ord. 170, passed 10-17-77)

CHAPTER 33: JUSTICE COURT

Editor's note:

Public Act 217 of 1990, being M.S.A. §§ 27.3825(1) through 27.3825(5), repealed the state statutes pertaining to Justice Courts. Current provisions concerning the Justice Courts can be found at M.S.A. §§ 27.3751 through 27.3780.

CHAPTER 34: POLICE DEPARTMENT

Section

Minimum Employment Standards

- 34.01 Adoption of state standards
- 34.02 Age, citizenship and education
- 34.03 Criminal record
- 34.04 Moral character
- 34.05 Medical health
- 34.06 Oral interview
- 34.07 Compliance with state law

MINIMUM EMPLOYMENT STANDARDS

§ 34.01 ADOPTION OF STATE STANDARDS.

The minimum employment standards for law enforcement officers as established and adopted by the Michigan Law Enforcement Officers Training Council in accordance with Public Act 203 of 1965, being M.S.A. §§ 4.450(1) through 4.450(16), are hereby adopted as set forth in this subchapter.

(Ord. 162, passed 8-20-73)

§ 34.02 AGE, CITIZENSHIP AND EDUCATION.

- (A) Applicants shall be citizens of the United States.
- (B) Applicants shall be at least 21 years old.
- (C) Applicants shall be high school graduates or have attained a passing score on the General Education Development test indicating high school graduation level.

(Ord. 162, passed 8-20-73)

§ 34.03 CRIMINAL RECORD.

(A) Fingerprints of applicants shall be obtained and searched against local, state and national fingerprint files to disclose any criminal record.

(B) The applicant shall not have been convicted of a felony offense.

(Ord. 162, passed 8-20-73)

§ 34.04 MORAL CHARACTER.

Applicants shall demonstrate good moral character as determined by a favorable report following a comprehensive background investigation covering school and employment records, home environment, personal traits and integrity. Consideration will be given to any and all law violations, including traffic and conservation law convictions as indicating a lack of good character.

(Ord. 162, passed 8-20-73)

§ 34.05 MEDICAL HEALTH.

(A) Applicants shall demonstrate acceptable physical, emotional and mental fitness as established by a licensed physician following examination to determine the applicant is free from any physical, emotional or mental condition which might adversely affect the performance of duty as a police officer.

(B) The applicant shall possess normal hearing and normal color vision, and shall be free from any impediments of the senses. The applicant must possess normal visual functions and visual acuity in each eye correctable to 20/20. The applicant must be physically sound and well-developed physically, with height and weight in relation to each other and to age as indicated by accepted medical standards. The applicant must be in possession of all extremities. The applicant must be free from any physical defects, chronic diseases, organic diseases, organic or functional conditions or mental instabilities which may tend to impair efficient performance of duty which might endanger the lives of others or the applicant if he or she lacks these qualifications.

(C) A declaration of the applicant's medical history shall become a part of the background investigation. The information shall be available to the examining physician.

(Ord. 162, passed 8-20-73)

§ 34.06 ORAL INTERVIEW.

An oral interview shall be held by the hiring authority or its representative, to determine the applicant's acceptability for a police officer position and to assess appearance, background and ability to communicate.

(Ord. 162, passed 8-20-73)

§ 34.07 COMPLIANCE WITH STATE LAW.

Recruitment and employment practices and standards shall be in compliance with existing state statutes governing this activity.

(Ord. 162, passed 8-20-73)

CHAPTER 35: FINANCE AND REVENUE

Section

Public Improvement Assessments

- 35.01 Definitions
- 35.02 Special assessments for public improvements
- 35.03 Initiation of proceedings
- 35.04 Council approval of control or expenditures
- 35.05 Council approval of plans and specifications
- 35.06 Special assessment roll; filing; hearings
- 35.07 Special assessment roll; changes
- 35.08 Objection by majority of property owners
- 35.09 Lien on property; due dates of assessments
- 35.10 Collection by City Treasurer
- 35.11 Collection fee
- 35.12 Additional assessments
- 35.13 Excess assessment funds
- 35.14 Apportionment among subsequently divided lots
- 35.15 Invalid or illegal assessments
- 35.16 Notice of suit contesting assessment

Tax Exemption for Village North Apartments as Provided by State Housing Development Act

- 35.25 Purpose
- 35.26 Preamble
- 35.27 Definitions
- 35.28 Class of housing developments
- 35.29 Establishment of annual service charge
- 35.30 Limitation on the payment of annual service charge
- 35.31 Contractual effect of subchapter
- 35.32 Payment of service charge
- 35.33 Duration
- 35.34 Termination
- 35.35 Acknowledgment

Tax Exemption for Shelterhouse Homes as Provided by State Housing Development Act

- 35.45 Purpose
- 35.46 Preamble

- 35.47 Definitions
- 35.48 Class of housing developments
- 35.49 Establishment of annual service charge
- 35.50 Limitation on the payment of annual service charge
- 35.51 Contractual effect of subchapter
- 35.52 Payment of service charge
- 35.53 Duration
- 35.54 Termination
- 35.55 Acknowledgment

Tax Exemption for Village North Apartments - Phase II

as Provided by State Housing Development Act

- 35.60 Purpose
- 35.61 Preamble
- 35.62 Definitions
- 35.63 Class of housing developments
- 35.64 Establishment of annual service charge
- 35.65 Contractual effect of subchapter
- 35.66 Limitation on payment of annual service charge
- 35.67 Payment of service charge
- 35.68 Duration

Cross-reference:

Tax Increment Financing Plan for the Downtown Development Authority, see §§ 150.20 through 150.27

Statutory reference:

Taxation authority, see M.S.A. §§ 5.2073(f) through 5.2073(i)

Special assessment authority, see M.S.A. § 5.2077

PUBLIC IMPROVEMENT ASSESSMENTS

§ 35.01 DEFINITIONS.

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

COST. The cost of any public improvement, including the cost of services, plans, condemnation, spreading of rolls, notices, advertising, financing, construction and legal fees and other costs incident to the making of such improvement, the special assessments therefor and the financing thereof.

PUBLIC IMPROVEMENT. Any improvements upon public property which result in special benefit to the real property in the vicinity of such improvement.

(Ord. 148, passed 5-6-69)

§ 35.02 SPECIAL ASSESSMENTS FOR PUBLIC IMPROVEMENTS.

The entire cost and expense or any part thereof of all public improvements may be defrayed by special assessment upon the lands specially benefitted by the improvement in the manner hereinafter provided.

(Ord. 148, passed 5-6-69)

§ 35.03 INITIATION OF PROCEEDINGS.

(A) Proceedings for making public improvements and defraying the entire cost or any part thereof by special assessment shall be initiated by resolution of the Council. For the purposes of determining whether a sufficient number of property owners are interested in a public improvement, the Council may require petitions from the owners of property in the proposed special assessment district.

(B) Whenever the Council shall determine to make any public improvement and defray the entire cost and expense thereof or any part thereof by special assessment, the Council shall by resolution direct the Mayor to make an investigation of the proposed public improvement and report the findings to the Council. Said report shall include an analysis of the following:

(1) The estimated cost of the proposed public improvement; and

(2) Plans and specification for the public improvement.

(3) There shall also be included recommendations as to the following:

(a) The portion of the cost to be borne by the special assessment district and the portion, if any, to be borne by the city at large;

(b) The extent of the improvement and boundaries of the district;

(c) The number of installments in which assessments may be paid; and

(d) Any other facts or recommendations which will aid the Council in determining whether the improvement shall be made and how the same shall be financed.

(Ord. 148, passed 5-6-69)

§ 35.04 COUNCIL APPROVAL OF CONTROL OR EXPENDITURES.

No control or expenditure, except for the necessary procedures of the Council and for the preparing of necessary profiles, plans, specifications and estimates of cost, shall be made for any public improvement, the cost of which is to be paid by special assessment upon the property especially benefitted thereby, until the Council has passed a resolution determining to proceed with such public improvement.

(Ord. 148, passed 5-6-69)

§ 35.05 COUNCIL APPROVAL OF PLANS AND SPECIFICATIONS.

Upon receipt of the report of the Mayor if the Council shall determine to proceed with the improvement, they shall by resolution approve the report prepared by the Mayor and shall approve the plans and specifications and estimate of cost for the public improvement; determine the necessity thereof and set forth the nature thereof; designate the limits of the special assessment district to be

affected and describe the lands to be assessed; determine the part or proportion of the cost of the public improvement to be paid by the lands specially benefited thereby and the part or proportion, if any, to be paid by the city at large for benefit to the city at large; determine the number of installments in which the special assessment may be paid and the rate of interest, not exceeding 6% per annum, to be charged if the payment of any balance is to be deferred; and by the terms of said resolution shall direct the City Assessor to make a special assessment roll of the part or proportion of the cost to be borne by the lands specially benefited according to the benefits received and to report the same to the Council.

(Ord. 148, passed 5-6-69)

§ 35.06 SPECIAL ASSESSMENT ROLL; FILING; HEARINGS.

When the special assessment roll shall have been reported to the Council, they shall order the same filed in the office of the City Clerk for public examination along with the report of the Mayor required to be made pursuant to § 35.03, and shall fix a date, time and place when the Council shall meet as a board of review to review the roll and to hear complaints. The assessment roll shall be open to public inspection for a period of seven days before the Council meets as a board of review. The City Clerk shall give notice of the meeting of the Council to review the special assessment roll and to hear complaints by publication at least once in a newspaper printed and circulated in the city, at least ten days prior to the time of the meeting, and shall further cause notice of the meeting to be mailed by first-class mail to each property owner in the special assessment district as shown by the current assessment rolls of the city at least ten days prior to the time of the hearing, the notice to be mailed to the addresses shown on the current assessment rolls of the city.

(Ord. 148, passed 5-6-69)

§ 35.07 SPECIAL ASSESSMENT ROLL; CHANGES.

(A) The Council shall meet and review the special assessment roll at the time and place appointed or at an adjourned meeting thereof and shall consider any objections thereto. The Council may correct the roll as to any assessment or description of any lot or parcel of land or other errors appearing therein. Any changes made in such roll shall be noted in the Council's minutes. After such hearing and review the Council may confirm such special assessment roll with such corrections as it may have made, if any, or may refer it back to the City Assessor for revision, or may annul it or any proceedings in connection therewith. The City Clerk shall endorse the date of confirmation upon each special assessment roll.

(B) The roll shall be, upon ratification and confirmation, final and conclusive.

(Ord. 148, passed 5-6-69)

§ 35.08 OBJECTION BY MAJORITY OF PROPERTY OWNERS.

(A) If at or prior to the meeting of the board of review the owners of more than ½ of the property to be assessed object in writing to the improvement, assessment shall not be made without an affirmative vote of five members of the Council.

(Ord. 148, passed 5-6-69)

§ 35.09 LIEN ON PROPERTY; DUE DATES OF ASSESSMENTS.

(A) All special assessments contained in any special assessment roll, including any part thereof to be paid in installments, shall from the date of confirmation of such roll constitute a lien upon the respective lots or parcels of land assessed and until paid shall be a charge against the respective owners of the several lots and parcels of land and a debt to the city from the persons to whom they are assessed. Such lien shall be of the same character and effect as the lien created by the City

Charter for city taxes and shall include accrued interest and fees. No judgment or decree nor act of the Council vacating a special assessment shall destroy or impair the lien of the city upon the premises assessed for such amount of the assessment as may be equitably charged against the same or as by a regular mode of proceeding might be lawfully assessed thereon. All special assessments shall become due upon confirmation of the special assessment roll or in annual installments, not to exceed ten in number, as the Council may determine at the time of confirmation; or upon any other date the Council may prescribe, and the subsequent installments shall be spread upon the city tax roll. The second installment shall be collected as part of the first city tax roll which becomes due six months or more after the due date of the initial installment.

(Ord. 148, passed 5-6-69)

§ 35.10 COLLECTION BY CITY TREASURER.

(A) Whenever any special assessment roll shall be confirmed and be payable, the Council shall direct the City Clerk to transmit the assessment roll to the City Treasurer for collection. The City Treasurer shall mail statements of the several assessments to the respective owners of the several lots and parcels of land assessed, as indicated by the records of the City Assessor, stating the amount of the assessment and the manner in which it may be paid; provided, however, that failure to mail any such statement shall not invalidate the assessment or entitle the owner to an extension of time within which to pay the assessment.

(Ord. 148, passed 5-6-69)

§ 35.11 COLLECTION FEE.

(A) The whole or any part of any such assessment may be paid at any time after the day of confirmation of the special assessment roll until the tenth day of the second calendar month following such confirmation without interest or penalty.

(B) Each special assessment shall be collected by the City Treasurer with the same rights and remedies as provided in the Charter for the collection of taxes, except as otherwise herein provided. On the eleventh day of the second calendar month following the due date, the City Treasurer shall add to all assessments or installments paid on such day and thereafter a collection fee of 4% of the amount of the assessment or installment and on the eleventh day of each succeeding month he shall add an additional 0.5% as a collection fee. All collection fees shall belong to the city and be collectible in the same manner as the collection fee for city taxes.

(C) After the expiration of the period provided in division (A) of this section for payment without interest or fees, any installment may be discharged by paying the face amount thereof together with fees and interest thereon from the date of confirmation to the date of payment; provided, however, that if the public improvement has been financed by the sale of non-callable bonds or other evidences of indebtedness which are not prepayable, then the interest shall be computed from the date of confirmation to the date upon which such installment would have fallen due had it not been prepaid.

(Ord. 148, passed 5-6-69)

§ 35.12 ADDITIONAL ASSESSMENTS.

(A) Should the assessments on any special assessment roll, including the amount assessed to the city at large, prove insufficient for any reason to pay the cost of the improvement for which they were made, then the Council may make additional pro rata assessments to supply the deficiency against the city and the several lots and parcels of land in the same ratio as the original assessments, but the total amount assessed against any lot or parcel of land shall not exceed the value of the benefits received from the improvement.

(Ord. 148, passed 5-6-69)

§ 35.13 EXCESS ASSESSMENT FUNDS.

(A) Should the special assessment or the proceeds of sale of any special assessment bonds prove larger than necessary to meet the costs of the improvement or to meet the principal and interest requirements of any special assessment bonds and expenses incidental thereto, the excess shall be placed in the City Treasury. If more than 5%, the excess shall be returned pro rata according to assessments; except as otherwise provided in § 35.15(A). No refunds may be made which contravene the provisions of any evidence of indebtedness secured in whole or in part by such special assessment.

(Ord. 148, passed 5-6-69)

§ 35.14 APPORTIONMENT AMONG SUBSEQUENTLY DIVIDED LOTS.

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

(Ord. 148, passed 5-6-69)

§ 35.15 INVALID OR ILLEGAL ASSESSMENTS.

(A) Whenever the Council deems any special assessment invalid or defective, or whenever a court adjudges an assessment to be illegal in whole or in part, the Council may cause a new assessment to be levied for the same purpose, whether or not the improvement or any part thereof has been completed, or any part of the special assessment collected. All proceedings on such reassessment and for the collection thereof shall be conducted in the same manner as provided for the original assessment. If any portion of the original special assessment is collected and not refunded, it shall be applied upon the reassessment, and the reassessment shall to that extent be deemed satisfied. If more than the amount reassessed is collected, the balance shall be refunded to the person making such payment.

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

(Ord. 148, passed 5-6-69)

§ 35.16 NOTICE OF SUIT CONTESTING ASSESSMENT.

No suit or action shall be instituted or maintained for the purpose of contesting or enjoining the collection of a special assessment unless written notice, stating an intention to contest the collection thereof and setting forth the grounds of such contest, is filed with the Clerk. Such notice shall be filed within 30 days after the date of the resolution of the Council confirming the assessment upon a single lot or premise, ordering the special assessment. Any such suit or action must be commenced within 60 days following the giving of notice.

TAX EXEMPTION FOR VILLAGE NORTH APARTMENTS AS PROVIDED BY STATE HOUSING DEVELOPMENT ACT

§ 35.25 PURPOSE.

This subchapter is to provide for a service charge in lieu of taxes for a multiple family dwelling project for persons of low to moderate income to be financed or assisted pursuant to the provisions of the State Housing Development Authority Act of 1966, as amended. This subchapter shall be known as the "Village North Tax Exemption Ordinance."

(Ord. 237, passed 11-16-98)

§ 35.26 PREAMBLE.

(A) It is acknowledged that it is a proper public purpose of the state and its political subdivisions to provide housing for its citizens of low to moderate income and to encourage the development of such housing by providing for a service charge in lieu of property taxes in accordance with the State Housing Development Authority Act of 1966 (1966 PA 346, as amended, M.C.L.A. § 125.1401 et seq., M.S.A. § 16.114 (1) et seq.) The city is authorized by this Act to establish or change the service charge to be paid in lieu of taxes by any or all classes of housing exempt from taxation under this Act at any amount it chooses not to exceed the taxes that would be paid but for this Act. It is further acknowledged that such housing for persons of low to moderate income is a public necessity, and as the city will be benefitted and improved by such housing, the encouragement of the same by providing certain real estate tax exemption for such housing is a valid public purpose; further, that the continuance of the provisions of this subchapter for tax exemption and the service charge in lieu of taxes during the period contemplated in this subchapter are essential to the determination of economic feasibility of housing developments which are constructed and financed in reliance on such tax exemption.

(B) The City acknowledges that Village North Limited Dividend Housing Association Limited Partnership (the "Sponsor") has offered, subject to receipt of an allocation under the Low Income Housing Tax Credit (LIHTC), to erect, own, and operate a housing development identified as Village North Apartments on certain property located at 519 and 545 Clendening Road, in the city to serve persons of low to moderate income, and that the Sponsor has offered to pay to the city on account of this Housing Development an annual service charge for public services in lieu of all taxes.

(Ord. 237, passed 11-16-98)

§ 35.27 DEFINITIONS.

All terms shall be defined as set forth in the State Housing Development Authority Act of 1966, of the State of Michigan, as amended, except as follows.

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

ANNUAL SHELTER RENT. The total collections during a calendar year from all occupants of a housing development representing rent for occupancy charges, exclusive of charges for gas, electricity, heat or other utilities furnished to the occupants.

AUTHORITY. The Michigan State Housing Development Authority.

HOUSING DEVELOPMENT. A development which contains a significant element of housing for persons of low income and such elements of other housing, commercial, recreational, industrial, communal, and educational facilities as the Authority determines improve the quality of the development as it relates to persons of low income.

ELDERLY. A single person who is 55 years of age or older or a household in which at least one member is 55 years of age and all other members are 50 years of age or older.

SPONSOR. Persons or entities which have applied to the Authority for an allocation under the Low Income Housing Tax Credit Program to finance a Housing Development.

UTILITIES. Fuel, water, sanitary sewer and electrical service which are paid by the Housing Development.

(Ord. 237, passed 11-16-98)

§ 35.28 CLASS OF HOUSING DEVELOPMENTS.

It is determined that the class of housing developments to which the tax exemption shall apply and for which a service charge shall be paid in lieu of taxes shall be housing developments for elderly persons and persons and families of low to moderate income, which are financed or assisted pursuant to the Act. It is further determined that Village North Apartments is of this class.

(Ord. 237, passed 11-16-98)

§ 35.29 ESTABLISHMENT OF ANNUAL SERVICE CHARGE.

The housing development identified as Village North Apartments and the property on which it shall be constructed shall be exempt from all property taxes from and after the year the project is placed in service as evidenced by a certificate of occupancy from the appropriate public officials. The city acknowledges that the sponsor and the authority have established the economic feasibility of the housing development in reliance upon the enactment and continuing effect of this subchapter and the qualification of the housing development for exemption from all property taxes and a payment in lieu of taxes as established in this chapter, and in consideration of the sponsor's offer, subject to receipt of an allocation under the LIHTC program, to construct, own and operate the housing development, agrees to accept payment of an annual service charge for public services in lieu of all property taxes. The annual service charge shall be equal to 8% of the annual shelter rents actually collected through the calendar year 2013, and 9% of the annual shelter rents actually collected for any year subsequent to 2014.

(Ord. 237, passed 11-16-98; Am. Ord. 325, passed 4-7-14)

§ 35.30 LIMITATION ON THE PAYMENT OF ANNUAL SERVICE CHARGE.

(A) Notwithstanding § 35.29, the service charge to be paid each year in lieu of taxes for part of the housing development which is tax exempt and which is occupied by other than low income persons or families shall be equal to the full amount of the taxes which would be paid on that portion of the Housing Development if the Housing Development were not tax exempt.

(B) The term "low income persons or families" as herein shall be the same meaning as found in Section 15 (a)(7) of the Act.

(Ord. 237, passed 11-16-98)

§ 35.31 CONTRACTUAL EFFECT OF SUBCHAPTER.

Notwithstanding the provisions of Section 15 (a)(15) of the Act, to the contrary, a contract between the city and the sponsor with the authority as a third party beneficiary under the contract, to provide tax exemption and accept payments in lieu of taxes, as previously described, is effectuated by enactment of this subchapter.

(Ord. 237, passed 11-16-98)

§ 35.32 PAYMENT OF SERVICE CHARGE.

The service charge in lieu of taxes as determined under this subchapter shall be payable in the same manner as general property taxes except that the annual payment shall be paid on or before February 28 of each year. The sponsor shall submit a statement from its independent auditor verifying the amounts used to compute the payment are correct as reported. The statement and supporting documents may be from the sponsor's federal tax return.

(Ord. 237, passed 11-16-98)

§ 35.33 DURATION.

This subchapter shall remain in effect for a period of 30 years after the certificate of occupancy is obtained from the appropriate officials, so long as the housing development remains subject to income and rent restrictions pursuant to Section 42 of the Internal Revenue Code of 1986, as amended, provided however, that Village North Apartments shall not be entitled to a service charge in lieu of property taxes for the calendar year 2014, being the year in which this section was enacted.

(Ord. 237, passed 11-16-98; Am. Ord. 325, passed 4-7-14)

§ 35.34 TERMINATION.

Notwithstanding anything contained herein to the contrary, should the sponsor fail to pay the service charge in lieu of taxes granted hereunder or fail to provide the verification of the calculations used to make the payment, the city shall file a certificate of nonpayment upon the sponsor of the housing development and the authority by certified mail, with the Register of Deeds of Gladwin County. Following the expiration of 60 days after service of a certificate of nonpayment upon the sponsor and the authority, if payment and supporting documentation has not been made, the service charge in lieu of taxes granted by this subchapter shall automatically be terminated, retroactive to January 1 of the year for which the service charge in lieu of taxes applies.

(Ord. 237, passed 11-16-98)

§ 35.35 ACKNOWLEDGMENT.

The city hereby acknowledges receipt of documentation from the authority indicating that the authority's participation with the housing development is limited solely to the allocation of tax credits under the Low Income Housing Tax Credit Program.

(Ord. 237, passed 11-16-98)

TAX EXEMPTION FOR SHELTERHOUSE HOMES AS PROVIDED BY STATE HOUSING DEVELOPMENT ACT

§ 35.45 PURPOSE.

This subchapter is to provide for a service charge in lieu of taxes for a dwelling project for persons of low to moderate income to be financed or assisted pursuant to the provisions of the State Housing Development Authority Act of 1966, as amended. This subchapter shall be known as the "Affordable Housing Alliance Tax Exemption Ordinance."

(Ord. 297, passed 6-2-08)

§ 35.46 PREAMBLE.

(A) It is acknowledged that it is a proper public purpose of the state and its political subdivisions to provide housing for its citizens of low to moderate income and to encourage the development of such housing by providing for a service charge in lieu of property taxes in accordance with the State Housing Development Authority Act of 1966 (1966 PA 346, as amended, M.C.L.A. § 125.1401 et seq.,

M.S.A. § 16.114 (1) et seq.) The city is authorized by this Act to establish or change the service charge to be paid in lieu of taxes by any or all classes of housing exempt from taxation under this Act at any amount it chooses not to exceed the taxes that would be paid but for this Act. It is further acknowledged that such housing for persons of low to moderate income is a public necessity, and as the city will be benefitted and improved by such housing, the encouragement of the same by providing certain real estate tax exemption for such housing is a valid public purpose; further, that the continuance of the provisions of this subchapter for tax exemption and the service charge in lieu of taxes during the period contemplated in this subchapter are essential to the determination of economic feasibility of housing developments which are constructed and financed in reliance on such tax exemption.

(B) The city acknowledges that Affordable Housing Alliance (the "Sponsor") has offered, to own and operate a housing development identified as "Shelterhouse Homes" on certain property located at 201 East Grout Street and 415 Beech Street, in the city to serve persons of low to moderate income, and that the sponsor has offered to pay to the city on account of this housing development an annual service charge for public services in lieu of all taxes. The legal description of the specific properties subject to this subchapter is set forth as Attachment A to Ordinance 297.

(Ord. 297, passed 6-2-08)

§ 35.47 DEFINITIONS.

All terms shall be defined as set forth in the State Housing Development Authority Act of 1966, of the State of Michigan, as amended, except as follows:

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

ANNUAL SHELTER RENT. The total collections during a calendar year from all occupants of a housing development representing rent for occupancy charges, exclusive of charges for gas, electricity, heat or other utilities furnished to the occupants.

AUTHORITY. The Michigan State Housing Development Authority.

HOUSING DEVELOPMENT. A development which contains a significant element of housing for persons of low income and such elements of other housing, commercial, recreational, industrial, communal, and educational facilities as the authority determines improve the quality of the development as it relates to persons of low income.

ELDERLY. A single person who is 62 years of age or older or a household in which at least one member is 62 years of age.

MORTGAGE LOAN. A loan to be made by the authority or Farmers Home Administration or the Department of Housing and Urban Development to the sponsor for the construction and permanent financing the housing development or a mortgage loan insured by HUD.

PERSONS OF LOW INCOME. Persons and families eligible to move into a housing development.

SPONSOR. Persons or entities which have applied to the authority for a mortgage loan to finance a housing development or to another governmental entity for a federally-aided loan, as defined by the Act.

UTILITIES. Fuel, water, sanitary sewer and electrical service which are paid by the housing development.

(Ord. 297, passed 6-2-08)

§ 35.48 CLASS OF HOUSING DEVELOPMENTS.

It is determined that the class of housing developments to which the tax exemption shall apply and for which a service charge shall be paid in lieu of taxes shall be housing developments for elderly persons and persons and families of low to moderate income, which are financed or assisted pursuant to the Act. It is further determined that Shelterhouse Homes is of this class.

(Ord. 297, passed 6-2-08)

§ 35.49 ESTABLISHMENT OF ANNUAL SERVICE CHARGE.

The housing development identified as Shelterhouse Homes shall be exempt from all property taxes from and after the year the project is placed in service as evidenced by a certificate of occupancy from the appropriate public officials. The city acknowledging that the sponsor and the authority have established the economic feasibility of the housing development in reliance upon the enactment and continuing effect of this subchapter and the qualification of the housing development for exemption from all property taxes and a payment in lieu of taxes as established in this subchapter, and in consideration of the sponsor's offer, to own and operate the housing development, agrees to accept payment of an annual service charge for public services in lieu of all property taxes. The annual service charge shall be equal to 15% of the annual shelter rents actually collected. This subchapter shall have no retroactive effect and applies to subsequent tax years only.

(Ord. 297, passed 6-2-08)

§ 35.50 LIMITATION ON THE PAYMENT OF ANNUAL SERVICE CHARGE.

(A) Notwithstanding § 35.49, the service charge to be paid each year in lieu of taxes for part of the housing development which is tax exempt and which is occupied by other than low income persons or families shall be equal to the full amount of the taxes which would be paid on that portion of the housing development if the housing development were not tax exempt.

(B) The term "low income persons or families" as herein shall be the same meaning as found in Section 15 (a)(7) of the Act.

(Ord. 297, passed 6-2-08)

§ 35.51 CONTRACTUAL EFFECT OF SUBCHAPTER.

Notwithstanding the provisions of Section 15 (a)(15) of the Act, to the contrary, a contract between the city and the sponsor with the authority as a third party beneficiary under the contract, to provide tax exemption and accept payments in lieu of taxes, as previously described, is effectuated by enactment of this subchapter.

(Ord. 297, passed 6-2-08)

§ 35.52 PAYMENT OF SERVICE CHARGE.

The service charge in lieu of taxes as determined under this subchapter shall be payable in the same manner as general property taxes except that the annual payment shall be paid on or before February 28 of each year. The sponsor shall submit a statement from its independent auditor verifying the amounts used to compute the payment are correct as reported. The statement and supporting documents may be from the sponsor's federal tax return.

(Ord. 297, passed 6-2-08)

§ 35.53 DURATION.

This subchapter shall remain in effect and shall not terminate so long as the mortgage loan remains outstanding and unpaid or the authority has any interest in the property; provided, that occupancy of

the housing development commences within one year from the effective date of this subchapter.

(Ord. 297, passed 6-2-08)

§ 35.54 TERMINATION.

Notwithstanding anything contained herein to the contrary, should the sponsor fail to pay the service charge in lieu of taxes granted hereunder or fail to provide the verification of the calculations used to make the payment, the city shall file a certificate of nonpayment upon the sponsor of the housing development and the authority by certified mail, with the Register of Deeds of Gladwin County. Following the expiration of 60 days after service of a certificate of nonpayment upon the sponsor and the authority, if payment and supporting documentation has not been made, the service charge in lieu of taxes granted by this subchapter shall automatically be terminated, retroactive to January 1 of the year for which the service charge in lieu of taxes applies.

(Ord. 297, passed 6-2-08)

§ 35.55 ACKNOWLEDGMENT.

The sponsor acknowledges that sponsor shall provide to the city documentation from the authority indicating that the authority's participation with a mortgage loan.

(Ord. 297, passed 6-2-08)

TAX EXEMPTION FOR VILLAGE NORTH APARTMENTS - PHASE II AS PROVIDED BY STATE HOUSING DEVELOPMENT ACT

§ 35.60 PURPOSE.

This subchapter shall be known as the "Village North - Phase II Tax Exemption Ordinance".

(Ord. 336, passed 9-18-17; Am. Ord. 342, passed 3-4-19)

§ 35.61 PREAMBLE.

(A) It is acknowledged that it is a proper public purpose of the State of Michigan and its political subdivisions to provide housing for its citizens of low to moderate income persons and families and to encourage the development of such housing by providing for a service charge in lieu of property taxes in accordance with the Act. The city is authorized by this Act to establish or change the service charge to be paid in lieu of taxes by any or all classes of housing exempt from taxation under this Act at any amount it chooses not to exceed the taxes that would be paid but for this Act. It is further acknowledged that such housing of low to moderate income persons and families is a public necessity, and as the city will be benefitted and improved by such housing, the encouragement of the same by providing real estate tax exemption for such housing is a valid public purpose. It is further acknowledged that the continuance of the provisions of this subchapter for tax exemption and the service charge in lieu of all ad valorem taxes during the period contemplated in this subchapter are essential to the determination of economic feasibility of the housing projects that are constructed or rehabilitated with financing extended in reliance on such tax exemption.

(B) The city acknowledges that sponsor (as defined below) has offered, subject to receipt of an allocation under the Low Income Housing Tax Credit (LIHTC) Program by the Michigan State Housing Development Authority, to construct, own, and operate a housing development identified as Village North Apartments - Phase II on certain property located at 559, 565 and 569 Clendening Road, in the city to serve persons and families of low to moderate income, and that the sponsor has offered to pay

to the city on account of this housing development an annual service charge for public services in lieu of all ad valorem property taxes.

(Ord. 336, passed 9-18-17; Am. Ord. 342, passed 3-4-19)

§ 35.62 DEFINITIONS.

All terms shall be defined as set forth in the State Housing Development Authority Act of 1966, of the State of Michigan, as amended, except as follows:

ANNUAL SHELTER RENT. The total collections during a calendar year from all occupants of a housing development representing rent for occupancy charges, exclusive of charges for gas, electricity, heat or other utilities furnished to the occupants.

AUTHORITY. The Michigan State Housing Development Authority.

HOUSING DEVELOPMENT. A development which contains a significant element of housing for persons of low income and such elements of other housing, commercial, recreational, industrial, communal, and educational facilities as the Authority determines improve the quality of the development as it relates to persons of low income. With respect to this subchapter, **HOUSING DEVELOPMENT** is a 49 unit project, contained in three buildings, together with associated grounds, parking and related facilities.

LIHTC PROGRAM. The Low Income Housing Tax Credit program administered by the Authority under Section 42 of the Internal Revenue Code of 1986, as amended.

LOW TO MODERATE INCOME PERSONS AND FAMILIES. Persons and families eligible to move into a housing project.

MORTGAGE LOAN. A loan that is federally-aided (as defined in Section 11 of the Act) or a loan or grant made or to be made by the Authority to the sponsor for the construction, rehabilitation, acquisition and/or permanent financing of a housing project, and secured by a mortgage on the housing project.

SPONSOR. DeShano Development Corporation and any entity which have applied to the authority for an allocation under the Low Income Housing Tax Credit Program to finance the housing development.

UTILITIES. Fuel, water, sanitary sewer and electrical service which are paid by the housing development.

(Ord. 336, passed 9-18-17; Am. Ord. 342, passed 3-4-19)

§ 35.63 CLASS OF HOUSING DEVELOPMENTS.

It is determined that the class of housing developments to which the tax exemption shall apply and for which a service charge shall be paid in lieu of taxes shall be housing developments for elderly persons and persons and families of low to moderate income, which are financed or assisted pursuant to the Act. It is further determined that Village North Apartments- Phase II is of this class.

(Ord. 336, passed 9-18-17; Am. Ord. 342, passed 3-4-19)

§ 35.64 ESTABLISHMENT OF ANNUAL SERVICE CHARGE.

The housing development identified as Village North Apartments - Phase II and the property on which it shall be constructed shall be exempt from all ad valorem property taxes from and after the year the project is placed in service as evidenced by a certificate of occupancy from the appropriate public officials. The city acknowledging that the sponsor and the authority have established the economic feasibility of the housing development in reliance upon the enactment and continuing effect

of this subchapter and the qualification of the housing development for exemption from all ad valorem property taxes and a payment in lieu of taxes as established in this subchapter. Therefore, in consideration of the sponsor's offer, subject to receipt of an allocation under the LIHTC program, to construct, own and operate the housing development, the city agrees to accept payment of an annual service charge for public services in lieu of all ad valorem property taxes. The annual service charge shall be equal to 9% of the Annual Shelter Rents actually collected by the housing development during each operating year.

(Ord. 336, passed 9-18-17; Am. Ord. 342, passed 3-4-19)

§ 35.65 CONTRACTUAL EFFECT OF SUBCHAPTER.

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

(Ord. 336, passed 9-18-17; Am. Ord. 342, passed 3-4-19)

§ 35.66 LIMITATION ON THE PAYMENT OF ANNUAL SERVICE CHARGE.

(A) Notwithstanding § 35.64, the service charge to be paid each year in lieu of taxes for part of the housing development which is tax exempt but which is occupied by other than low income persons or families shall be equal to the full amount of the taxes which would be paid on that portion of the housing development if the housing development were not tax exempt.

(B) The term "low income persons or families" as herein shall be the same meaning as found in Section 15 (a)(7) of the Act.

(Ord. 336, passed 9-18-17; Am. Ord. 342, passed 3-4-19)

§ 35.67 PAYMENT OF SERVICE CHARGE.

The annual service charge in lieu of taxes as determined under this subchapter shall be payable in the same manner as general property taxes except that the annual payment shall be paid on or before February 28 of each year. The sponsor shall submit a statement from its independent auditor verifying the amounts used to compute the payment are correct as reported. The statement and supporting documents may be from the sponsor's federal tax return.

(Ord. 336, passed 9-18-17; Am. Ord. 342, passed 3-4-19)

§ 35.68 DURATION.

This subchapter shall remain in effect for a period of 15 years after the certificate of occupancy is obtained from the appropriate officials, so long as the housing development remains subject to income and rent restriction pursuant to Section 42 of the Internal Revenue Code of 1986, as amended.

(Ord. 336, passed 9-18-17; Am. Ord. 342, passed 3-4-19)

CHAPTER 36: PARKS AND RECREATION COMMISSION

Section

36.01 Title of chapter

36.02 Creation; purpose

36.03 Appointment

36.04 Membership; terms of office; vacancies; quorum; compensation

36.05 Meetings

36.06 Powers and duties

36.07 Removal from office

§ 36.01 TITLE OF CHAPTER.

This chapter shall be known as and may be cited as the "City of Gladwin Parks and Recreation Ordinance".

(Ord. 343, passed 11-18-19)

§ 36.02 CREATION; PURPOSE.

A City of Gladwin Parks Commission was created, by action of the City Council on December 20, 1982 which was by resolution and ordinance according to the minutes. The ordinance cannot be found. Therefore, City of Gladwin Parks is hereby abolished and repealed as of the effective date of the ordinance codified herein. The City of Gladwin Parks and Recreation Commission is created as of January 1, 2020, which Commission shall seek to provide various recreational opportunities for children and adults of the Gladwin area, furthering the general welfare of the residents in the Gladwin area.

(Ord. 343 passed 11-18-19)

§ 36.03 APPOINTMENT.

The Parks and Recreation Commission members shall be appointed by the Mayor, with the advice and approval of the City Council, to act in an advisory capacity in matters pertaining to the operation of the Parks and Recreation assets and activities of the City of Gladwin.

(Ord. 343 passed 11-18-19)

§ 36.04 MEMBERSHIP; TERMS OF OFFICE; VACANCIES; QUORUM; COMPENSATION.

(A) The Parks and Recreation Commission shall consist of five members, all of whom shall be residents of the City of Gladwin except as set forth herein. Of these five members, one shall be a City of Gladwin Council Member, acting as a liaison with voting privileges. One shall be a school district representative with voting privileges who need not be a resident of the City of Gladwin. Three shall be residents of the City of Gladwin with voting privileges. To appoint as one of the above members, the Mayor and the City Council may elect to appoint a representative from the Gladwin City Housing Commission to represent the aging population within the community, within its sole discretion from time to time. The City Council may appoint a reasonable number of alternate members to serve in the absence of a Commission member or when a conflict of interest arises as needs may be. The Mayor shall be an ex-officio member with no voting rights.

(B) The terms of office for the members of the Recreation Board shall be two years. Initial appointments to the Board shall be staggered, such that all of the Commissioners are not appointed in the same year.

(C) The Commission shall elect its Chair, Vice Chair, and Secretary from among its members at the first meeting of the Commission at which a quorum is present after January 1 of each year.

(D) The members of the Commission shall be appointed on or before the second meeting of the City of Gladwin City Council for each calendar year.

(E) In the event of a vacancy on the Commission, the Mayor of the City of Gladwin shall appoint a new member to serve the remainder of the unexpired term.

(F) All members appointed to the Commission are to serve without compensation, except as otherwise provided for City Council members.

(Ord. 343 passed 11-18-19)

§ 36.05 MEETINGS.

(A) The Commission shall meet monthly on a day to be decided by the Commission at the first meeting, at which a quorum is present. All meetings shall be open to the public and are subject to the Open Meetings Act.

(B) If a member has four unexcused absences in a calendar year, a report shall be made to the Mayor of the City of Gladwin, which shall appoint a replacement for said member.

(C) The Commission shall not take action without a concurrence of the majority of the members appointed and serving on the Commission.

(Ord. 343 passed 11-18-19)

§ 36.06 POWERS AND DUTIES.

(A) The Commission shall maintain a Parks and Recreation Plan which shall be updated and presented to the City Council for review and approval at least every fifth year.

(B) The Commission shall present a proposed recreation budget to the Gladwin City Council for ratification, said budget to be submitted on a yearly basis.

(C) The Commission has the authority to recommend to the Gladwin City Council regulations concerning parks and recreational buildings, said regulations to become effective upon approval by the Gladwin City Council.

(D) The Commission shall adopt its own internal rules and procedures and keep a public record, filed with the Gladwin City Clerk, of its proceedings.

(E) The Commission has the authority to regulate the physical conditions within city recreation facilities.

(Ord. 343 passed 11-18-19)

§ 36.07 REMOVAL FROM OFFICE.

(A) The City of Gladwin may remove a member of the Parks and Recreation 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. Repeated failure to attend Parks and Recreation Commission meetings shall be considered nonfeasance in office.

(B) The secretary of the Parks and Recreation Commission shall report any member who has missed 3 regular meetings in a row to the Mayor.

(Ord. 343 passed 11-18-19)

TITLE V: PUBLIC WORKS

Chapter

50. GARBAGE DISPOSAL

51. SEWERS

52. WATER

CHAPTER 50: GARBAGE DISPOSAL

Section

50.01 Definition

50.02 Disposal of garbage on public or private property; can specifications

50.03 Collection of garbage; enforcement

§ 50.01 DEFINITION.

For the purpose of this chapter, **GARBAGE** shall mean the rejected food wastes, and including every refuse accumulation of animal, fruit or vegetable matter, used or intended for food or that attends the preparation, use, cooking, dealing in or storing of meat, fish, fowl, fruit, or vegetables. **GARBAGE** shall be further construed to mean cans, bottles, or containers in which food has been stored, packed, or canned.

(Ord. 111, passed 6-1-42)

§ 50.02 DISPOSAL OF GARBAGE ON PUBLIC OR PRIVATE PROPERTY; CAN SPECIFICATIONS.

From and after the passage and taking effect of this ordinance it shall be unlawful for any person or company within the city limits to deposit, throw or place any garbage, within the meaning of this chapter, in any alley, street, or other public place; nor shall any person or company deposit, throw or place any garbage upon private property, whether owned by such person or company or not, within the limits of the city, unless the same shall be enclosed in proper metal cans, to be water tight, and so kept, with tight fitting covers, which cover shall not be removed except when necessary, and equipped with handles to facilitate the carrying and emptying thereof, such as shall be prescribed by the City Council; provided, however, that the capacity of such cans shall not exceed ten gallons, and not more than 100 pounds of contents shall be placed in one such can, which shall be kept on the ground level so as to be readily accessible for collection. Every such can shall be promptly delivered to the garbage collector when called for, and no person except for such purpose of removal shall in any manner interfere with such can or with the contents thereof.

(Ord. 111, passed 6-1-42) Penalty, see § 10.99

§ 50.03 COLLECTION OF GARBAGE; ENFORCEMENT.

It shall be the duty of the Council to provide a systematic and sanitary method of collecting and removing garbage. It shall also be deemed the duty of the Police Department and the Director of the Local Health Department or his authorized representative, to see that the provisions of this chapter are complied with.

(Ord. 111, passed 6-1-42)

CHAPTER 51: SEWERS

Section

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Statutory reference:

Municipal sewage disposal, see M.S.A. §§ 5.2769(51) et seq.

GENERAL PROVISIONS**§ 51.001 ABBREVIATIONS.**

The following abbreviations shall have the designated meanings:

BOD - Biochemical Oxygen Demand

CFR - Code of Federal Regulations

COD - Chemical Oxygen Demand

U.S. EPA - United States Environmental Protection Agency

l - Liter

mg - Milligrams

mg/l - Milligrams per liter

NPDES - National Pollutant Discharge Elimination System

POTW - Publicly Owned Treatment Works

SIC - Standard Industrial Classification

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

TSS - Total Suspended Solids

USC - United States Code

(Ord. 214, passed 6-5-95)

§ 51.002 DEFINITIONS.

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

ACT. The Federal Water Pollution Control Act, as amended by the Clean Water Act and the Water Quality Act of 1987, 33 U.S.C. 1251, et seq.

AUTHORIZED REPRESENTATIVE OF INDUSTRIAL USER.

(1) In the case of a corporation, a president, secretary, treasurer or vice president of the corporation in charge of a principal business function;

(2) In the case of a partnership or proprietorship, a general partner or proprietor; and

(3) An authorized representative of the individual designated above if:

(a) Such representative is responsible for the overall operation of the facilities from which the discharge into the POTW originates;

(b) The authorization is in writing; and

(c) The written authorization is submitted to the POTW.

BOD (denoting biochemical oxygen demand). The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures in five days at 20°C.

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

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

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

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

COMPATIBLE POLLUTANT. A substance amenable to treatment in the wastewater treatment plant such as biochemical oxygen demand, suspended solids, pH and fecal coliform bacteria, plus additional pollutants identified in the NPDES permit if the publicly owned treatment works was designed to treat such pollutants, and in fact does remove such pollutant to a substantial degree. Examples of such additional pollutants may include: chemical oxygen demand, total organic carbon, phosphorus and phosphorus compounds, nitrogen compounds, fats, oils and greases of animal or vegetable origin.

INCOMPATIBLE POLLUTANTS. Any pollutant which is not a compatible pollutant.

INDUSTRIAL WASTE. The wastewater discharges from industrial, manufacturing, trade or business processes, as distinct from their employees' domestic wastes or wastes from sanitary conveniences.

INTERFERENCE. Any discharge which alone or in conjunction with a discharge or discharges from other sources:

(1) Inhibits or disrupts the POTW and any of its processes or operations, or its sludge use or disposal; and

(2) Therefore is a cause of a violation of any requirement of the POTW's NPDES permit (including an increase in the magnitude or duration of a violation) or of the prevention of sewage sludge use or disposal.

LOCAL AGENCY. The City Administrator or its designated official or department.

MAJOR CONTRIBUTING INDUSTRY. Any industrial users of the publicly owned treatment works that:

(1) Has a flow of 50,000 gallons or more per average workday;

(2) Has a flow greater than 5% of the flow carried by the municipal system receiving the waste;

(3) Has in its waste, a toxic pollutant in toxic amounts as defined in the standards issued under Section 307 (a) of the Act; or

(4) Is found by the local agency to have significant impact, either singly or in combination with other contributing industries, on the treatment works or upon the quality of effluent from that treatment works.

All major contributing industries shall be monitored.

NATIONAL CATEGORICAL PRETREATMENT STANDARD, CATEGORICAL PRETREATMENT STANDARD. Any regulation containing pollutant discharge limits promulgated by the EPA in accordance with Section 307 (b) and (c) of the Act (33 U.S.C. 1317), which applies to a specific category of industrial users.

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 Section 307(c) of the Act which will be applicable to such source if such 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 (1)(b) or (c) above but otherwise alters, replaces, or adds to existing process or production equipment.

(3) Construction of a new source as defined under this division has commenced if the owner or operator has:

(a) Begun, or caused to begin, as part of a continuous on-site construction program:

1. Any placement, assembly, or installation of facilities or equipment; or
2. Significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or

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

NPDES or STATE DISCHARGE PERMIT. A permit issued pursuant to Section 402 of the Federal Water Pollution Control Act (33 U.S.C. 1342).

OPERATION AND MAINTENANCE. All work, materials, equipment, utilities and other effort required to operate and maintain the wastewater transportation and treatment system consistent with insuring adequate treatment of wastewater to produce an effluent in compliance with the NPDES permit and other applicable state and federal regulations, and includes the cost of replacement.

PASS THROUGH. A discharge which exits the POTW into waters of the state in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, causes 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, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity, or their legal representatives, agents or assigns. The masculine gender shall include the feminine, 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 moles per liter of solution.

PL 92-500. The Federal Water Pollution Control Act of 1972 being Public Law 92-500 of the 92nd Congress and adopted on October 18, 1972.

POLLUTANT. Any dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt and industrial, municipal, commercial, and agricultural waste or any other contaminant.

PRETREATMENT STANDARD or STANDARD. Any local, state or federal regulation containing pollutant discharge limits. This term includes local limits, prohibitive discharge limits including those promulgated under 40 CFR 403.5, and categorical pretreatment standards.

PRETREATMENT. The reduction, elimination, or alteration of pollutant properties to a less harmful state prior to or in lieu of discharge or introduction into a POTW. This can be accomplished by physical, chemical or biological processes, process changes, or other means, except as prohibited by 40 CFR Section 403.6(d).

PUBLICLY OWNED TREATMENT WORKS (POTW). A treatment works as defined by section 212 of the Act including any devices and systems used in the storage, treatment, recycling, and reclamation of municipal sewage and industrial waste. The systems include sewers, pipes, and equipment used to convey wastewater to the treatment facility. The term also includes the municipality as defined in section 502(4) of the Act which has jurisdiction over the indirect discharges to and the discharges from such a treatment works.

SANITARY SEWER. A sewer which carries sewage and to which storm, surface and ground waters are not intentionally admitted.

SEVERE PROPERTY DAMAGE. Substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. **SEVERE PROPERTY DAMAGE** does not mean economic loss caused by delays in production.

SEWAGE TREATMENT PLANT. Any arrangement of devices and structures used for treating sewage.

SEWAGE. A combination of the water-carried wastes from residences, business buildings, institutions and industrial establishments, together with such ground waters as may be present.

SEWER SERVICE CHARGE. The sum applicable of the user charge, surcharges, industrial cost recovery and debt service charges.

SEWER. A pipe or conduit for carrying sewage.

SHALL is mandatory; **MAY** is permissive.

SIGNIFICANT INDUSTRIAL USER.

(1) All industrial users subject to Categorical Pretreatment Standards under 40 CFR 403.6 and 40 CFR Chapter I, Subchapter N; and

(2) Any other industrial user that:

(a) Discharges an average of 25,000 gallons per day or more of process wastewater to the POTW (excluding sanitary, noncontact cooling and boiler blowdown wastewater); contributes a process waste stream which makes up 5% or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or

(b) Is designated as such by the POTW on the basis that the industrial user has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement [in accordance with 40 CFR 403.8(f)(6)].

Upon a finding that an industrial user meeting the criteria in division (2)(a) of this definition has no reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement, the POTW may at any time, on its own initiative or in response to a petition received from an industrial user or POTW, and in accordance with 40 CFR 403.8 (f)(6), determine that such industrial user is not a significant industrial user.

SIGNIFICANT NONCOMPLIANCE (SNC).

(1) Chronic violations of wastewater discharge limits, defined here as those 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.

(2) Technical Review Criteria (TRC) violations, defined here as those 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 multiplied by the applicable TRC (TRC=1.4 for BOD, TSS, fats, oil, and grease, and 1.2 for all other pollutants except pH).

(3) Any other violation of a pretreatment effluent limit (daily maximum or longer-term average) that the local agency 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);

(4) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the POTW's exercise of its emergency authority to halt or prevent such a discharge (see division (1) under definition of **INTERFERENCE**);

(5) Failure to meet, within 90 days after the scheduled date, a compliance schedule milestone contained in a local control mechanism or enforcement order for starting construction, completing construction, or attaining final compliance;

(6) Failure to provide, within 30 days after the due date, required reports such as baseline monitoring reports, 90-day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules;

(7) Failure to accurately report noncompliance;

(8) Any other violation or group of violations which the local agency determines will adversely affect the operation of the POTW or implementation of the local pretreatment program.

SLUG LOADING. Any substance released in a discharge at a rate and/or concentration which causes interference to a POTW.

STORM SEWER or STORM DRAIN. A sewer which carries storm and surface waters and drainage, but excludes sewage and polluted industrial wastes.

SUPERINTENDENT. The person retained by the local agency empowered to supervise the POTW, usually the Superintendent of Public Works.

TOXIC POLLUTANT. Any pollutant or combination of pollutants identified as toxic pursuant to section 307(a) of the Federal Water Pollution Control Act or other federal statutes or in regulations promulgated by the state under state law.

USER CHARGE. A charge levied on users of a treatment works for the cost of operation and maintenance of sewage works and includes the cost of replacement.

USER CLASS. The kind of user connected to sanitary sewers including but not limited to residential, industrial, commercial, institutional and governmental.

(1) **COMMERCIAL USER.** An establishment listed in the Office of the Management and Budget's "Standard Industrial Classification Manual" (SICM) (most recent edition) involved in a commercial enterprise, business or service which, based on a determination by the local agency, discharges primarily segregated domestic wastes or wastes from sanitary conveniences and which is not a residential user or an industrial user.

(2) **GOVERNMENTAL USER.** Any federal, state or local government user of the wastewater treatment works.

(3) **INDUSTRIAL USER.** Any nongovernmental user or manufacturing or processing facility that discharges industrial waste to a publicly owned treatment works. Industrial users shall be identified in the "Standard Industrial Classification Manual" (SICM - most recent edition), Office of Management and Budget, as amended and supplemented under the following divisions:

(a) Division A - Agriculture, Forestry and Fishing;

- (b) Division B - Mining;
- (c) Division D - Manufacturing;
- (d) Division E - Transportation, Communication, Electric, Gas and Sanitary Services;
- (e) Division I - Services.

(4) **INSTITUTIONAL USER.** Any establishment listed in the SICM involved in a social, charitable, religious, or educational function which, based on a determination by the local agency, discharges primarily segregated domestic wastes or wastes from sanitary conveniences.

(5) **RESIDENTIAL USER.** A user of the treatment works whose premises or buildings are used primarily as a domicile for one or more persons, including dwelling units such as detached, semi-detached and row houses, mobile homes, apartments, or permanent multi-family dwellings (transit lodging is not included, it is considered commercial).

WATERS OF THE STATE. Includes:

(1) Both surface and underground waters within the boundaries of the state subject to its jurisdiction, including all ponds, lakes, rivers, streams, public ditches, tax ditches, and public drainage systems within the state, other than those designed and used to collect, convey, or dispose of sanitary sewage; and

(2) The floodplain free-flowing waters determined by the Department of Natural Resources on the basis of 100-year flood frequency.

(Ord. 214, passed 6-5-95)

§ 51.003 USE OF PUBLIC SEWERS REQUIRED.

(A) It shall be unlawful for any person to place, deposit or permit to be deposited in an unsanitary manner upon public or private property within the local agency, or in any area under its jurisdiction, any human or animal excrement, garbage or other objectionable waste.

(B) It shall be unlawful to discharge to any natural outlet any sanitary sewage, industrial wastes, or other polluted water, except where suitable treatment has been provided in accordance with subsequent provisions of this chapter.

(C) Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool or other facility intended or used for the disposal of sewage.

(D) *Mandatory connection requirements.* The owner of all houses, buildings, or properties used for human occupancy, employment, recreation or other purpose situated within the city and abutting on any street, alley or right-of-way in which there is now located or may in the future be located a public sanitary sewer is hereby required at his expense to install suitable sewage facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provision of this chapter, within 90 days after date of official notice to do so.

(Ord. 214, passed 6-5-95) Penalty, see § 51.999

§ 51.004 PRIVATE SEWAGE DISPOSAL.

(A) Where a public sanitary sewer is not available under the provisions of § 51.003(D), the building sewer shall be connected to a private sewage disposal system, complying with County Health Department regulations.

(B) At such times as a public sewer becomes available to a property served by a private disposal system, as provided in § 51.003(D), direct connection shall be made to the public sewer in compliance

with this chapter, and any septic tanks, cesspools and similar private sewage disposal facilities shall be abandoned for sanitary use, filled with suitable material and sealed.

(C) The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to the local agency.

(Ord. 214, passed 6-5-95) Penalty, see § 51.999

§ 51.005 POWER AND AUTHORITY OF INSPECTORS.

Duly authorized employees or representatives of the local agency bearing proper credentials and identification shall be permitted to enter upon all properties for the purpose of inspection, observation, measurement, sampling and testing in accordance with the provisions of this chapter.

(Ord. 214, passed 6-5-95)

BUILDING SEWERS AND CONNECTIONS

§ 51.015 CONNECTION PERMIT REQUIRED; INSPECTION.

No unauthorized person shall uncover, make any connections with or openings to, alter or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the local agency. No main sewer shall be covered until after it has been inspected and approved by the authorized official.

(Ord. 214, passed 6-5-95; Am. Ord. 226, passed 4-6-98) Penalty, see § 51.999

§ 51.016 COSTS TO BE BORNE BY OWNER.

All costs and expense incident to the installation and connection of the building sewer to the public sewer connection shall be borne by the owner.

(Ord. 214, passed 6-5-95)

§ 51.017 SEPARATE SEWER FOR EACH BUILDING.

A separate and independent building sewer shall be provided for every building.

(Ord. 214, passed 6-5-95) Penalty, see § 51.999

§ 51.018 USE OF OLD BUILDING SEWERS WITH NEW BUILDINGS.

Old building sewers may be used in connection with the new buildings only when they are found on examination and test to meet all requirements of this chapter.

(Ord. 214, passed 6-5-95)

§ 51.019 PIPE AND JOINT SPECIFICATIONS.

A newly constructed building sewer shall be SDR35, Schedule 40 PVC, or Ultrarib PVC Gravity sewer pipe. Joints shall be tight and waterproof; materials and joints shall be as approved by the local agency. If installed in filled or unstable ground, the sewer pipe shall be laid on a suitable concrete bed or cradle. Transitions or connections will be constructed only with fabricated connection fittings approved by the local agency. STORM SEWER may be HDPE corrugated outer wall/smooth inner wall pipe, reinforced concrete pipe type C-76 or single wall corrugated/perforated HDPE with sock pipe when approved by the local agency.

(Ord. 214, passed 6-5-95; Am. Ord. 226, passed 4-6-98)) Penalty, see § 51.999

§ 51.020 SIZE AND SLOPE OF BUILDING SEWERS.

The size and slope of the main sewer shall be subject to the approval of the local agency, but in no event shall the diameter be less than eight inches. The slope of such eight-inch pipe shall not be less than 0.048 inch per foot, and the slope of a 10-inch or larger pipe shall not be less than 0.034 inch per foot.

(Ord. 214, passed 6-5-95; Am. Ord. 226, passed 4-6-98) Penalty, see § 51.999

§ 51.021 ELEVATION OF BUILDING SEWER.

Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. No building sewer shall be laid parallel to or within three feet of any bearing wall, which might thereby be weakened. The depth of the building sewer shall be sufficient to afford protection from frost. The building sewer shall be laid at uniform grade and in a straight line.

(Ord. 214, passed 6-5-95) Penalty, see § 51.999

§ 51.022 LIFTING OF SANITARY SEWAGE; PUMPING SYSTEM.

In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such drain shall be lifted by a pumping system approved by the local agency and discharged to the building sewer.

(Ord. 214, passed 6-5-95) Penalty, see § 51.999

§ 51.023 CAPACITY TO BE AVAILABLE PRIOR TO CONNECTION.

No sewer connection will be permitted unless there is capacity available in all downstream sewers, lift stations, force mains and the sewage treatment plant, including capacity for treatment of BOD and suspended solids.

(Ord. 214, passed 6-5-95)

§ 51.024 MAIN INSPECTION.

Old main sewers shall be periodically inspected (such as televising) when conditions arise indicating such mains may be in need of repair or replacement, so that they resume meeting all requirements of this subsection.

(Am. Ord. 226, passed 4-6-98)

§ 51.025 DEPTH OF SEWERS.

The depth of the main sewer shall be sufficiently deep to allow gravity feed of sewage from all adjacent building sewers and tributary mains that are completely below the frost line. In the case of lifting stations, force main sewers and force building sewers that pump sewage into a main sewer from a lower elevation, the main sewer must be completely below the frost line.

(Am. Ord. 226, passed 4-6-98)

§ 51.026 SEPARATE STORM AND SANITARY SEWER SYSTEMS.

No separate and continuous sewer network system shall have both sanitary and storm tributaries; each sewer network shall be exclusively sanitary or storm water conduits, not combined.

(Am. Ord. 226, passed 4-6-98)

§ 51.027 SEWER MANHOLE COVER SPECIFICATIONS.

Sanitary sewer manholes may have open grate type covers when the local agency deems them to be appropriate for proper sewerage flow and venting.

(Am. Ord. 226, passed 4-6-98)

DISCHARGE REGULATIONS

§ 51.035 STORMWATER AND OTHER UNPOLLUTED DRAINAGE.

(A) No person shall discharge or cause to be discharged any stormwater, surface water, groundwater, water from footing drains, or roof water to any sanitary sewer or sewer connection except as otherwise provided in this chapter. Downspouts and roof leaders shall be disconnected from sanitary sewers within one year of the date of this chapter.

(B) Stormwater, groundwater, water from footing drains and all other unpolluted drainage shall be discharged into such sewers as are specifically designated as storm sewers, or to a natural outlet, except as otherwise provided in this chapter. Industrial cooling water or unpolluted process waters may be discharged, upon application and approval of the local agency and the appropriate state agency, to a storm sewer or natural outlet.

(Ord. 214, passed 6-5-95) Penalty, see § 51.999

§ 51.036 POLLUTANTS AND WASTEWATER.

No user shall contribute or cause to be contributed, directly or indirectly to the POTW, any pollutant or wastewater which will pass through or cause interference with the operation or performance of the POTW.

(Ord. 214, passed 6-5-95) Penalty, see § 51.999

§ 51.037 PROHIBITED DISCHARGES.

(A) No user shall contribute the following substances to the POTW:

(1) Any substances which by reason of their nature or quantity may create a fire or explosion hazard or be injurious to the POTW or to the operation of the POTW, including but not limited to, waste streams with a closed cup flashpoint of less than 140°F. or 60°C. using the test methods specified in 40 CFR 261.21.

(2) Any solid or viscous substances which may cause obstruction to the flow in a sewer or other interference with the operation of the waste treatment facilities such as, but not limited to: grease greater than 100 mg/l, garbage with particles greater than ½ inch in any dimension, or any material which can be disposed of as trash.

(3) Any wastewater having a pH less than 6.5 or greater than 9.5 or having any other corrosive property capable of causing damage or hazard to structures, equipment, or personnel of the POTW.

(4) Any substance which may cause a public nuisance, cause hazard to life or prevent entry into the sewers for maintenance and repair.

(5) Heat in amounts which will inhibit biological activity in the POTW resulting in interference, but in no case heat in such quantities that the temperature at the POTW treatment plant exceeds 40°C. (104°F.) unless the local agency approves alternate temperature limits.

(6) Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin in amounts that will cause interference or pass through.

(7) Pollutants which 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;

(8) Any trucked or hauled pollutants, except at discharge points designated by the POTW.

(9) Any pollutant, including oxygen demanding pollutants released in a discharge at a flow rate and/or concentration (including any slug load), which may cause interference to the POTW.

(B) No user shall contribute any wastewater having effluent characteristics in excess of:

Constituent	Maximum
BOD ₅	250
TSS	300
Oil and grease	100
pH	9.5
Phosphorus	10.0
Copper	6.0
Cadmium	0.4
Nickel	2.0
Zinc	2.0
Chromium	10.0
Arsenic	0.06
Mercury	< 0.0002
Silver	0.015
Cyanide	5.0
Lead	0.3

(Ord. 214, passed 6-5-95; Am. Ord. 240, passed 2-15-99) Penalty, see § 51.999

§ 51.038 GREASE, OIL AND SAND INTERCEPTORS.

(A) Grease, oil and sand interceptors shall be provided when liquid wastes contain grease in excessive amounts, or other harmful ingredients; except that such interceptors shall not be required for single-family or multiple-family dwelling units. All interceptors shall be of a type and capacity approved by the local agency and shall be located as to be readily and easily accessible for cleaning and inspection. Grease and oil interceptors 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 which when bolted into place shall be gastight and watertight.

(B) Where installed, all grease, oil and sand interceptors shall be maintained by the user, at his expense, in continuously efficient operation at all times.

(Ord. 214, passed 6-5-95) Penalty, see § 51.999

§ 51.039 CONTROL MANHOLE.

The owner of any property served by a building sewer carrying industrial wastes shall install a suitable control manhole in the building sewer to facilitate observation, sampling and measurement of

the wastes. Such manhole, when required, shall be accessibly and safely located and shall be constructed in accordance with plans approved by the local agency. The manhole shall be installed by the owner at his expense and shall be maintained by him so as to be safe and accessible at all times.

(Ord. 214, passed 6-5-95) Penalty, see § 51.999

§ 51.040 MEASUREMENTS, TESTS AND ANALYSES.

All measurements, tests and analyses of the characteristics of waters and wastes to which references are made shall be determined in accordance with "Standard Methods for Examination of Water and Wastewater" and "Guidelines Establishing Test Procedures for the Analysis of Pollutants," Federal Regulation 40 CFR 136, published in the Federal Register on October 16, 1973, and shall be determined at the control manhole provided for in § 51.039, or upon suitable samples taken at the control manhole. In the event that no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected.

(Ord. 214, passed 6-5-95)

§ 51.041 SPECIAL AGREEMENTS.

No statement contained in this subchapter shall be construed as preventing any special agreement between the local agency and any industrial concern whereby an industrial waste of unusual strength or character may be accepted, subject to payment therefor by the industrial concern, provided such agreement shall not violate NPDES requirements and provided user charges, surcharges and industrial cost recovery payments as provided in this chapter are agreed to in the agreement.

(Ord. 214, passed 6-5-95)

INDUSTRIAL USERS

§ 51.055 PRETREATMENT REQUIREMENTS.

(A) Industrial users shall provide necessary wastewater treatment as required to comply with the most stringent of this chapter, federal pretreatment standards, as established by 40 CFR Chapter N, Subpart I, state standards and permit conditions, and shall achieve compliance with all national categorical pretreatment standards within the time limitations as specified by the federal pretreatment regulations, and with any other pretreatment standards by applicable deadlines.

(B) Any facilities required to pretreat wastewater shall be provided, operated, and maintained at the industrial user's expense. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the POTW for review, and shall be approved by the POTW before construction of the facility. The review and approval of plans and operating procedures does not relieve the industrial user from complying with the provisions of this chapter and permit conditions. Any subsequent changes in the pretreatment facilities or method of operation shall be reported to and approved by the POTW prior to the industrial user's initiation of the changes.

(Ord. 214, passed 6-5-95) Penalty, see § 51.999

§ 51.056 DILUTION PROHIBITION.

No industrial user shall increase the use of process water or dilute a discharge as a substitute for adequate treatment to achieve compliance with any pretreatment standard or requirement.

(Ord. 214, passed 6-5-95) Penalty, see § 51.999

§ 51.057 SPILL PREVENTION AND SLUG CONTROL PLANS.

(A) Industrial users shall provide protection from accidental discharge of materials which may interfere with the POTW by developing spill prevention plans. Facilities necessary to implement these plans shall be provided and maintained at the owner's or industrial user's expense. Spill prevention plans, including the facilities and the operating procedures, shall be approved by the POTW before construction of the facility.

(B) Industrial users that store hazardous substances shall not contribute to the POTW after the effective date of this chapter unless a spill prevention plan has been approved by the POTW. Approval of such plans shall not relieve the industrial user from complying with all other laws and regulations governing the use, storage, and transportation of hazardous substances.

(C) The POTW shall evaluate each significant industrial user once every quarter, and other industrial users as necessary, to determine whether such user needs a plan to control slug discharges. If the POTW decides that a slug control plan is needed, the plan shall contain, at a minimum, the following elements:

(1) Description of discharge particles, including nonroutine batch discharges;

(2) Description of stored chemicals;

(3) Procedures for immediately notifying the POTW of slug discharges, including any discharge that would violate a prohibition under §§ 51.035 through 51.037, with procedures for follow-up written notification within five days;

(4) If necessary, 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 runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants (including solvents), and/or measures and equipment for emergency response.

(Ord. 214, passed 6-5-95) Penalty, see § 51.999

§ 51.058 NOTIFICATION.

(A) In the case of any discharge in violation of this chapter or permit conditions, and in the case of any discharge that could cause problems to the POTW, including any slug loadings, as defined in § 51.002, the industrial user shall immediately notify the POTW of the discharge by telephone. The notification shall include:

(1) The date, time, location and duration of the discharge;

(2) The type of waste including concentration and volume; and

(3) Any corrective actions taken by the user.

(B) Within five days following such a discharge the user shall submit a written report describing the cause of the discharge and the measures that will be taken by the user to prevent similar future discharges.

(C) Such notification shall not relieve the user of any expense, loss, damage, or other liability resulting from the discharge, nor shall such notification relieve the user of any fines, civil penalties, or other liability which may be imposed under this chapter or other applicable state or federal law.

(D) *Notification of changed discharge.* All industrial users shall promptly notify the POTW in advance of any substantial change in the volume or character of pollutants in their discharge, including the listed or characteristic hazardous wastes for which the industrial user has submitted initial notification under 40 CFR 403.12(p).

(Ord. 214, passed 6-5-95) Penalty, see § 51.999

§ 51.059 EMPLOYEE TRAINING.

The industrial user shall permanently post a notice in a prominent place advising all employees to call the wastewater treatment plant in the event of a dangerous discharge for which notification is required. Employers shall advise all employees who may cause or be injured by such a discharge of the emergency notification procedure.

(Ord. 214, passed 6-5-95) Penalty, see § 51.999

§ 51.060 RECORDS.

(A) Users shall retain and make available upon request of authorized representatives of the POTW, the state, or the EPA all records required to be collected by the user pursuant to this chapter or any permit or order issued pursuant to this chapter.

(B) These records shall remain available for a period of at least three years after their collection.

(C) This period shall be extended during any litigation concerning compliance with this chapter or permit conditions.

(Ord. 214, passed 6-5-95) Penalty, see § 51.999

§ 51.061 ANALYTICAL REQUIREMENTS.

All analyses, including sampling results submitted in support of any application reports, evidence or required by any permit or order shall be performed in accordance with the techniques prescribed in 40 CFR Part 136 and amendments thereto or, if 40 CFR Part 136 does not contain sampling or analytical techniques for the pollutant in question, in accordance with procedures approved by the EPA.

(Ord. 214, passed 6-5-95) Penalty, see § 51.999

§ 51.062 CONFIDENTIAL INFORMATION.

(A) Information and data (other than effluent data) about a user obtained from reports, questionnaires, permit applications, permits and monitoring programs and from inspections shall be available to the public unless the user specifically requests and is able to demonstrate to the satisfaction of the POTW that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets of the user. Any such request must be asserted at the time of submission of the information or data. When such a confidentiality claim is asserted, the information shall be treated as such until a determination is made by the POTW. Effluent data shall be available to the public without restriction.

(B) When the person furnishing a report satisfies the POTW that such person has made the demonstration required by division (A) above, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection except by the state or EPA for uses related to this chapter, the NPDES permit or the pretreatment program. Confidential portions of a report shall be available for use by the state or EPA in judicial review or enforcement proceedings involving the person furnishing the report. Effluent data will not be recognized as confidential information.

(Ord. 214, passed 6-5-95)

§ 51.063 RIGHT OF ENTRY.

Representatives of the POTW, the state and EPA, upon showing proper identification shall have the right to enter and inspect the premises of any user who may be subject to the requirements of this chapter. Industrial users shall allow authorized representatives of the POTW, state and EPA access to

all premises for the purpose of inspecting, sampling, examining records or copying records in the performance of their duties. Authorized representatives of the POTW, state and EPA shall have the right to place on the user's property such devices as are necessary to conduct sampling and monitoring. Where a user has security or safety measures in force which would require clearance, training, or wearing of special protective gear, the user shall make necessary arrangements at its own expense, to enable authorized representatives of the POTW, state, and EPA to enter and inspect the premises as guaranteed by this section.

(Ord. 214, passed 6-5-95) Penalty, see § 51.999

WASTEWATER CONTRIBUTION PERMITS

§ 51.075 WASTEWATER DISCHARGERS.

It shall be unlawful to discharge without a wastewater contribution permit to the POTW any wastewater except as authorized by the Superintendent in accordance with the provisions of this chapter.

(Ord. 214, passed 6-5-95) Penalty, see § 51.999

§ 51.076 WASTEWATER CONTRIBUTION PERMITS; APPLICATION.

(A) *General permits.* All industrial users proposing to connect to, or to discharge to the POTW shall obtain a wastewater discharge permit before connecting to or discharging to the POTW. All existing significant users connected to or discharging to the POTW shall obtain a wastewater contribution permit within 180 days after the effective date of this chapter.

(B) *Permit application.* Users required to obtain a wastewater contribution permit shall complete and file with the city, an application in the form prescribed by the city, and accompanied by a fee of \$100 if a residential or commercial user, \$500 if an industrial user. Existing users shall apply for a wastewater contribution permit within 30 days after the effective date of this chapter, and proposed new users shall apply at least 90 days prior to connecting to or contributing to the POTW. In support of the application, the user shall submit, in units and terms appropriate for evaluation, the following information:

- (1) Name, address, and location (if different from the address), and name of owners and operator;
- (2) SIC number according to the Standard Industrial Classification Manual, Bureau of the Budget, 1972, as amended;
- (3) Wastewater constituents and characteristics including but not limited to those mentioned in § 51.037 as determined by a reliable analytical laboratory; sampling and analysis shall be performed in accordance with procedures established by the EPA pursuant to section 304 (g) of the Act and contained in 40 CFR, Part 136, as amended;
- (4) Time and duration of contribution;
- (5) Average daily and 30-minute peak wastewater flow rates, including daily, monthly and seasonal variations if any;
- (6) Site plans, floor plans, mechanical and plumbing plans and details to show all sewers, sewer connections, and appurtenances by the size, location and elevation and a current water use schematic;
- (7) Description of activities, facilities and plant processes on the premises including all material which are or could be discharged;

(8) The nature and concentration of any pollutants in the discharge which are limited by any city, state, or federal pretreatment standards, and a statement signed by an authorized representative of the user and certified by a qualified professional regarding whether or not the pretreatment standards are being met on a consistent basis and if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required for the user to meet applicable pretreatment standards;

(9) If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. The following conditions shall apply to this schedule:

(a) The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (e.g., hiring an engineer, completing preliminary plans, completing final plans, executing contract for major components, commencing construction, completing construction, etc.).

(b) No increment referred to in division (B)(9)(a) above shall exceed nine months.

(c) 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 Superintendent including, as a minimum, whether or not it complied with the increment of progress to be met on such date and, if not, the date on which it expects to comply with this increment of progress, the reason for delay, and the steps being taken by the user to return the construction to the schedule established. In no event shall more than nine months elapse between such progress reports to the Superintendent.

(10) Each product and/or byproduct produced by type, amount, process or processes and rate of production;

(11) Type and amount of raw materials processed (average and maximum per day);

(12) Number and type of employees, and hours of operation of plant and proposed or actual hours of operation of pretreatment system;

(13) List of any environmental control permits held by or for the facility;

(14) Any other information as may be deemed by the city to be necessary to evaluate the permit application.

(C) The POTW will evaluate the data furnished by the user and may require additional information. After evaluation and acceptance of the data furnished, the POTW may issue a wastewater contribution permit subject to terms and conditions provided herein.

(Ord. 214, passed 6-5-95) Penalty, see § 51.999

PERMIT REQUIREMENTS

§ 51.085 CONTENTS.

Permits shall contain, as appropriate, the following:

- (A) Statement of duration (not greater than five years) including issuance and expiration dates;
- (B) Effluent limitations based on the more stringent of categorical pretreatment standards, local limits as established by this chapter, and state and local law;
- (C) General and specific discharge prohibitions as established by §§ 51.035 through 51.037;
- (D) Requirements to pay fees for the wastewater to be discharged to the POTW;

- (E) Limitations on the average and maximum rate and time of discharge or requirements for flow regulations and equalization;
- (F) Requirements for installation and maintenance of inspection and sampling facilities;
- (G) Requirements and specifications for monitoring programs including sampling locations, frequency of sampling, number, types and standards for tests and reporting schedule;
- (H) Compliance schedules;
- (I) Requirements for submission of technical reports, discharge reports or certification statements. These include any reporting requirements contained in a national categorical standard or pretreatment requirement;
- (J) Requirements for collecting/retaining and providing access to plant records relating to the user's discharge and for providing entry for sampling and inspection;
- (K) Requirements for notification of any new introduction of wastewater constituents or any substantial change in the volume or character of the wastewater treatment system;
- (L) Requirements for notification of spills, potential problems to the POTW including slug loadings, upsets or violations;
- (M) Requirements for installation, operation and maintenance of pollution control equipment;
- (N) Requirements to develop and implement spill and slug control plans;
- (O) Other conditions as deemed appropriate by the POTW to ensure compliance with this chapter, state and federal pretreatment standards and requirements;
- (P) Statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements;
- (Q) Statement of nontransferability;
- (R) Conditions for modification or revocation of permit.

(Ord. 214, passed 6-5-95) Penalty, see § 51.999

§ 51.086 DURATION.

Permits shall be issued for a specified time period, not to exceed five years. The user shall apply for permit re-issuance at least 180 days prior to the expiration of the user's existing permit.

(Ord. 214, passed 6-5-95)

§ 51.087 MODIFICATIONS.

Within nine months of the promulgation of a national categorical pretreatment standard, the wastewater contribution permit of users subject to such standards shall be revised to require compliance with such standard within the time frame prescribed by such standard. Where a user, subject to a national categorical pretreatment standard, has not previously submitted an application for a wastewater contribution permit as required by this chapter, the user shall apply for a wastewater contribution permit within 180 days after the promulgation of the applicable national categorical pretreatment standard. In addition, the user with an existing wastewater contribution permit shall submit to the Superintendent within 180 days after the promulgation of an applicable federal categorical pretreatment standard the information required by § 51.076(B)(8) and (9).

(Ord. 214, passed 6-5-95) Penalty, see § 51.999

§ 51.088 TRANSFER.

Wastewater contribution permits are issued to a specific process or operation. A wastewater contribution permit shall not be reassigned or transferred or sold to a new owner, new user, different premises or a new or changed operation without prior notification to and expressed authorization by the POTW. Any succeeding owner or user shall also comply with the terms and conditions of the existing permit. (The POTW may set additional conditions, such as an application requirement.)

(Ord. 214, passed 6-5-95) Penalty, see § 51.999

§ 51.089 MONITORING.

(A) Users shall provide and maintain in safe and proper condition, at their own expense, facilities to allow the authorized representatives of the POTW, EPA or the state to inspect, sample, or measure flows from wastewater subject to this chapter.

(B) There shall be ample room in or near facilities to allow accurate sampling and preparation of samples for analysis.

(C) If locating such facilities on a user's property would be impractical, the user may apply to the POTW for a right-of-way or for permission to construct on public property.

(Ord. 214, passed 6-5-95) Penalty, see § 51.999

§ 51.090 BYPASS.

(A) *Bypass of any pretreatment system(s) which would not violate applicable pretreatment standards or requirements.* An industrial user may allow any bypass to occur which does not violate pretreatment standards or requirements, but only if it also is for essential maintenance to assure efficient operation of the pretreatment system(s).

(B) *Notice.*

(1) If an industrial user knows in advance of the need for a bypass, it shall submit prior notice to the POTW, if possible at least ten days before the date of the bypass.

(2) An industrial user shall orally notify the POTW of an unanticipated bypass within 24 hours of becoming aware of the bypass. A written submission shall also be provided within five days of becoming aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact times and dates, 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 recurrence of the bypass.

(C) *Prohibition of bypass.*

(1) Bypass is prohibited and the POTW may take enforcement action against an individual user for a bypass, unless:

(a) Bypass was unavoidable to prevent loss of life, personal injury or severe property damage;

(b) There are no feasible alternatives to bypass, such as use of auxiliary treatment facilities, retention of wastes or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate backup equipment should have been installed to prevent bypass which occurred during normal periods of equipment downtime or preventative maintenance; and

(c) The industrial user submitted notices as required by division (B) of this section.

(2) The POTW may approve an anticipated bypass, after considering its adverse effects, if the POTW determines that it will meet the three conditions listed in division (C)(1) above.

(Ord. 214, passed 6-5-95) Penalty, see § 51.999

§ 51.091 UPSET PROVISIONS.

(A) *Definition.* For the purposes of this section, **UPSET** means an exceptional incident in which there is unintentional and temporary noncompliance with 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 preventative maintenance, or careless or improper operation.

(B) *Effect of an upset.* An upset shall constitute an affirmative defense to an action brought for noncompliance with pretreatment standards if the requirements of division (C) below are met.

(C) *Conditions necessary for a demonstration of upset.* An industrial user who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

(1) An upset occurred and the industrial 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 industrial user has submitted the following information to the POTW and control authority within 24 hours of becoming aware of the upset (if this information is provided orally, a written submission must be provided within five days):

(a) A description of the discharge and cause of noncompliance;

(b) The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue;

(c) Steps being taken and/or planned to reduce, eliminate and prevent recurrence of the noncompliance.

(D) *Burden of proof.* In any enforcement proceeding the industrial user seeking to establish the occurrence of an upset shall have the burden of proof.

(E) *User responsibility in case of upset.* The industrial user shall control production of all discharges to the extent necessary to maintain compliance with pretreatment standards 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. 214, passed 6-5-95) Penalty, see § 51.999

REPORTS

§ 51.105 BASELINE REPORT.

This section applies to categorical dischargers only.

(A) Industrial users subject to national categorical pretreatment standards shall submit baseline reports to the POTW in a form prescribed and furnished by the POTW.

(B) Within 180 days after the effective date of a national categorical pretreatment standard, or 180 days after a final administrative decision has been made upon a categorical determination submission in accordance with 40 CFR Section 403.6(a)(4), whichever is later, industrial users which are existing sources subject to such national categorical pretreatment standards and currently discharging to the POTW shall submit a properly completed baseline report.

(C) New sources, when subject to a national categorical pretreatment standard, shall submit a baseline report at least 90 days prior to commencement of discharge to the POTW.

(D) In support of the baseline report, the industrial user shall submit, in units and terms specified in the application, the following information:

(1) Name and address of the facility including the name of the operator and owners.

(2) List of any environmental control permits held by or for the facility.

(3) Brief description of the nature, average rate of production, and standard industrial classification of the operation(s) carried out by such user. This description shall include a schematic process diagram indicating points of discharge to the POTW from the regulated processes.

(4) Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from each of the following:

(a) Regulated process streams, and

(b) Other streams as necessary to allow use of the combined waste stream formula of 40 CFR Section 403.6(e).

(5) The industrial user shall identify the national categorical pretreatment standards applicable to each regulated process, and shall:

(a) Submit the results of sampling and analysis identifying the nature and concentration of regulated pollutants in the discharge from each regulated process. Both daily maximum and average concentrations shall be reported. The sample shall be representative of daily operations.

(b) A minimum of four grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide, and volatile organics. For all other pollutants, 24-hour composite samples must be obtained through flow-proportional composite sampling techniques where feasible. The local agency may waive flow-proportional composite sampling for any industrial user that demonstrates that flow-proportional sampling is infeasible. In such cases samples may be obtained through time-proportional composite sampling techniques or through a minimum of four grab samples where the user demonstrates that this will provide a representative sample of the effluent being discharged.

(c) The user shall take a minimum of one representative sample to compile that data necessary to comply with the requirements of this division.

(d) Samples should be taken immediately downstream from pretreatment facilities if such exist or immediately downstream from the regulated process if no pretreatment exists. If other wastewaters are mixed with the regulated wastewater prior to pretreatment the user should measure the flows and concentrations necessary to allow use of the combined waste stream formula of 40 CFR Section 403.6(e) in order to evaluate compliance with the pretreatment standards. Where an alternate concentration or mass limit has been calculated in accordance with 40 CFR Section 403.6(e), this adjusted limit along with supporting data shall be submitted to the POTW.

(e) Accurate records should be maintained, indicating the time, date, location, type of sample, method of collection and preservation, name of person who collected the sample, and any pertinent comments. These procedures are commonly called chain-of-custody procedures.

(6) The industrial user shall provide a statement, reviewed by an authorized representative of the industrial user and certified by a qualified professional, indicating whether national categorical pretreatment standards are being met on a consistent basis and, if not, whether additional operation and maintenance measures (O&M) or additional pretreatment is required for the industrial user to meet the national categorical pretreatment standards.

(7) If additional pretreatment or O&M will be required to meet the national categorical pretreatment standards, the industrial user will provide the shortest schedule which will provide such additional pretreatment or O&M. The completion date in this schedule shall not be later than the compliance date established for the applicable national pretreatment standard.

(a) Where the industrial user's national categorical pretreatment standard has been modified by a removal allowance (40 CFR Section 403.7) or the combined waste stream formula (40 CFR Section 403.6(e)), or net/gross calculations (40 CFR Section 403.15), at the time the industrial user submits a baseline report the information required in divisions (D)(6) and (7) of this section shall pertain to the modified limits.

(b) If the national categorical pretreatment standard for the industrial user is modified after the baseline report is submitted, the industrial user shall make any necessary amendments to information provided as a response to divisions (D)(6) and (7) of this section and submit them to the POTW within 60 days after the modified limit is approved.

(8) The following conditions shall apply to any schedule submitted in response to division (D)(7) above:

(a) The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable national categorical pretreatment standards (e.g., hiring an engineer, completing preliminary plans, completing final plans, executing contract for major components, commencing construction, completing construction, etc.).

(b) No increment referred to in division (8)(a) above shall exceed nine months.

(c) Not later than 14 days following each date in the schedule and the final date for compliance, the user shall submit a progress report to the POTW including, at a minimum, whether or not it complied with the increment of progress to be met on such date and, if not, the date on which it expects to comply with this increment of progress, the reason for delay, and the steps being taken by the industrial user to return the construction to the schedule established. In no event shall more than nine months elapse between such progress reports to the POTW.

(d) Such other information as may be reasonably requested by the POTW.

(Ord. 214, passed 6-5-95) Penalty, see § 51.999

§ 51.106 COMPLIANCE DATE REPORT.

Within 90 days following the date for final compliance with applicable categorical pretreatment standards or, in the case of a new source, following commencement of the introduction of wastewater into the POTW, any user subject to categorical pretreatment standards shall submit to the POTW a report indicating the nature and concentration of all pollutants in the discharge from the regulated process which are limited by such standards and the average and maximum daily flow for these process units in the user facility which are limited by such pretreatment standards or requirements. Where equivalent mass or concentration limits are established by the POTW for a user, this report shall contain a reasonable measure of the user's long-term production rate. Where a user is subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production, the report shall include the user's actual production during the appropriate sampling period. The report shall state whether the applicable pretreatment standards are being met on a consistent basis and, if not, what additional O&M and/or pretreatment is necessary to bring the user into compliance with the applicable pretreatment standards. This statement shall be signed by an authorized representative of the industrial user, and certified to by a qualified professional.

(Ord. 214, passed 6-5-95) Penalty, see § 51.999

§ 51.107 PERIODIC COMPLIANCE REPORTS.

(A) Any user subject to a categorical pretreatment standard, after the compliance date of such pretreatment standard, or, in the case of a new source, after commencement of the discharge into the POTW, shall submit to the POTW during the months of June and December, unless required more frequently in the pretreatment standard or by the Superintendent, a report indicating the nature and concentration, of pollutants in the effluent which are limited by such pretreatment standards. In addition, this report shall include a record of all daily flows which during the reporting period exceeded the average daily flow reported in § 51.105(D)(4)(b). At the discretion of the Superintendent and in consideration of such factors as local high or low flow rates, holidays, budget cycles, etc., the Superintendent may agree to alter the months during which the above reports are to be submitted.

(B) The POTW may impose mass limitations on users which are using dilution to meet applicable pretreatment standards or requirements, or in other cases where the imposition of mass limitations are appropriate. In such cases, the report required by division (A) of this section shall indicate the mass of pollutants regulated by pretreatment standards in the effluent of the user. These reports shall contain the results of sampling and analysis of the discharge, including the flow and the nature and concentration, or production and mass where requested by the Superintendent, of pollutants contained therein which are limited by the applicable pretreatment standards.

(C) For industrial users subject to equivalent mass or concentration limits established by the POTW in accordance with the procedures in 40 CFR 403.6(c), the report required by division (A) of this section shall contain a reasonable measure of the user's long-term production rate. For all other industrial users subject to categorical pretreatment standards expressed only in terms of allowable pollutant discharge per unit of production (or other measure of operation), the report required by division (A) above shall include the user's actual average production rate for the reporting period.

(D) Significant noncategorical industrial users shall submit to the POTW at least once every six months (on dates specified by the local agency) a description of the nature, concentration, and flow of the pollutants required to be reported by the local agency.

(Ord. 214, passed 6-5-95) Penalty, see § 51.999

§ 51.108 MONITORING AND ANALYSIS IN SUPPORT OF SELF-MONITORING REQUIREMENTS.

(A) The reports required by §§ 51.105 through 51.107 and 51.109 shall be based on sampling and analysis performed in the period covered by the report, and performed in accordance with the techniques described in 40 CFR Part 136 and amendments thereto. Where 40 CFR Part 136 does not contain sampling or analytical techniques for the pollutant in question, or where the EPA determines that the Part 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analysis shall be performed by using validated analytical methods or any other applicable sampling and analytical procedures, including procedures suggested by the POTW or other persons, approved by the EPA. This sampling and analysis may be performed by the POTW in lieu of the industrial user. Where the POTW itself collects all the information required for the report, the significant industrial user will not be required to submit the report.

(B) If sampling performed by an industrial user indicates a violation, the user shall notify the POTW 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, except the industrial user is not required to resample if:

(1) The POTW performs sampling at the industrial user at a frequency of at least once per month, or

(2) 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 this sampling.

(C) The reports required in § 51.105(D)(5)(a) and (b) shall be based upon data obtained through appropriate sampling and analysis performed during the period covered by the report, which data is

representative of conditions occurring during the reporting period. The POTW shall require that frequency of monitoring necessary to assess and assure compliance by industrial users with applicable pretreatment standards, and requirements.

(D) If an industrial user subject to the reporting requirement in divisions (A) through (C) above monitors any pollutant more frequently than required by the POTW, using the procedures prescribed in this section, the results of this monitoring shall be included in the report.

(E) *Signatory requirements for industrial user reports.* The reports required by § 51.107 shall include the certification statement as set forth in 40 CFR 403.6(a)(2)(ii), and shall be signed by an authorized representative.

(Ord. 214, passed 6-5-95) Penalty, see § 51.999

§ 51.109 REPORTING REQUIREMENTS FOR NONSIGNIFICANT INDUSTRIAL USERS.

The POTW shall require appropriate reporting from those industrial users with discharges that are not subject to categorical pretreatment standards and are not otherwise deemed by the POTW to be significant.

(Ord. 214, passed 6-5-95)

§ 51.110 HAZARDOUS WASTE NOTIFICATION.

(A) Any industrial user which proposes to discharge to the POTW any substance which, if otherwise disposed of, would be a listed or characteristic hazardous waste under 40 CFR Part 261, shall notify the POTW in writing of such discharge at least 30 days prior to initiating such discharge. No discharge shall occur unless expressly authorized by the local agency.

(B) All hazardous waste notifications shall include:

- (1) The name of the hazardous waste as set forth in 40 CFR Part 261;
- (2) The EPA hazardous waste number;
- (3) The type of discharge;

(4) A certification that the user has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.

(C) In addition to the information submitted in § 51.105(D)(6), an industrial user (IU) discharging more than 100 kg of hazardous waste per calendar month to the POTW shall submit such information as known and readily available to the IU;

- (1) An identification of the hazardous constituents contained in the waste;
- (2) An estimation of the mass and concentration of such constituents in waste stream discharged during that calendar month; and
- (3) An estimation of the mass of constituents in waste stream expected to be discharged during the following 12 months.

(D) Hazardous waste notifications shall be submitted no later than February 19, 1992, except that IUs commencing the discharge of listed or characteristic hazardous wastes after August 23, 1991, shall provide the notification no later than 180 days prior to the discharge of the wastes. Any notification under this provision need be submitted only once for each hazardous waste discharged, although notifications of changed discharges must be submitted under § 51.058(B).

(E) IUs are exempt from the hazardous waste notification requirement during a calendar month in which they discharge 15 kg or less of non-acute hazardous wastes. Discharge of any quantity of

acute hazardous waste as specified in 40 C.F.R. 261.30(d) and 261.33(e) requires a one-time notification.

(Ord. 214, passed 6-5-95) Penalty, see § 51.999

FEES AND CHARGES

§ 51.125 FEES.

The POTW may adopt charges and fees which may include:

- (A) Fees for reimbursement of costs of setting up and operating the POTW pretreatment program;
 - (B) Fees for monitoring, inspection and surveillance procedures including the cost of reviewing monitoring reports submitted by the IU;
 - (C) Fees for reviewing accidental discharge procedures and construction;
 - (D) Fees for permit applications including the cost of processing such applications;
 - (E) Fees for filing appeals;
 - (F) Other fees as the POTW may deem necessary to carry out the requirements contained herein.
- The fees relate solely to the matters covered by this chapter and are separate from all other fees chargeable by the POTW.

(Ord. 214, passed 6-5-95)

§ 51.126 ESTABLISHMENT OF RATES AND CHARGES.

All rates and charges for sewer service or related thereto, including, but not limited to, charges associated with the use of the sanitary sewer system, tap fees, connection charges, repair charges, penalties, late fees, and interest on unpaid balances shall be established from time to time by resolution of the City Council.

(Ord. 263, passed 5-20-02)

§ 51.127 UNPAID CHARGES AS LIEN.

All unpaid charges, including penalties and interest, shall constitute a lien upon the premises to which sewer services were provided and shall become effective immediately upon the providing of sewer service to the premises.

(Ord. 263, passed 5-20-02)

§ 51.128 COLLECTION OF DELINQUENT ACCOUNTS.

Whenever any charge, including penalties and interest, remains unpaid for a period of three months or more, such charge may be entered upon the next tax roll as a charge against the premises and shall be collected and the lien enforced in the same manner as general city taxes against such premises are collected. Nothing in this section, however, shall be deemed to prevent the city from suing in a court of law to collect the amount due. In addition to those other remedies referred to herein, the city shall have the right, at its sole discretion, to turn off and discontinue supplying water to any premises where charges remain unpaid.

(Ord. 263, passed 5-20-02)

§ 51.129 UTILITY BILLING; DUTY OF PROPERTY OWNER AND TENANT.

(A) It shall be the duty of any property owner who allows a tenant to occupy any premises served by the sewer utility, before the tenant shall occupy the premises, to notify, in writing, the utility billing department of the tenant's full name, the address to which the bill should be sent, the tenant's date of birth, and the date the tenant shall become responsible to pay the utility billing, should the tenant agree, in writing, to pay for service on behalf of the property owner.

(B) It shall be the duty of any property owner where such agreement has been entered into as described in division (A) of this section, to notify the utility billing department, in writing, before the date on which any such arrangement is to terminate and/or there becomes necessary a change in any billing information.

(C) It shall be the duty of any tenant to pay in a timely manner any charges while any agreement as described by division (A) of this section is in force and effect, and to notify the utility billing department of any changes of address or any other information necessary for proper billing. In no case shall any tenant leave any unpaid balance on an account final billing, whether intentional or unintentional. Failure of any tenant to comply with this section shall, in addition to penalties and account collection procedures prescribed in this chapter, be responsible for and subject to any unpaid charges owing the utility including any penalties and interest thereon, and any costs associated with collection of the delinquent amounts owing.

(D) This section shall not be construed to relieve any owner of the responsibility for payment of services provided any premises, nor shall this section be construed to be contrary to §§ 51.127 and 51.128. This section prescribes terms and conditions upon which the sewer utility will accept payment from any person other than an owner of the premises being served.

(Ord. 263, passed 5-20-02)

ADMINISTRATION AND ENFORCEMENT

§ 51.135 NOTIFICATION OF VIOLATION.

Whenever the POTW finds that any industrial user has violated or is violating this chapter, or a wastewater permit or an order issued hereunder, the Superintendent or his or her agent may serve upon said user written notice of the violation. Within ten days of the receipt date of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted to the Superintendent. Submission of this plan in no way relieves the user of liability for any violations occurring before or after receipt of the notice of violation.

(Ord. 214, passed 6-5-95) Penalty, see § 51.999

§ 51.136 CONSENT ORDERS.

The Superintendent is hereby empowered to enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with the industrial user responsible for the noncompliance. Such orders will include compliance schedules, stipulated fines or remedial actions, and signatures of the Superintendent and the authorized industry representative. Consent orders shall have the same force and effect as administrative orders issued pursuant to § 51.138.

(Ord. 214, passed 6-5-95)

§ 51.137 SHOW CAUSE ORDER.

The Superintendent may order any user which causes or contributes to violation of this chapter, wastewater permit or order issued hereunder, to show cause why a proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least ten days prior to the hearing. Such notice may be served on

any principal executive, general partner or corporate officer. Whether or not a duly notified industrial user appears as noticed, enforcement action may be pursued as appropriate.

(Ord. 214, passed 6-5-95) Penalty, see § 51.999

§ 51.138 COMPLIANCE ORDER.

When the Superintendent finds that an industrial user has violated or continues to violate this chapter or a permit or order issued hereunder, he or she may issue an order to the industrial user responsible for the discharge directing that, following a specified time period, sewer service shall be discontinued unless adequate treatment facilities, devices, or other related appurtenances have been installed and are properly operated, and compliance is achieved. Orders may also contain such other requirements as might be reasonably necessary and appropriate to address the noncompliance, including the installation of pretreatment technology, additional self-monitoring, and management practices.

(Ord. 214, passed 6-5-95)

§ 51.139 CEASE AND DESIST ORDERS.

When the Superintendent finds that an industrial user has violated or continues to violate this chapter or any permit or order issued hereunder, the Superintendent may issue an order to cease and desist all illegal or authorized discharges immediately.

(A) In an emergency, the order to cease and desist may be given by telephone.

(B) In non-emergency situations, the cease and desist order may be used to suspend or permanently revoke industrial wastewater discharge permits.

(C) The cease and desist order may order the IU to take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and terminating the discharge.

(Ord. 214, passed 6-5-95)

§ 51.140 ADMINISTRATIVE FINES.

Notwithstanding any other section of this chapter, any user who is found to have violated any provision of this chapter, or permits and orders issued hereunder, shall be fined in an amount not to exceed \$1,000 per violation. Each day on which noncompliance shall occur or continue shall be deemed a separate and distinct violation. Such assessments may be added to the user's next scheduled sewer service charge and the Superintendent shall have such other collection remedies as he has to collect other service charges. Unpaid charges, fines, and penalties shall constitute a lien against the individual user's property. Industrial users desiring to dispute such fines must file a request for the Superintendent to reconsider the fine within ten days of being notified of the fine. Where the Superintendent believes a request has merit, he shall convene a hearing on the matter with 15 days of receiving the request from the industrial user.

(Ord. 214, passed 6-5-95)

§ 51.141 EMERGENCY SUSPENSIONS.

(A) The Superintendent may suspend the wastewater treatment service and/or wastewater permit of an industrial user whenever such suspension is necessary in order to stop an actual or threatened discharge presenting or causing an imminent or substantial endangerment to the health or welfare of persons, the POTW, or the environment.

(B) Any user notified of a suspension of the wastewater treatment service and/or the wastewater permit shall immediately stop or eliminate its contribution. In the event of a user's failure to immediately comply voluntarily with the suspension order, the Superintendent shall take such steps as deemed necessary, including immediate severance of sewer connection, to prevent or minimize damage to the POTW, its receiving stream, or endangerment to any individuals. The Superintendent shall allow the user to recommence its discharge when the endangerment has passed, unless the termination proceedings set forth in § 51.142 have been initiated.

(C) An industrial user which is responsible, in whole or in part, for imminent endangerment shall submit a detailed written statement describing the causes of the harmful contribution and the measures taken to prevent any future occurrence to the Superintendent prior to the date of the hearing described in division (B) above.

(Ord. 214, passed 6-5-95) Penalty, see § 51.999

§ 51.142 TERMINATION OF PERMIT.

Significant industrial users proposing to discharge into the POTW, must first obtain a wastewater discharge permit from the control authority. Any user who violates the following conditions of this chapter or a wastewater discharge permit or order, or any applicable state and federal law, is subject to permit termination:

- (A) Violation of permit conditions.
- (B) Failure to accurately report the wastewater constituents and characteristics of its discharge.
- (C) Failure to report significant changes in operations or wastewater constituents and characteristics.
- (D) Refusal of reasonable access to the user's premises for the purpose of inspection, monitoring, or sampling. Noncompliant industrial users will be notified of the proposed termination of their wastewater permit and be offered an opportunity to show cause under § 51.137 why the proposed action should not be taken.

(Ord. 214, passed 6-5-95)

§ 51.143 LEGAL AND/OR EQUITABLE RELIEF.

If any person discharges sewage, industrial wastes, or other wastes into the wastewater disposal system contrary to the provisions of this chapter or any order or permit issued hereunder, the Superintendent, through the City Attorney, may commence an action for appropriate legal and/or equitable relief in the District Court for Gladwin County.

(Ord. 214, passed 6-5-95)

§ 51.144 INJUNCTIVE RELIEF.

Whenever an industrial user has violated or continues to violate the provisions of this chapter or permit or order issued hereunder, the Superintendent, through counsel, may petition the court for the issuance of a preliminary or permanent injunction or both (as may be appropriate) which restrains or compels the activities on the part of the industrial user.

(Ord. 214, passed 6-5-95) Penalty, see § 51.999

§ 51.145 ANNUAL PUBLICATION OF INDUSTRIAL USERS IN SIGNIFICANT NONCOMPLIANCE.

The Superintendent shall publish, at least annually in the largest daily newspaper circulated in the service area, a description of those industrial users which are found to be in significant

noncompliance, as defined in § 51.002, with any provisions of this chapter or any permit or order issued hereunder during the period since the previous publication.

(Ord. 214, passed 6-5-95)

§ 51.146 PERFORMANCE BONDS.

The Superintendent may decline to reissue a permit to any industrial user which has failed to comply with the provisions of this chapter or any order or previous permit issued hereunder unless such user first files with it a satisfactory bond, payable to the POTW, in a sum not to exceed a value determined by the Superintendent to be necessary to achieve consistent compliance.

(Ord. 214, passed 6-5-95)

§ 51.147 WATER SUPPLY SEVERANCE.

Whenever an industrial user has violated or continues to violate the provisions of this chapter or an order or permit issued hereunder, water service to the industrial user may be severed and service will only recommence, at the user's expense, after it has satisfactorily demonstrated its ability to comply.

(Ord. 214, passed 6-5-95)

§ 51.148 PUBLIC NUISANCES.

Any violation of the prohibitions or effluent of this chapter or permit or order issued hereunder is hereby declared a public nuisance and shall be corrected or abated as directed by the Superintendent or his designee. Any person creating a public nuisance shall be corrected or abated as directed by the Superintendent or his designee. Any person creating a public nuisance shall be subject to the provisions of this code governing such nuisance, including reimbursing the POTW for any costs incurred in removing, abating, or remedying said nuisance.

(Ord. 214, passed 6-5-95) Penalty, see § 51.999

INDUSTRIAL COST RECOVERY SYSTEM CHARGES

§ 51.155 RECOVERY SYSTEM CHARGES.

(A) Project C-262640 is defined as a separate and distinct construction project for the construction of the treatment works, which was sponsored by the U.S. Environmental Protection Agency under the provisions of Public Law 92-500 and granted through the city. This project does not include past or future construction, equipment or other services not included under the specific project number and the approved plans, specifications and approved change orders for the project.

(B) In order to comply with the special grant conditions under P.L. 92-500, which requires the grantee to recover from industrial users of the waste treatment facilities that portion of the grant amount allocable to the treatment of industrial wastes, the local agency will collect all required industrial cost revenue charges and remit in accordance with federal requirements of the U.S. Environmental Protection Agency as prescribed below:

(1) In addition to definitions given in § 51.002, the meaning of terms used in this section shall be as follows:

FEDERAL GRANT AMOUNT FOR THE INDUSTRIAL RECOVERY CHARGES. Only that portion of the total project costs of Project No. C-262640 for wastewater treatment which were funded by the U.S. Environmental Protection Agency.

NONINDUSTRIAL USER. Any governmental or residential user, including commercial, institutional and other industrial users where it has been determined that the wastes contributed by

these users are primarily segregated domestic wastes or wastes from sanitary conveniences.

NORMAL DOMESTIC WASTES. The wastewaters from segregated domestic and/or sanitary conveniences as distinct from wastes from industrial processes and such domestic wastes to not exceed a BOD strength of 250 milligrams per liter or a suspended solids strength in excess of 300 milligrams per liter.

RECOVERED AMOUNTS. The annual payments from industrial users for their share of the federal grant amount allocable to the treatment of industrial waste, by the recovery period. The first payment by an industrial user shall be made not later than one year after such user begins use of the treatment works.

RECOVERY PERIOD. The industrial cost recovery period, which is hereby defined as a period of 30 years.

RETAINED AMOUNTS. That portion of the recovered amounts retained by the local agency. The retained amounts will be equal to 50% of the recovered amounts, together with interest earned thereon. Retained amounts shall be under the jurisdiction of the City Administrator.

(2) Recovered amounts shall be collected each year during the industrial cost recovery period from each industrial user as defined in § 51.002 and division (B)(1) above.

(3) An industrial user's share shall be based on all factors which significantly influence the cost of the treatment works. Factors such as strength, volume, and delivery flow rate characteristics shall be considered and included to insure a proportional distribution of the grant assistance allocable to industrial use to all industrial users of the treatment works.

(4) If there is a substantial change in the strength, volume or delivery flow rate characteristics introduced into the treatment works by an industrial user, such user's share shall be adjusted accordingly.

(5) If there is an expansion or upgrading of the treatment works, each existing industrial user's share shall be adjusted accordingly.

(6) The industrial user's share shall include only that portion of the grant assistance allocable to its use or to capacity firmly committed for its use.

(7) The industrial user's share shall not include an interest component.

(8) Retained amounts shall be monies held from recovered amounts. The local agency shall retain 50% of the amounts recovered from industrial users. The remaining 50% of recovered amounts, together with any interest earned thereon, shall be returned to the U.S. Treasury on an annual basis.

(9) A minimum of 80% of the amounts retained by the local agency, together with interest earned thereon, shall be used solely for the eligible costs of the expansion or reconstruction of treatment works associated with the project. The local agency shall obtain the written approval of the Regional Administrator of the U.S. Environmental Protection Agency prior to commitment of any funds obtained from the USEPA. Upon obtaining such approval, all or part of the retained amounts may be used as the local agency sees fit.

(10) Pending use, the local agency shall invest the retained amounts for reconstruction and expansion in the following:

(a) Obligations of the U.S. Government;

(b) Obligations guaranteed as to principal and interest by the U.S. Government or any agency thereof; or

(c) Shall deposit such amounts in accounts fully collateralized by obligations of the U.S. Government or by obligations fully guaranteed as to principal and interest by the U.S. Government or any agency thereof.

(11) All process wastewater from industrial facilities are subject to an industrial cost recovery charge. The I.C.R. charge is to be collected with sewer service billings.

(12) In addition, for BOD greater than 250 milligrams per liter or suspended solids greater than 300 milligrams per liter, an additional industrial cost recovery surcharge will be levied equal to the cost of treatment per pound of BOD in excess of 250 milligrams per liter and the cost of treatment per pound of suspended solids in excess of 300 milligrams per liter.

(C) The system shall be operated on the basis of an operating year commencing on July 1 and ending on the last day of June.

(Ord. 214, passed 6-5-95)

§ 51.156 RECORDS AND INSURANCE REQUIREMENTS.

(A) The local agency will maintain and keep proper books of records and accounts, separate from all other records and accounts, in which shall be made full and correct entries of all transactions relating to the system. The local agency will cause an annual audit of such books or records and accounts for the preceding operating year to be made by a recognized independent certified public accountant, and will supply such audit report to authorized public officials on request.

(B) In conjunction with the audit there shall be an annual review of the sewer charge system for adequacies meeting expected expenditures for the following year.

(C) Classification of old and new industrial users should also be reviewed quarterly.

(D) The Local Agency will maintain and carry insurance on all physical properties of the system, of the kinds and in the amounts normally carried by public utility companies and municipalities engaged in the operation of sewage disposal systems. All moneys received for losses under any such insurance policies shall be applied solely to the replacement and restoration of the property damaged or destroyed.

(Ord. 214, passed 6-5-95)

§ 51.999 PENALTY.

(A) *Civil penalties.*

(1) Any user who has violated or continues to violate this chapter or any order or permit issued hereunder, shall be liable to the POTW for a civil penalty of not more than \$10,000 nor less than \$1,000, plus actual damages incurred by the POTW per violation per day for as long as the violation continues. In addition to the above described penalty and damages, the POTW may recover reasonable attorney's fees, court costs, and other expenses associated with the enforcement activities, including sampling, monitoring and analysis expenses.

(2) The Superintendent shall petition the court to impose, assess, and recover such sums. In determining amount of liability, the court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration, and economic benefit gained throughout the user's violation, corrective actions by the user, the compliance history of the user, and any other factors as justice requires.

(B) *Criminal prosecution.*

(1) *Violations - generally.*

(a) Any user who willfully or negligently violates any provision of this chapter or any orders or permits issued hereunder shall, upon conviction, be guilty of a misdemeanor, punishable by a fine not to exceed \$1,000 per violation per day or imprisonment for not more than one year or both.

(b) In the event of a second conviction, the user shall be punishable by a fine not to exceed \$3,000 per violation per day or imprisonment for not more than three years or both.

(2) *Falsifying information.* Any user who knowingly makes any false statements, representations, or certifications in any application, record, report, plan or other document filed or required to be maintained pursuant to this chapter, or wastewater permit, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this chapter shall, upon conviction, be punished by a fine of not more than \$1,000 per violation per day or imprisonment for not more than one year or both.

(Ord. 214, passed 6-5-95; Am. Ord. 277, passed 5-17-04)

CHAPTER 52: WATER

Section

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Statutory reference:

Municipal water supply system, see M.S.A. §§ 5.2533(1) et seq.

§ 52.01 DEFINITIONS.

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

AGENT OF THE CITY. Any firefighter while acting in the official capacity of their position as a firefighter, any contractor under contract with the city to perform construction, operation or maintenance to the utility system or any person who has been given permission by the City Administrator or Director of Public Works to perform work which requires construction, operation of or maintenance to the utility system when such construction, operation of or maintenance to the utility system without presence of a city employee has been determined to be in the best interest of the city.

CONSUMER. The person, firm or corporation owning or occupying the property in or upon which the water is consumed.

CORPORATION STOP or **CURB STOP.** The valve at or near the property line which is used by city employees to discontinue service to a premises.

METER. Any measuring device by which the quantity of water used by consumers is measured.

OWNER. The owner of record upon the most recent tax roll as prepared by the City Treasurer of the city.

PERSON (both singular and plural). All natural persons, firms, co-partnerships, corporations, and all associations of natural persons, incorporated or unincorporated owning or occupying any lot or land, whether acting by themselves, or by a servant, agent, or employee. All persons who violate any provisions of this chapter, whether as owner, occupant, lessee, agent, servant, or employee shall, except as herein otherwise provided, be equally liable as principals.

SERVICE PIPE. The pipe which delivers water from the distribution main commencing at the corporation stop at or near the property line of the property being served and ending at the intake side of the meter.

TENANT. Any person occupying a premises other than the owner.

(Ord. 192, passed 2-15-93; Am. Ord. 312, passed 5-17-10)

§ 52.02 AUTHORIZATION.

The water utility is owned and operated by the city under authorization of the City Charter.

(Ord. 192, passed 2-15-93; Am. Ord. 312, passed 5-17-10)

§ 52.03 OPERATION BY CITY EMPLOYEE(S) OR AUTHORIZED AGENTS ONLY.

(A) It shall be unlawful for any person, except for a city employee(s) or authorized agent of the city acting in their official capacity, to tap, change, remove, disconnect, repair, install, break a seal, turn on or off, or in any way vandalize any wells, retention facilities, water mains, branch pipes, fire hydrants,

service meters, curb stops, valves, fittings or any other appurtenances of the utility system except as provided herein.

(B) Customers may turn water on and off by the valve immediately ahead of the meter in the basement or meter pit in which the meter is located, at their pleasure.

(Ord. 192, passed 2-15-93; Am. Ord. 312, passed 5-17-10) Penalty, see § 52.99

§ 52.04 MAINTENANCE OF SERVICE PIPES RESPONSIBILITY OF OWNER.

The owner of property being served by the water utility shall install, maintain in good working condition and protect from frost, and replace if necessary at their own expense, any service pipe. The owner of any service pipe which is susceptible to or has a history of freezing in the winter may be notified by the water utility to replace the service pipe in such a manner as to prevent it from freezing. Said notice may be given in person, by posting on the premises or by first class mail. Any owner, after being served the notice, shall replace the service pipe during the next succeeding construction season. If the owner should fail to remedy the condition, in addition to penalties prescribed in this chapter, no allowance or consideration shall be given if water is allowed to flow from any outlet on the premises to avoid service from freezing.

(Ord. 192, passed 2-15-93; Am. Ord. 312, passed 5-17-10) Penalty, see § 52.99

§ 52.05 UNLAWFUL TO SERVE MORE THAN ONE PREMISES WITH ONE METER.

Only one residence, business or facility may be served by a single meter unless otherwise permitted, in writing, by the City Administrator. Such permission may only be granted on a temporary basis when connection to a separate meter is impossible or would cause extreme hardship on the owner or occupant of the property. When a main is installed on the street past any premises currently being served by a meter which serves more than one premises, the connection previously installed shall be removed forthwith and each premises connected to the main as a separate service.

(Ord. 192, passed 2-15-93; Am. Ord. 312, passed 5-17-10) Penalty, see § 52.99

§ 52.06 ONLY ONE METER/ACCOUNT PER SERVICE CONNECTION.

Only one billing account may be established for the purpose of billing service to any meter and only one meter may be connected to any single service connection to the water utility distribution main.

(Ord. 192, passed 2-15-93; Am. Ord. 312, passed 5-17-10) Penalty, see § 52.99

§ 52.07 UNLAWFUL TO ALLOW UNMETERED SERVICE; EXCEPTIONS.

(A) It shall be unlawful for any person, firm or corporation to open any valve, make any connection, or in any way bypass a water meter except as set forth in division (B) of this section.

(B) Where it is impractical to meter the water, where the amount used can be accurately estimated, where proper arrangements have been made for the payment of water used and the City Administrator or Director of Public Works has granted temporary permission in writing for such unmetered uses.

(Ord. 192, passed 2-15-93; Am. Ord. 312, passed 5-17-10) Penalty, see § 52.99

§ 52.08 NEW BUILDINGS DURING CONSTRUCTION.

When a new building is being constructed, a water meter shall be set in a place approved by the Director of Public Works at the expense of the consumer to measure the water used during construction. Water so used shall be charged to the consumer at the usual rate.

(Ord. 192, passed 2-15-93; Am. Ord. 312, passed 5-17-10) Penalty, see § 52.99

§ 52.09 UNLAWFUL TO DAMAGE OR OBSTRUCT; COST OF REPAIR OR REMOVAL.

It shall be unlawful for any person, firm or corporation to deface, damage, cover up or, in any way, obstruct free access to any hydrant, corporation stop, street valve, water meter, building, machinery, equipment, apparatus or other fixture related to the providing of water service owned or operated by the city. In case of violation of this provision, the cost of removing the obstruction, together with the cost of restoring or repairing the hydrant, curb box, street valve, water meter, building, machinery, equipment, apparatus or other fixture to its previous condition shall be charged to and/or the responsibility of the person, firm or corporation causing the defacing, damage or obstruction. The costs referred to herein shall be in addition to any penalties provided for in § 52.99.

(Ord. 192, passed 2-15-93; Am. Ord. 312, passed 5-17-10) Penalty, see § 52.99

§ 52.10 CITY EMPLOYEE RIGHT OF ENTRY.

Employees of the city shall have the right to enter any premises, at reasonable times, to which city water is provided to inspect, adjust, repair or remove water meters or equipment associated with the water service.

(Ord. 192, passed 2-15-93; Am. Ord. 312, passed 5-17-10)

§ 52.11 WAIVER OF GUARANTEED CONTINUOUS SERVICE.

The city does not guarantee uninterrupted water service and shall not be liable for any damage which a consumer may sustain by any reason, including, but not limited to failure to provide water, breakage of equipment, failure to repair or any other reason approximately caused by the negligence of the city in conjunction with the providing of water service.

(Ord. 192, passed 2-15-93; Am. Ord. 312, passed 5-17-10)

§ 52.12 CROSS-CONNECTION.

(A) The city adopts by reference the Water Supply Cross-Connection Rules of the Michigan Department of Environmental Quality, being Mich. Admin. Code R 325.11401 through 325.11407.

(B) It shall be the duty of the city to cause inspections to be made of all properties served by the public water supply where cross-connection with the public water supply is deemed possible. The frequency of inspections and re-inspections based on potential health involved shall be as established by the city and as approved by the Michigan Department of Environmental Quality.

(C) The representative of Hydro Designs, Inc. shall have the right to enter at any reasonable time any property served by a connection to the public water supply system of the city for the purpose of inspecting the piping system or systems thereof for cross-connections. On request, the owner, lessees, or occupants of any property so served shall furnish to the inspection agency any pertinent information regarding the piping system or systems on such property. The refusal of such information or refusal of access, when requested, shall be deemed evidence of the presence of cross-connection.

(D) The city is hereby authorized and directed to discontinue water service after reasonable notice to any property wherein any connection in violation of this chapter exists and to take such other precautionary measures deemed necessary to eliminate any danger of contamination of the public water supply system. Water service to such property shall not be restored until the cross-connection(s) has been eliminated in compliance with the provisions of this chapter.

(E) All testable backflow prevention assemblies shall be tested initially upon installation to be sure that the assembly is working properly. Subsequent testing of assemblies shall be tested on an annual

basis as required by the city and in accordance with Michigan Department of Environmental Quality requirements. Only individuals that are approved and State of Michigan certified shall be qualified to perform such testing. That individual(s) shall verify the results of his/her testing.

(F) The potable water supply made available on the properties served by the public water supply shall be protected from possible contamination as specified by this chapter and by the State Plumbing Code. Any water outlet which could be used for potable or domestic purposes and which is not supplied by the potable system must be labeled in a conspicuous manner as:

WATER UNSAFE

FOR DRINKING

(G) This section does not supersede the State Plumbing Code but is supplementary to it.

(Ord. 192, passed 2-15-93; Am. Ord. 312, passed 5-17-10)

§ 52.13 ELECTRICAL GROUNDING.

(A) It shall be unlawful for any person, firm or corporation to ground or electrically connect any radio, telephone, television, ham radio or any other electrical device to any pipes or appurtenances connected to the discharge side of any water meter, unless either:

(1) A shunt is placed around the water meter to shunt or bypass any electric current which might otherwise flow through the water meter; or

(2) Ten feet or more of water pipe connected to the discharge side of the water meter is buried in moist dirt.

(B) Any shunt placed around a water meter shall be placed so that the water meter may be removed without disturbing same, and no electrical connection whatsoever shall be made to the meter itself, the meter union or meter tail piece. The "tail piece" shall be construed as the short piece of special pipe (often of brass) which is immediately adjacent to the meter and connected thereto by the meter union.

(Ord. 192, passed 2-15-93; Am. Ord. 312, passed 5-17-10) Penalty, see § 52.99

§ 52.14 RATES SET BY RESOLUTION.

All rates and charges for water service or related thereto, including, but not limited to, charges associated with the consumption of water, tap fees, connection charges, repair charges, penalties, late fees, and interest on unpaid balances shall be established from time to time by resolution of the City Council.

(Ord. 192, passed 2-15-93; Am. Ord. 305, passed 8-17-09; Am. Ord. 312, passed 5-17-10)

§ 52.15 UNPAID CHARGES AS LIEN.

All unpaid charges, including penalties and interest, shall constitute a lien upon the premises to which water was provided and shall become effective immediately upon the providing of water to the premises.

(Ord. 192, passed 2-15-93; Am. Ord. 312, passed 5-17-10)

Statutory reference:

Authority, see M.S.A. §§ 5.2531(1) through 5.2531(7)

§ 52.16 UNPAID CHARGES; COLLECTION OF DELINQUENT ACCOUNTS.

Whenever any charge, including penalties and interest, remains unpaid for a period of three months or more, such charge may be entered upon the next tax roll as a charge against the premises and shall be collected and the lien enforced in the same manner as general city taxes against such premises are collected. Nothing in this section, however, shall be deemed to prevent the city from suing in a court of law to collect the amount due. In addition to those other remedies referred to herein, the city shall have the right, at its sole discretion, to turn off and discontinue supplying water to any premises where charges remain unpaid.

(Ord. 192, passed 2-15-93; Am. Ord. 312, passed 5-17-10)

§ 52.17 DUTY OF PROPERTY OWNER; TENANT.

(A) It shall be the duty of any property owner who allows a tenant to occupy any premises served by the water utility, before the tenant shall occupy the premises, to notify, in writing, the water utility billing department of the tenant's full name, the address to which the bill should be sent, the tenant's date of birth, and the date the tenant shall become responsible to pay the utility billing, should the tenant agree, in writing, to pay for service on behalf of the property owner.

(B) It shall be the duty of any property owner where such agreement has been entered into as described in division (A) of this section, to notify the water utility billing department, in writing, before the date in which any such arrangement is to terminate and/or there becomes necessary a change in any billing information.

(C) It shall be the duty of any tenant to pay in a timely manner any charges while any agreement as described by division (A) of this section is in force and effect and to notify the water utility billing department of any changes of address or any other information necessary for proper billing. In no case shall any tenant leave any unpaid balance on an account final billing, whether intentional or unintentional. Failure of any tenant to comply with this section shall, in addition to penalties and account collection procedures prescribed in this chapter, be responsible for and/or subject to any unpaid charges owing the utility including any penalties and interest thereon, and any costs associated with collection of the delinquent amounts owing.

(D) This section shall not be construed to relieve any owner of the responsibility for payment of services provided any premises, nor shall this section be construed to be contrary to §§ 52.15 and 52.16. This section prescribes terms and conditions upon which the water utility will accept payment from any person other than an owner of the premises being served.

(Ord. 192, passed 2-15-93; Am. Ord. 312, passed 5-17-10) Penalty, see § 52.99

§ 52.18 PROCEDURE FOR NEW SERVICE.

In any district or for any parcel within the city which is not presently provided water service, one or more owners of real property affected may present a petition to the City Council requesting that water service be provided to such district or parcel. Such petition shall be signed by the owner or owners of property owning at least 51% of the frontage of such streets in which the water service pipes, mains or aqueducts will be laid. The City Council may, by resolution, at its sole discretion determine whether the providing of water service to the district or parcel set forth on the petition is necessary for the preservation of the public health, safety and welfare or is in the best interest of the residents of the city. If it is deemed necessary for the public health, safety and welfare or in the best interest of the residents of the city, the City Council shall resolve to extend water service to the district or parcel and provide for payment thereof by special assessment or any other means allowed for by law or City Charter.

(Ord. 192, passed 2-15-93; Am. Ord. 312, passed 5-17-10)

§ 52.19 USE OF GLADWIN SYMBOL PROHIBITED.

It shall be unlawful for any person, except a(n) authorized city employee(s), to use the distinctive uniform, hat or logo or other identification of the city for any deceptive purpose, including, but not limited to, as a means of obtaining entrance to any house or building.

(Ord. 192, passed 2-15-93; Am. Ord. 312, passed 5-17-10) Penalty, see § 52.99

§ 52.20 AUTHORITY TO PROHIBIT OR RESTRICT WATER USAGE.

(A) When water reserves are low or at any time deemed necessary by the City Administrator to protect the health, safety and general welfare of the residents of the area served by city water, the City Administrator may prohibit or place such restrictions on the usage of water as deemed necessary by the City Administrator under the circumstances.

(B) The City Administrator shall cause written notice of any prohibitions or restrictions on the usage of water to be given to all affected individuals and/or businesses. At his or her discretion, notice may be given by any method deemed appropriate under the circumstances, including, but not limited to, posting, publishing or mailing.

(C) After notice of prohibitions or restrictions have been given, and irrespective of whether actual notice has been received, any person or business using water contrary to those prohibitions and/or restrictions shall be informed verbally or in writing, to immediately cease any violation thereof. Any person or business who does not immediately cease violation shall be subject to penalties as hereinafter provided.

(D) Any person or business not immediately ceasing to use water contrary to the prohibitions or restrictions, after warning, shall have water services suspended or discontinued until adequate assurances are provided that there will be no further usage of water contrary to the prohibitions or restrictions. In addition, the City Council may establish, from time to time by resolution, a service fee to be paid before re-establishing water service.

(Ord. 192, passed 2-15-93; Am. Ord. 312, passed 5-17-10) Penalty, see § 52.99

§ 52.21 NO FLUORIDE IN WATER SUPPLY.

No fluoride shall be added to the water supply of the city. This section is for the purpose of exempting the city from the provisions of M.S.A. § 14.15(12721).

(Ord. 192, passed 2-15-93; Am. Ord. 312, passed 5-17-10)

§ 52.22 PRIVATE WELLS PROHIBITED.

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

CITY. The City of Gladwin.

CITY WATER SERVICE. The water supplied by the City of Gladwin.

IMPACT AREA. The area defined on Exhibit "A" attached to Ord. 289.

WELL. An opening in a surface of the earth for the purpose of removing fresh water or a test well.

(B) *Private wells prohibited.* In the impact area defined on Exhibit "A", the sole water source will be the Gladwin Municipal Water Supply. No person, firm, association, corporation, or any other entity shall install, construct, develop, maintain or use a water well within the impact area for any purpose

whatsoever, except for the purpose of monitoring groundwater contamination by the properly constructed and maintained monitoring well subject to the approval of the City Council. Private wells outside the impact area and within the city limits are prohibited unless city water service is not feasible and must require the approval of both the City Administrator and the City Council.

(C) *Connection to city water service.* The owner or occupant of any property or structure within the impact area that is currently serviced by a private well shall remove or otherwise disable the water well and connect to the city water service within 30 days of the effective date of this section. The abandoned well shall be plugged pursuant to the requirements of Act 368 of Public Acts of 1978, being M.C.L.A. 333.1101 et seq., as amended or other applicable administrative rules or law. The owner or occupant of any property or structure within the impact area that desires water service at the property or structure shall connect to the city water service.

(D) *Notification to Department of Environmental Quality.* If the city ever intends to amend or appeal this section, it shall notify the Michigan Department of Environmental Quality, or its successors, of its intentions no less than 30 days before such amendment or repeal is enacted.

(E) *Nuisance per se.* A violation of this section is hereby declared to be a public nuisance or nuisance per se and is declared to be offensive to the public health, safety and welfare.

(Ord. 270, passed 12-2-02; Am. Ord. 289, passed 12-5-05) Penalty, see § 52.99

§ 52.99 PENALTY.

(A) (1) Any person who shall violate any provision of §§ 52.01 through 52.21 shall, upon conviction thereof, be subject to a fine of not more than \$500 or 90 days in jail, or both.

(2) In the alternative to division (A)(1) above, to the extent permitted by law, the city may issue a civil citation to any person who shall violate any of the provisions of §§ 52.01 through 52.21, said citation shall carry a fine of not more than \$500.

(3) Each day on which a violation shall occur shall be deemed a separate and additional violation for the purpose of §§ 52.01 through 52.21.

(B) For any person, firm or corporation violating the provisions of § 52.22, the following shall apply:

(1) *Court action for abatement of nuisance.* The city may take civil action requesting injunctive relief against any person, firm, association, corporation or any other entity found to be in violation of this section. This abatement action shall be in addition to any penalty imposed by division (B)(2) below.

(2) *Civil infraction.* Any person, firm, association, corporation or other entity who violates any provision of this section shall be responsible for a municipal civil infraction as defined in Public Act 12 of 1994, amending Public Act 236 of 1961, being M.C.L.A. §§ 600.101 through 600.9939, and shall be subject to a fine of not more than \$100. Each day this section is violated shall be considered as a separate violation. Any action taken under this section shall not prevent civil proceedings for abatement or termination of prohibited activity.

(Ord. 270, passed 12-2-02; Am. Ord. 289, passed 12-5-05; Am. Ord. 312, passed 5-17-10)

TITLE VII: TRAFFIC CODE

Chapter

70. TRAFFIC RULES

71. PARKING REGULATIONS

72. BICYCLES AND TOY VEHICLES; OTHER RECREATIONAL VEHICLES

73. TRAFFIC SCHEDULES

CHAPTER 70: TRAFFIC RULES

Section

General Provisions

70.01 Motor vehicle code adopted by reference

Operation of Vehicle; General Regulations

70.10 Exhibition driving

70.11 Careless driving

70.12 Driving while license suspended

Driving Under the Influence

70.25 Section 625 of Motor Vehicle Code amended

70.26 Driving under the influence prohibited

70.27 Liability of owner of vehicle

70.28 Driving while impaired prohibited

70.29 Presumptions based on chemical analysis of blood, urine or breath

70.30 Attempted violations

70.31 Possession or transportation of open container prohibited

70.99 Penalty

GENERAL PROVISIONS

§ 70.01 MOTOR VEHICLE CODE ADOPTED BY REFERENCE.

(A) The city hereby adopts by reference the Motor Vehicle Code as promulgated by the Director of the Department of State Police.

(B) The adoption of the Motor Vehicle Code shall include by reference the stopping of traffic for loading and unloading school buses within the incorporated areas of the city and shall be regulated as set forth in the Motor Vehicle Code.

(C) A complete copy of the Motor Vehicle Code hereby adopted is available for inspection by the public at the office of the City Clerk.

(Ord. 154A, passed 3-16-81) Penalty, see § 70.99

OPERATION OF VEHICLE; GENERAL REGULATIONS

§ 70.10 EXHIBITIONS DRIVING.

(A) *Definition. **EXHIBITION DRIVING.*** The driving of a motor vehicle in such an unusual manner or out of the usual flow of traffic, whether or not traffic is present, so as it is likely to attract the attention of the public, whether or not there is anyone present; or it shall consist of any two or more of the following acts:

- (1) Rapid acceleration;
- (2) Squealing, peeling, or burning of tires;
- (3) The swaying of the motor vehicle from side to side, commonly referred to as "fishtailing";
- (4) Racing or running of the engine of the motor vehicle at high revolutions per minute combined with the engaging of the gears causing excessive or unusual noise;
- (5) Unnecessary and excessive changing of lanes; or
- (6) The emission of any unreasonable loud or raucous or disturbing and unnecessary noise from the engine or exhaust system of any motor vehicle;

(B) No person shall engage in exhibition driving, as herein defined, within the city.

(C) A person who shall engage in exhibition driving in violation of this section shall be held responsible as for a civil infraction.

(Ord. 172, passed 12-3-79) Penalty, see § 10.99

§ 70.11 CARELESS DRIVING.

Any person who operates any vehicle upon a highway or a frozen public lake, stream or pond or other public place open to the general public including any area designated for the parking of vehicles, day or night, regardless of business hours, in a careless or negligent manner likely to endanger any person or property but without wantonness or recklessness, shall subject to a penalty as provided in § 10.99.

(Ord. 142, passed 4-4-66)

§ 70.12 DRIVING WHILE LICENSE SUSPENDED.

(A) *Driving while license suspended.*

(1) A person whose operator's or chauffeur's license or registration certificate has been suspended or revoked and who has been notified as provided in M.C.L.A. § 257.212 or its equivalent ordinance provision of that suspension or revocation, whose application for license has been denied, or who has never applied for a license, shall not operate a motor vehicle upon a highway or other place open to the general public or generally accessible to motor vehicles, including an area designated for the parking of motor vehicles, within this city.

(2) A person shall not knowingly permit a motor vehicle owned by the person to be operated upon a highway or other place open to the general public or generally accessible to motor vehicles, including an area designated for the parking of vehicles, within this state by a person whose license or registration certificate is suspended or revoked, whose application for license has been denied, or who has never applied for a license, except as permitted under this act.

(3) Before a person is arraigned before a district court magistrate or judge on a charge of violating this section, the arresting officer shall obtain the person's driving record from the Secretary of State and shall furnish the record to the court. The driving record of the person may be obtained from the Secretary of State's computer information network.

(4) This section does not apply to a person who operates a vehicle solely for the purpose of protecting human life or property if the life or property is endangered and summoning prompt aid is essential.

(5) For purposes of this section, a person who never applied for a license includes a person who applied for a license, was denied, and never applied again.

(B) *Detention by peace officer; temporary registration plate.*

(1) When a peace officer detains the driver of a motor vehicle for a violation of a law of this state or local ordinance for which vehicle immobilization is required, the peace officer shall do all of the following:

(a) Immediately confiscate the vehicle's registration plate and destroy it.

(b) Issue a temporary vehicle registration plate for the vehicle in the same form prescribed by the Secretary of State for temporary registration plates issued under M.C.L.A. § 257.226a or 257.226b or the equivalent ordinance provision.

(c) Place the temporary vehicle registration plate on the vehicle in the manner required by the Secretary of State.

(d) Notify the Secretary of State through the law enforcement information network in a form prescribed by the Secretary of State that the registration plate was confiscated and destroyed, and a temporary plate was issued.

(2) A temporary vehicle registration plate issued under this section is valid until the charges against the person are dismissed, the person pleads guilty or nolo contendere to those charges, or the person is found guilty of or is acquitted of those charges.

(C) *Vehicle immobilization.*

(1) A court shall order a vehicle immobilized under M.C.L.A. § 257.904d or the equivalent ordinance provision by the use of any available technology approved by the court that locks the ignition, wheels, or steering of the vehicle, or otherwise prevents any person from operating the vehicle or that prevents the defendant from operating the vehicle. If a vehicle is immobilized under this section, the court may order the vehicle stored at a location and in a manner considered appropriate by the court. The court may order the person convicted of violating M.C.L.A. § 257.625 or its equivalent ordinance provision or a suspension, revocation, or denial under M.C.L.A. § 257.904 or its equivalent ordinance provision to pay the cost of immobilizing and storing the vehicle.

(2) A vehicle subject to immobilization under this section may be sold during the period of immobilization, but shall not be sold to a person who is exempt from paying a use tax under section 3(3)(a) of the Use Tax Act, Public Act 94 of 1937, being M.C.L.A. § 205.93, without a court order.

(3) A defendant who is prohibited from operating a motor vehicle by vehicle immobilization shall not purchase, lease, or otherwise obtain a motor vehicle during this immobilization period.

(4) A person shall not remove, tamper with, or bypass or attempt to remove, tamper with, or bypass a device that he or she knows or has reason to know has been installed on a vehicle by court order by vehicle immobilization or operate or attempt to operate a vehicle that he or she knows or has reason to know has been ordered immobilized.

(5) To the extent that a local ordinance regarding the storage or removal of vehicles conflicts with an order of immobilization issued by the court, the local ordinance is preempted.

(6) If a peace officer stops a vehicle that is being operated in violation of an immobilization order, the vehicle shall be impounded pending an order of a court of competent jurisdiction.

(7) The court shall require the defendant or a person who provides immobilization services to the court under this section to certify that a vehicle ordered immobilized by the court is immobilized as required.

(Ord. 247, passed 8-16-99) Penalty, see § 70.99

DRIVING UNDER THE INFLUENCE

§ 70.25 SECTION 625 OF MOTOR VEHICLE CODE AMENDED.

Section 625 of the Michigan Motor Vehicle Code, as adopted by reference in § 70.01, is amended to provide as follows in §§ 70.26 through 70.30 and 70.99.

(Ord. 183, passed 1-20-92)

§ 70.26 DRIVING UNDER THE INFLUENCE PROHIBITED.

(A) *Driving under the influence.*

(1) A person, whether licensed or not, shall not operate a vehicle upon a highway or other place open to the general public or generally accessible to motor vehicles, including an area designated for the parking of vehicles, within this city if either of the following applies:

(a) The person is under the influence of intoxicating liquor, a controlled substance or a combination of intoxicating liquor and controlled substance.

(b) The person has a blood alcohol content of 0.10 grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.

(2) The owner of a vehicle or a person in charge or in control of a vehicle shall not authorize or knowingly permit the vehicle to be operated upon a highway or other place open to the general public or generally accessible to motor vehicles, including an area designated for the parking of motor vehicles within this city by a person who is under the influence of intoxicating liquor, a controlled substance or a combination of intoxicating liquor and a controlled substance, who has an alcohol content of 0.10 grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine, or whose ability to operate the motor vehicle is visibly impaired due to the consumption of intoxicating liquor, a controlled substance, or a combination of intoxicating liquor and a controlled substance.

(3) A person, whether licensed or not, shall not operate a vehicle upon a highway or other place open to the general public or generally accessible to motor vehicles, including an area designated for the parking of vehicles within this city when, due to the consumption of intoxicating liquor, a controlled substance, or a combination of intoxicating liquor and a controlled substance, the person's ability to operate the vehicle is visibly impaired. If a person is charged with violating division (A)(1), a finding of guilty under this division may be rendered.

(4) A person who is less than 21 years of age, whether licensed or not, shall not operate a vehicle upon a highway or other place open to the general public or generally accessible to motor vehicles, including an area designated for the parking of vehicles within this city if the person has any bodily alcohol content. As used in this division, **ANY BODILY ALCOHOL CONTENT** means either of the following:

(a) An alcohol content of not less than 0.02 grams or more than 0.07 grams per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.

(b) Any presence of alcohol within a person's body resulting from the consumption of intoxicating liquor, other than consumption of intoxicating liquor as a part of a generally recognized religious service or ceremony.

(5) A person, whether licensed or not, shall not operate a vehicle in violation of division (A)(4) while another person who is less than 16 years of age is occupying the vehicle.

(B) *Testing for alcohol or other substances.*

(1) If a person refuses a chemical test offered pursuant to M.C.L.A. § 257.625a(6) or its equivalent ordinance provisions, or submits to a chemical test or a chemical test is performed pursuant to a court order and the test reveals an unlawful alcohol content, the peace officer who requested the person to submit to the test shall do all of the following:

(a) On behalf of the Secretary of State, immediately confiscate the person's license or permit to operate a motor vehicle and, if the person is otherwise eligible for a license or permit, issue temporary license or permit to the person. The temporary license or permit shall be on a form provided by the Secretary of State.

(b) Except as provided in division (B)(2), immediately do all of the following:

1. Forward a copy of the written report of the person's refusal to submit to a chemical test required under M.C.L.A. § 257.625d or its equivalent ordinance provision to the Secretary of State.

2. Notify the Secretary of State by means of the law enforcement information network that a temporary license or permit was issued to the person.

3. Destroy the person's driver's license or permit.

(2) If a person submits to a chemical test offered pursuant to M.C.L.A. § 257.625a(6) or its equivalent ordinance provisions that requires an analysis of blood or urine and a report of the results of that chemical test is not immediately available, the peace officer who requested the person to submit to the test shall comply with subdivision (B)(1)(a), pending receipt of the test report. If the report reveals an unlawful alcohol content, the peace officer who requested the person to submit to the test shall immediately comply with division (B)(1)(b). If the report does not reveal an unlawful alcohol content, the peace officer who requested the person to submit to the test shall immediately notify the person of the test results and immediately return the person's license or permit by first-class mail to the address given at the time of arrest.

(3) A temporary license or permit issued under this section is valid for one of the following time periods:

(a) If the case is not prosecuted, for 90 days after issuance or until the person's license or permit is suspended pursuant to M.C.L.A. § 257.625f or its equivalent ordinance provision, whichever occurs earlier. The prosecuting attorney shall notify the Secretary of State if a case referred to the prosecuting attorney is not prosecuted. The arresting law enforcement agency shall notify the Secretary of State if a case is not referred to the prosecuting attorney for prosecution.

(b) If the case is prosecuted, until the criminal charges against the person are dismissed, the person is acquitted of those charges, or the person's license or permit is suspended, restricted, or revoked.

(4) As used in this division, **UNLAWFUL ALCOHOL CONTENT** means any of the following, as applicable:

(a) If the person tested is less than 21 years of age, 0.02 grams or more of alcohol per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.

(b) If the person tested was operating a commercial motor vehicle within this state, 0.04 grams or more of alcohol per 100 milliliters of blood, per 210 liters of breath, or per 66 milliliters of urine.

(c) If the person tested is not a person described in division (B)(4)(a) or (B)(4)(b), 0.10 grams or more of alcohol per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.

(Ord. 183, passed 1-20-92; Am. Ord. 247, passed 8-16-99) Penalty, see § 70.99

Cross-reference:

Alcoholic beverages in parks prohibited, see § 95.12

Alcohol and minors, see § 130.02

Possession or use of weapon while under influence prohibited, see § 131.05

§ 70.27 LIABILITY OF OWNER OF VEHICLE.

The owner of a vehicle or a person in charge or in control of a vehicle shall not authorize or knowingly permit the vehicle to be operated upon a highway or other place open to the general public or generally accessible to motor vehicles, including an area designated for the parking of motor vehicles, within the city by a person who is under the influence of intoxicating liquor or a controlled substance, or a combination of intoxicating liquor and a controlled substance, or who has a blood alcohol content of 0.10% or more by weight of alcohol.

(Ord. 183, passed 1-20-92) Penalty, see § 70.99

§ 70.28 DRIVING WHILE IMPAIRED PROHIBITED.

A person, whether licensed or not, shall not operate a vehicle upon a highway or other place open to the general public or generally accessible to motor vehicles, including an area designated for the parking of vehicles within the city when, due to the consumption of an intoxicating liquor, a controlled substance, or a combination of an intoxicating liquor and a controlled substance, the person's ability to operate the vehicle is visibly impaired. If a person is charged with violating § 70.26, a finding of guilty under this section may be rendered.

(Ord. 183, passed 1-20-92) Penalty, see § 70.99

§ 70.29 PRESUMPTIONS BASED ON CHEMICAL ANALYSIS OF BLOOD, URINE OR BREATH.

Except in a prosecution relating solely to a violation of section 625(1)(b) of the Michigan Motor Vehicle Code, the amount of alcohol in the driver's blood at the time alleged as shown by chemical analysis of the person's blood, urine, or breath shall give rise to the following presumptions:

(A) If there was at the time 0.07% or less by weight of alcohol in the defendant's blood, it shall be presumed that the defendant's ability to operate a motor vehicle was not impaired due to the consumption of intoxicating liquor, and that the defendant was not under the influence of intoxicating liquor.

(B) If there was at the time in excess of 0.07% but less than 0.10% by weight of alcohol in the defendant's blood, it shall be presumed that the defendant's ability to operate a vehicle was impaired within the provisions of section 625(3) due to the consumption of intoxicating liquor.

(C) If there was at the time 0.10% or more by weight of alcohol in the defendant's blood, it shall be presumed that the defendant was under the influence of intoxicating liquor.

(Ord. 183, passed 1-20-92)

§ 70.30 ATTEMPTED VIOLATIONS.

A person who is convicted of an attempted violation of §§ 70.26 or 70.28 shall be punished as if the offense had been completed.

(Ord. 183, passed 1-20-92) Penalty, see § 10.99

§ 70.31 POSSESSION OR TRANSPORTATION OF OPEN CONTAINER PROHIBITED.

Section 624(a) of the Michigan Motor Vehicle code, as adopted by reference in § 70.01, is amended to provide as follows in this section.

(A) Except as provided in division (B) of this section, a person shall not transport or possess alcoholic liquor in a container that is open or uncapped or upon which the seal is broken within the passenger compartment of a vehicle upon a highway, or within the passenger compartment of a moving vehicle in any place open to the general public or generally accessible to motor vehicles, including an area designated for the parking of vehicles, in this state.

(B) A person may transport or possess alcoholic liquor in a container that is open or uncapped or upon which the seal is broken within the passenger compartment of a vehicle upon a highway or other place open to the general public or generally accessible to motor vehicles, including an area designated for the parking of vehicles in this state, if the vehicle does not have a trunk or compartment separate from the passenger compartment, the container is enclosed or encased, and the container is not readily accessible to the occupants of the vehicle.

(C) This section does not apply to a passenger in a chartered vehicle authorized to operate by the Michigan Department of Transportation.

(Ord. 184, passed 1-20-92) Penalty, see § 70.99

§ 70.99 PENALTY.

(A) *Motor Vehicle Code violations.* Any violation of § 70.01 shall be punishable as prescribed by the Motor Vehicle Code as promulgated by the Director of the Department of State Police.

(Ord. 154A, passed 3-16-81)

(B) *Driving under the influence.*

(1) *Generally.* If a person is convicted of violating § 70.26, the following shall apply:

(a) If a person is convicted for violating § 70.26(A)(1), the person is guilty of a misdemeanor punishable by one or more of the following:

1. Community service for not more than 45 days.
2. Imprisonment for not more than 93 days.
3. A fine of not less than \$100 or more than \$500.

(b) A person who is convicted of violating § 70.26(A)(2) is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not less than \$100 or more than \$500, or both.

(c) A person who is convicted of violating § 70.26(A)(3) is guilty of a misdemeanor punishable by one or more of the following:

1. Community service for not more than 45 days.
2. Imprisonment of not more than 93 days.
3. A fine of not more than \$300.

(d) If a person is convicted of violating § 70.26(A)(4), all of the following apply:

1. Except as otherwise provided in division (B)(1)(d)2., the person is guilty of a misdemeanor punishable by one or more of the following:

- a. Community service for not more than 45 days.

b. A fine of not more than \$250.

2. If the violation occurs within seven years of one or more prior convictions, the person may be sentenced to one or more of the following:

a. Community service for not more than 60 days.

b. A fine of not more than \$500.

c. Imprisonment of not more than 93 days.

(e) 1. A person who violates § 70.26(A)(5) is guilty of a misdemeanor, punishable as follows:

a. Community service for not more than 60 days.

b. A fine of not more than \$500.

c. Imprisonment for not more than 93 days.

2. In the judgment of sentence under this division, the court may, unless the vehicle is ordered forfeited under M.C.L.A. § 257.625b or its equivalent ordinance provision, order vehicle immobilization as provided in M.C.L.A. § 257.904d or its equivalent ordinance section.

(f) In addition to imposing the sanctions prescribed under this section, the court may order the person to pay the costs of the prosecution under the Code of Criminal Procedure, Public Act 175 of 1927, being M.C.L.A. §§ 760.1 to 776.22.

(g) A person sentenced to perform community service under this section shall not receive compensation and shall reimburse the state or appropriate local unit of government for the cost of supervision incurred by the state or local unit of government as a result of the person's activities in that service.

(h) If a person is charged with a violation of § 70.26 (A)(1), (3), or (5), or M.C.L.A. § 257.625 or its equivalent ordinance provision, the court shall not permit the defendant to enter a plea of guilty or nolo contendere to a charge of violating § 70.26(A)(4) in exchange for dismissal of the original charge. This division does not prohibit the court from dismissing the charge upon the prosecuting attorney's motion.

(i) Except as otherwise provided in division (A)(1)(k), if a person is charged with operating a vehicle while under the influence of a controlled substance or a combination of intoxicating liquor and a controlled substance in violation of § 70.26(A)(1), the court shall require the jury to return a special verdict in the form of a written finding or, if the court convicts the person with a jury or accepts a plea of guilty or nolo contendere, the court shall make a finding as to whether the person was under the influence of a controlled substance or a combination of intoxicating liquor and a controlled substance at the time of the violation.

(j) Except as otherwise provided in division (A)(1)(k), if a person is charged with operating a vehicle while his or her ability to operate the vehicle was visibly impaired due to his or her consumption of a controlled substance or a combination of intoxicating liquor and a controlled substance in violation of § 70.26(A)(3), the court shall require the jury to return a special verdict in the form of a written finding or, if the court convicts the person without a jury or accepts a plea of guilty or nolo contendere, the court shall make a finding as to whether, due to the consumption of a controlled substance or a combination of intoxicating liquor and a controlled substance, the person's ability to operate a motor vehicle was visibly impaired at the time of the violation.

(k) A special verdict described in divisions (A)(1)(i) and (A)(1)(j) is not required if a jury is instructed to make a finding solely as to either of the following:

1. Whether the defendant was under the influence of a controlled substance or a combination of intoxicating liquor and a controlled substance at the time of the violation.

2. Whether the defendant was visibly impaired due to his or her consumption of a controlled substance or a combination of intoxicating liquor and a controlled substance at the time of the violation.

(l) If a jury or court finds under division (A)(1)(i), (A)(1)(j), or (A)(1)(k) that the defendant operated a motor vehicle under the influence of or while impaired due to the consumption of a controlled substance or a combination of a controlled substance and intoxicating liquor, the court shall do both of the following:

1. Report the finding to the Secretary of State.

2. On a form or forms prescribed by the State Court Administrator, forward to the Department of State Police a record that specifies the penalties imposed by the court, including any term of imprisonment, and any sanction imposed under M.C.L.A. § 257.625n or M.C.L.A. § 257.904d or their equivalent ordinance provisions.

(m) Except as otherwise provided by law, a record described in division (A)(1)(l)2. is a public record and the Department of State Police shall retain the information contained on that record for not less than seven years.

(n) In a prosecution for a violation of § 70.26(A)(4)(b), the defendant bears the burden of proving that the consumption of intoxicating liquor was a part of a generally recognized religious service or ceremony by a preponderance of the evidence.

(2) *Liability of owner.* A person who is convicted of violating § 70.27 is guilty of a misdemeanor, punishable by imprisonment for not more than 90 days, or a fine of not less than \$100 or more than \$500, or both.

(3) *Driving while impaired.* If a person is convicted of violating § 70.28, the following shall apply:

(a) The person shall be subject to general penalty provision § 10.99.

(b) In addition to imposing the sanctions prescribed in division (B)(3)(a), the court may, pursuant to the code of criminal procedure, Public Act 175 of 1927, being M.S.A. §§ 28.841 through 28.1274, order the person to pay the costs of the prosecution.

(4) The court shall impose license sanctions pursuant to law.

(C) *Driving while license suspended.*

(1) A person who violates § 70.12(A)(1) or (2) is guilty of a misdemeanor punishable as follows: for a first violation, by imprisonment for not more than 93 days or a fine of not more than \$500, or both. Unless the vehicle was stolen or used with the permission of a person who did not knowingly permit an unlicensed driver to operate the vehicle, the registration plates of the vehicle shall be canceled by the Secretary of State upon notification by a peace officer.

(2) A person whose vehicle group designation is suspended or revoked and who has been notified as provided in M.C.L.A. § 257.212 or its equivalent ordinance provision of that suspension or revocation, or whose application for a vehicle group designation has been denied as provided in this act, or who has never applied for a vehicle group designation and who operates a commercial motor vehicle within this state, except as permitted under this act, while any of these conditions exist, is guilty of a misdemeanor punishable, except as otherwise provided in this section, by imprisonment for not less than 3 days or more than 93 days or a fine of not more than \$100, or both.

(3) A person who violates § 70.12(C) is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$100, or both.

(Ord. 183, passed 1-20-92; Am. Ord. 247, passed 8-16-99)

CHAPTER 71: PARKING REGULATIONS

Section

Parking Violations Bureau

- 71.01 Establishment, supervision and control
- 71.02 Location; employees; rules and regulations
- 71.03 Disposition of violations by Bureau
- 71.04 Rights of alleged violator
- 71.05 Traffic ticket or notice of violation
- 71.06 Schedule of fines and offenses

PARKING VIOLATIONS BUREAU

§ 71.01 ESTABLISHMENT, SUPERVISION AND CONTROL.

Pursuant to § 8395 of the Revised Judicature Act, State of Michigan, as added by Public Act 154 of 1968, being M.S.A. § 27A.8395, a Parking Violations Bureau, for the purpose of handling alleged parking violations within the city, is hereby established. The Parking Violations Bureau shall be under the supervision and control of the City Administrator.

(Ord. 197, passed 2-15-93)

§ 71.02 LOCATION; EMPLOYEES; RULES AND REGULATIONS.

The City Administrator shall, subject to the approval of the City Council, establish a convenient location for the Parking Violations Bureau, appoint qualified city employees to administer the Bureau and adopt the rules and regulations for the operation thereof.

(Ord. 197, passed 2-15-93)

§ 71.03 DISPOSITION OF VIOLATIONS BY BUREAU.

No violation not scheduled in § 71.06 of this chapter shall be disposed of by the Parking Violations Bureau. The fact that a particular violation is scheduled shall not entitle the alleged violator to disposition of the violation at the Bureau; 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.

(Ord. 197, passed 2-15-93)

§ 71.04 RIGHTS OF ALLEGED VIOLATOR.

No violation may be settled at the Parking Violations Bureau except at the specific request of the alleged violator. No penalty for any violation shall be accepted from any person who denies having committed the offense and in no case shall the person who is in charge of the Bureau determine, or attempt to determine, the truth or falsity of any fact or matter relating to such alleged violation. No person shall be required to dispose of a parking violation at the Parking Violations Bureau and all

persons shall be entitled to have any such violation processed before a court having jurisdiction thereof, if they so desire. The unwillingness of any person to dispose of any violation at the Parking Violations Bureau shall not prejudice such person or in any way diminish the rights, privileges and protection afforded to such person by law.

(Ord. 197, passed 2-15-93)

§ 71.05 TRAFFIC TICKET OR NOTICE OF VIOLATION.

The issuance of a traffic ticket or notice of violation by a police officer of the city shall be deemed an allegation of a parking violation. Such traffic ticket or notice of violation shall indicate the length of time in which the person to whom the same was issued must respond before the Parking Violations Bureau. It shall also indicate the address of the Bureau, the hours during which the Bureau is open, 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.

(Ord. 197, passed 2-15-93)

§ 71.06 SCHEDULE OF FINES AND OFFENSES.

Offense	Penalty	
	<i>Paid before ten days</i>	<i>Paid after ten days</i>
Offense	Penalty	
	<i>Paid before ten days</i>	<i>Paid after ten days</i>
Parking over one foot from curb	\$10	\$15
Obstructing traffic	15	25
<i>Prohibited parking (signs unnecessary):</i>		
On sidewalk	\$10	\$15
In front of drive	10	15
Within intersection	10	15
Within 15 feet of fire hydrant	15	25
On crosswalk	10	15
Within 20 feet of crosswalk or 15 feet of corner lot lines	10	15
Within 30 feet of street side traffic sign or signal	10	15
Within 20 feet of fire station driveway	10	15
Beside street excavation when obstructing traffic	10	15
Double parking	10	15
On bridge	15	25
Within 200 feet of accident where police in attendance	10	15
Blocking emergency exit	15	25
Blocking fire escape	10	15
Parking against traffic	10	15

Parking in alley	10	10
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Offense	Penalty	
	Paid before ten days	Paid after ten days

Offense	Penalty	
	Paid before ten days	Paid after ten days

Prohibited parking (signs necessary):

Overtime parking	\$ 5	\$10
Loading zone	10	15
No parking here to corner	10	15
No parking at any time	10	15
No parking in certain specified hours	10	15
Bus stop, taxi stand	10	15
Between signs	15	15
Handicapped zone	35	50
Failure to set brakes	5	8
Fire lane	15	25
Prohibited zone	10	15
Bicycle violations	2	5

Parking for prohibited purposes:

Repairing vehicle on street	\$15	\$25
Displaying advertising and/or merchandise	15	25
Storage over 48 hours	15	25
Leaving keys in ignition	8	12
Displaying for sale	10	15
Parking 3:00 a.m. to 6:00 a.m.	15	25

The amount of fine for each offense as stated herein may be changed from time to time as determined necessary by resolution of the City Council.

(Ord. 197, passed 2-15-93; Am. Ord. 266, passed 10-7-02)

CHAPTER 72: BICYCLES AND TOY VEHICLES; OTHER RECREATIONAL VEHICLES

Section

General Provisions

72.01 Rights and duties of operators of motorcycles and mopeds

72.02 Provisions supplementary

- 72.03 License to operate required
- 72.04 Applicability to bicycles
- 72.05 Bicycle riders to obey traffic laws
- 72.06 Obedience to traffic control devices
- 72.07 Turn regulations; obedience to pedestrian regulations
- 72.08 Passengers on motorcycles or mopeds
- 72.09 Manner of riding; passengers on bicycles
- 72.10 Riding on roadways and bicycles paths
- 72.11 Pedaled bicycle with help of motor; age limitation
- 72.12 Riding more than two abreast prohibited; exception
- 72.13 Use of bicycle paths required when provided
- 72.14 Operation of toy vehicles in any street or alley
- 72.15 Clinging to other vehicles
- 72.16 Bicycle speed
- 72.17 Emerging from alley, driveway or building; yielding right-of-way
- 72.18 Carrying articles; height of handlebars
- 72.19 Exhibition riding
- 72.20 Parking bicycles
- 72.21 Obedience to signs prohibiting riding of bicycles
- 72.22 Riding on sidewalks, pedestrian walkways or bridges, in parks; rights-of-way
- 72.23 Required equipment on bicycles
- 72.24 Protective helmet required for motorcycle riders and certain moped riders

Operation of ATVs, ORVs, Motorcycles and Snowmobiles

- 72.40 Definitions
- 72.41 Prohibited areas of operation
- 72.42 Operation prohibited in certain areas without consent of property owner
- 72.43 Prohibited hours of operation for snowmobile or ATV
- 72.44 Operation of snowmobile or ATV on Sunday
- 72.45 Emergencies

Off-Road Vehicles

- 72.55 Definitions

72.56 Authorized areas of operation

72.57 Operation prohibited

72.58 Further restrictions

72.99 Penalty

GENERAL PROVISIONS

§ 72.01 RIGHTS AND DUTIES OF OPERATORS OF MOTORCYCLES AND MOPEDS.

Every person who operates a motorcycle or a moped on a roadway shall be granted all the rights, and shall be subject to all the duties, applicable to the driver of a vehicle under this traffic code, except as to those provisions which by their nature do not apply.

(Ord. 200, passed 6-7-93)

§ 72.02 PROVISIONS SUPPLEMENTARY.

The provisions of this chapter applicable to motorcycles and mopeds shall be considered supplementary to other ordinances governing the operation of such vehicles.

(Ord. 200, passed 6-7-93)

§ 72.03 LICENSE TO OPERATE REQUIRED.

No person shall operate a moped or motorcycle unless such operator shall have in their possession a license, issued by and in accordance with the laws of the state, to operate such moped or motorcycle.

(Ord. 200, passed 6-7-93) Penalty, see § 72.99

§ 72.04 APPLICABILITY TO BICYCLES.

The provisions of this subchapter that are applicable to bicycles shall apply when a bicycle is operated on any street or on any public path set aside for the exclusive use of bicycles, subject to those exceptions stated in this subchapter.

(Ord. 200, passed 6-7-93)

§ 72.05 BICYCLE RIDERS TO OBEY TRAFFIC LAWS.

Every person who rides a bicycle on a roadway shall be granted all of the rights, and shall be subject to all of the duties, applicable to the driver of a vehicle pursuant to the laws of the state which declare rules of the road applicable to vehicles or pursuant to the traffic ordinances of this city which are applicable to the driver of a vehicle, except as to special regulations in this chapter and except as to those provisions of laws and ordinances which by their nature do not apply.

(Ord. 200, passed 6-7-93) Penalty, see § 72.99

§ 72.06 OBEDIENCE TO TRAFFIC CONTROL DEVICES.

Any person who operates a bicycle shall obey the instructions of official traffic control signals, signs and other control devices applicable to vehicles, unless otherwise directed by a police officer.

(Ord. 200, passed 6-7-93) Penalty, see § 72.99

§ 72.07 TURN REGULATIONS; OBEDIENCE TO PEDESTRIAN REGULATIONS.

When authorized signs are erected which indicate that right or left turns or U-turns are not permitted, a person who operates a bicycle shall obey the direction of any such sign, except where the person dismounts from the bicycle to make such turn, in which event the person shall then obey the regulations applicable to pedestrians.

(Ord. 200, passed 6-7-93) Penalty, see § 72.99

§ 72.08 PASSENGERS ON MOTORCYCLES OR MOPEDS.

(A) A person who operates a motorcycle shall ride on and astride the permanent and regular seat attached to the vehicle and shall not carry another person, or permit another person to ride, on the motorcycle as a passenger, unless the motorcycle is designed and equipped to carry more than one person. If the motorcycle is so designated and equipped, the passenger may ride on the permanent and regular seat, if the motorcycle is designed for two persons, or may ride on another seat firmly attached to the vehicle which is to the rear or side of the operator.

(B) A person who operates a moped shall ride on and astride the permanent and regular seat attached to the vehicle and shall not carry another person as a passenger on the moped.

(Ord. 200, passed 6-7-93) Penalty, see § 72.99

§ 72.09 MANNER OF RIDING; PASSENGERS ON BICYCLES.

A person who propels a bicycle shall not ride other than astride a permanent and regular seat attached thereto and shall not carry more persons at one time than the number for which the bicycle is designed and equipped.

(Ord. 200, passed 6-7-93) Penalty, see § 72.99

§ 72.10 RIDING ON ROADWAYS AND BICYCLES PATHS.

(A) Every person operating a bicycle, motorcycle or motor-driven cycle upon a roadway shall ride as near to the right-hand side of the roadway as practical, exercising due care when passing a standing vehicle or one proceeding in the same direction.

(B) All motorcycles are entitled to full use of a lane and no motor vehicle shall be driven in such a manner as to deprive any motorcycle of the full use of the lane.

(C) No person operating a motor-driven cycle, a motorcycle or bicycle, shall pass between lanes of traffic, but may pass on the left of traffic moving in the same direction in the case of a two-way street, or on the left or right of traffic in the case of a one-way street, in an unoccupied lane.

(D) This section shall not apply to police officers in the performance of their official duties.

(Ord. 200, passed 6-7-93) Penalty, see § 72.99

§ 72.11 PEDALED BICYCLE WITH HELP OF MOTOR; AGE LIMITATION.

A pedaled bicycle with the help of a motor rated less than one brake horsepower transmitted by friction and not by gear or chain, which produces only ordinary pedaling speeds up to a maximum of 20 miles per hour shall not be operated by a person under 15 years of age.

(Ord. 200, passed 6-7-93) Penalty, see § 72.99

§ 72.12 RIDING MORE THAN TWO ABREAST PROHIBITED; EXCEPTION.

Every person who operates a bicycle, motorcycle or moped on a roadway shall not ride more than two abreast, exception on paths or parts of roadways set aside for the exclusive use of such vehicles.

(Ord. 200, passed 6-7-93) Penalty, see § 72.99

§ 72.13 USE OF BICYCLE PATHS REQUIRED WHEN PROVIDED.

When a usable path for bicycles has been provided adjacent to a roadway, bicycle riders shall use such path and shall not use the roadway.

(Ord. 200, passed 6-7-93) Penalty, see § 72.99

§ 72.14 OPERATION OF TOY VEHICLES IN ANY STREET OR ALLEY.

No person shall, and no person shall allow any minor to rollerskate, rollerblade, skateboard, sled or operate any tricycle or toy vehicle upon any street or alley in the city.

(Ord. 200, passed 6-7-93) Penalty, see § 72.99

§ 72.15 CLINGING TO OTHER VEHICLES.

A person who rides on any bicycle, motorcycle, moped, roller skates, rollerblades, skateboard, sled or toy vehicle shall not attach the same or himself to any vehicle on a roadway.

(Ord. 200, passed 6-7-93) Penalty, see § 72.99

§ 72.16 BICYCLE SPEED.

A person shall not operate a bicycle at a speed greater than is reasonable and prudent under the conditions then existing.

(Ord. 200, passed 6-7-93) Penalty, see § 72.99

§ 72.17 EMERGING FROM ALLEY, DRIVEWAY OR BUILDING; YIELDING RIGHT-OF-WAY.

The operator of a bicycle who emerges from an alley, driveway or building shall, upon approaching a sidewalk or the sidewalk area extending across any alleyway, yield the right-of-way to all pedestrians approaching on the sidewalk area and, upon entering the roadway, shall yield the right-of-way to all vehicles approaching on the roadway.

(Ord. 200, passed 6-7-93) Penalty, see § 72.99

§ 72.18 CARRYING ARTICLES; HEIGHT OF HANDLEBARS.

(A) A person who operates a bicycle, motorcycle or moped shall not carry a package, bundle or article which prevents the driver from keeping both hands on the handlebars of the vehicle.

(B) A person shall not operate on a street or highway of this city a motorcycle or moped equipped with handlebars that are higher than 15 inches from the lowest point of the undepressed saddle to the highest point of the handlegrip of the operator.

(Ord. 200, passed 6-7-93) Penalty, see § 72.99

§ 72.19 EXHIBITION RIDING.

While operating a motorcycle, moped or bicycle on any public street or alley:

(A) No person shall operate said motorcycle, moped or bicycle without keeping both hands on the handlebars of the vehicle.

(B) No person shall intentionally operate said motorcycle, moped or bicycle in such a manner to have one wheel raised off the surface of ground and continuing to operate said motorcycle, moped or bicycle with only one wheel in contact with the surface of the ground.

(Ord. 200, passed 6-7-93) Penalty, see § 72.99

§ 72.20 PARKING BICYCLES.

(A) *Parking on sidewalks.* A person shall not park a bicycle on a sidewalk where bicycle parking is prohibited by official traffic-control devices. A person shall not park a bicycle on a sidewalk in a manner that would unreasonably obstruct pedestrian or other traffic.

(B) *Parking on roadways.* Notwithstanding the provisions of any ordinance regulating parking of vehicles and unless prohibited or restricted by traffic-control devices, a bicycle may be parked as follows:

(1) On the roadway at an angle to the curb or edge of the roadway at any location where the parking of vehicles is allowed;

(2) On the roadway abreast of another bicycle near the side of the roadway at any location where the parking of vehicles is allowed.

(Ord. 200, passed 6-7-93) Penalty, see § 72.99

§ 72.21 OBEDIENCE TO SIGNS PROHIBITING RIDING OF BICYCLES.

When a sign is erected on a sidewalk which prohibits the riding of bicycles thereon by any person, a person shall obey the sign.

(Ord. 200, passed 6-7-93) Penalty, see § 72.99

§ 72.22 RIDING ON SIDEWALKS, PEDESTRIAN WALKWAYS OR BRIDGES, IN PARKS; RIGHTS-OF-WAY.

(A) When any person is riding a bicycle on a sidewalk, pedestrian walkway, or pedestrian bridge, such person shall yield the right-of-way to any pedestrian and shall give an audible signal before overtaking and passing such pedestrian.

(B) No person shall operate any motorcycle or moped on any sidewalk, pedestrian walkway or pedestrian bridge or bicycle path.

(C) No person shall operate any motorcycle or moped in any park except on roadways or parking areas designed for and open to vehicular traffic.

(Ord. 200, passed 6-7-93) Penalty, see § 72.99

§ 72.23 REQUIRED EQUIPMENT ON BICYCLES.

(A) *Lights and reflectors.* Every bicycle, when in use at nighttime, shall be equipped with a lamp on the front which shall emit a white light that is visible from a distance of not less than 500 feet to the front and shall be equipped with a red reflector on the rear that is visible from all distances from 100 feet to 600 feet to the rear when the bicycle is directly in front of the lawful upper beams of headlamps on a motor vehicle. A lamp that emits a red light visible from a distance of 500 feet to the rear may be used in addition to the red reflector.

(B) *Bells or other audible devices.* A person shall not operate a bicycle unless it is equipped with a bell or other device capable of giving a signal which is audible for a distance of not less than 100 feet,

except that such vehicle shall not be equipped with, nor shall any person use on such vehicles, any siren or whistle.

(C) **Brakes.** Every bicycle shall be equipped with a brake which enables the operator to make the braked wheels skid on dry, level, clean pavement.

(Ord. 200, passed 6-7-93) Penalty, see § 72.99

§ 72.24 PROTECTIVE HELMET REQUIRED FOR MOTORCYCLE RIDERS AND CERTAIN MOPED RIDERS.

A person operating or riding on a motorcycle, and any person less than 19 years-of-age operating a moped on a public thoroughfare shall wear a crash helmet on his or her head. Crash helmets shall be approved by the Department of State Police. This section does not apply to a person operating or riding in an autocycle if the vehicle is equipped with a roof which meets or exceeds standards for a crash helmet.

(Ord. 200, passed 6-7-93) Penalty, see § 72.99

OPERATION OF ATVS, ORVS, MOTORCYCLES AND SNOWMOBILES

§ 72.40 DEFINITIONS.

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

ALL-TERRAIN VEHICLE (ATV), OFF-ROAD VEHICLE (ORV), MOTORCYCLE, and SNOWMOBILE. The same as defined in the Michigan Motor Vehicle Code hereinafter revised from time to time.

PUBLIC PROPERTY. All property owned by the city, in whole or in part or dedicated to the public and under the control of the city in whole or part, excepting street or alley right(s)-of-way.

(Ord. 196, passed 2-15-93)

Cross-reference:

Off-road vehicles, see §§ 72.55 through 72.58

§ 72.41 PROHIBITED AREAS OF OPERATION.

No person shall operate a snowmobile or ATV on any street(s) or alley(s) of the city.

(Ord. 196, passed 2-15-93) Penalty, see § 72.99

§ 72.42 OPERATION PROHIBITED ON CERTAIN PROPERTY WITHOUT CONSENT OF PROPERTY OWNER.

No person shall operate any ATV, ORV, motorcycle or snowmobile on any public or private property without the expressed written consent of the owner of said property.

(Ord. 196, passed 2-15-93) Penalty, see § 72.99

Cross-reference:

Further provisions for off-road vehicles, see §§ 72.55 through 72.58

§ 72.43 PROHIBITED HOURS OF OPERATION FOR SNOWMOBILE OR ATV.

No person shall operate a snowmobile or ATV within the city between the hours of 10:00 p.m. and 8:00 a.m. in residential areas as prescribed by the zoning ordinance of the city. Except, operation of said snowmobile or ATV shall be permitted until 11:00 p.m. in said residential areas on approved and designated snowmobile or ATV trails.

(Ord. 196, passed 2-15-93) Penalty, see § 72.99

§ 72.44 OPERATION OF SNOWMOBILE OR ATV ON SUNDAY.

No person shall operate a snowmobile or ATV within the city between the hours of 8:00 a.m. and 12:00 p.m., noon, on any Sunday.

(Ord. 196, passed 2-15-93) Penalty, see § 72.99

§ 72.45 EMERGENCIES.

The Mayor or authorized designee thereof may declare that a snow, inclement weather or other emergency situation exists and may suspend §§ 72.41 through 72.43 in response to said conditions. The suspensions shall be for a period of not to exceed 48 hours. Any suspensions are subject to renewal by the Mayor or authorized designee thereof.

(Ord. 196, passed 2-15-93)

OFF-ROAD VEHICLES

§ 72.55 DEFINITIONS.

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

CITY. The City of Gladwin.

DRIVER LICENSE. An operator's or chauffeur's license or permit issued to an individual by the Secretary of State under Chapter III of the Michigan Vehicle Code, 1949 PA 300, M.C.L.A. §§ 257.301 to 257.329, for that individual to operate a vehicle, whether or not conditions are attached to the license or permit.

OPERATE. To ride in or on, or be in actual physical control of the operation of an ORV.

OPERATOR. A person who operates or is in actual physical control of the operation of an ORV.

ORV or VEHICLE. A motor driven off-road recreation vehicle capable of cross-country travel without benefit of a road or trail, on or immediately over land, snow, ice, marsh, swampland or other natural terrain. **ORV or VEHICLE** includes, but is not limited to, a multi-track or multi-wheel drive vehicle, an ATV [as defined in M.C.L.A. § 324.81101(a)], a motorcycle or related two-wheel, three-wheel or four-wheel vehicle, an amphibious machine, a ground effect air cushion vehicle, or other means of transportation deriving motive power from a source other than muscle or wind. **ORV** does not include a registered snowmobile, nor a golfcart, unless such golfcart shall satisfy the criteria of an **ORV**.

MAINTAINED PORTION. That portion of a road improved, designated or ordinarily used for vehicular traffic.

ROAD. A road or street which is in the City of Gladwin street system. **ROAD** does not include a private road. Street and road are intended to be interchangeable phrases.

SAFETY CERTIFICATE. A certificate issued pursuant to 1994 PA 451, as amended, M.C.L.A. § 324.81129, or a comparable ORV safety certificate issued under the authority of another state or a province of Canada.

VISUAL SUPERVISION. The direct observation of the operator with the unaided or normally corrected eye, where the observer is able to come to the immediate aid of the operator.

(Ord. 301, passed 4-20-09; Am. Ord. 302, passed 6-1-09; Am. Ord. 303, passed 6-15-09; Am. Ord. 311, passed 5-3-10)

§ 72.56 AUTHORIZED AREAS OF OPERATION.

(A) Subject to the provisions of this subchapter and statutes, operation of an ORV on the maintained portion of the following roads is authorized:

- Clendening St from Oberlin Rd to N. State St (M-18)
- Spring St from Clendening to W. First St
- W. First St from West End to N. State St (M-18)
- E. First St from M-18 to East City Limits (Weber Rd)
- N. Erie St from W. First St to W. Cedar Ave (M-61)
- S. Erie St from W. Cedar Ave (M-61) to south dead end
- N. James Robertson Dr from E. First St to E. Cedar Ave (M-61)
- S. James Robertson Dr from E. Cedar Ave (M-61) to Gladwin Sports Complex Driveway
- Industrial Drive from E. First St to E. Cedar Ave (M-61)
- N. State St from E. First St to E. Cedar Ave (M-61)
- S. State St from E. Cedar Ave (M-61) to Zettel Airport Parking Lot
- E. June St from S. State St to S. Silverleaf St
- S. Silverleaf St from Grout St to South City Limits (River Rd)
- Grout St from S. State St to S. Bowery St
- S. Bowery St from Grout St to Gladwin County Building driveway
- Buzzell St from M-18 to Stickel St
- Stickel St from Buzzell St to South City Limits
- Cemetery St from Buzzell St to W. Cedar Ave (M-61)
- Bruce St from Cemetery St to Lumm St
- Lumm St from Bruce St to W. Cedar Ave (M-61)
- Center St from Cemetery St to Hill St
- Hill St from Center St to W. Cedar Ave (M-61)
- S. City Park St from West entrance of Courthouse parking lot to City Park entrance
- Maple St from N. State St to Bowery St
- Bowery St from Maple St to Grout St.

(B) This subchapter is not intended to authorize the operation of an ORV on a street or highway which is a state trunkline highway.

(Ord. 301, passed 4-20-09; Am. Ord. 302, passed 6-1-09; Am. Ord. 303, passed 6-15-09; Am. Ord. 311, passed 5-3-10) Penalty, see § 72.99

§ 72.57 OPERATION PROHIBITED.

No person shall operate an ORV on a road unless as follows:

(A) At a speed of no more than 25 miles per hour or at a lower posted ORV speed limit, if such lower speed limit be established.

(B) With the flow of traffic on the far right of the maintained portion of the road.

(C) In a manner which does not interfere with traffic on the road.

(D) Not during any period when visibility is substantially reduced due to weather conditions nor during the hours of 1/2 hour after sunset to 1/2 hour before sunrise, unless with the display of lighted headlight and lighted taillight, and beginning January 1, 2010, such lighted headlight and lighted taillight shall be displayed during all periods of operation of an ORV upon a road.

(E) If such person is not at least 18 years of age, such person shall not operate an ORV on a road unless:

(1) The person shall have in possession an ORV safety certificate and either of the following:

(a) Possess a valid driver license.

(b) Be at least 12 years of age and be under the direct visual supervision of a parent or guardian.

(2) Operation of an ORV by a person between the ages of 12 years and 16 years is limited to crossing a highway or street or operation upon the right-of-way or shoulder of roads (not the maintained portion).

(F) All operation shall be in single file except that an ORV may travel abreast of another ORV in the course of overtaking and passing, or being overtaken and passed, by another ORV.

(Ord. 301, passed 4-20-09; Am. Ord. 302, passed 6-1-09; Am. Ord. 303, passed 6-15-09; Am. Ord. 311, passed 5-3-10) Penalty, see § 72.99

§ 72.58 FURTHER RESTRICTIONS.

Notwithstanding any provision to the contrary, this subchapter does not allow for any of the following:

(A) Operation on a road by person under the age of 12 years.

(B) Operation of a three-wheeled ATV by any person under the age of 16 years.

(C) Operation of an ORV which is registered as a motor vehicle under Chapter II of the Michigan Vehicle Code and is either more than 60 inches wide or has three wheels, unless such person shall possess a license as defined in Section 25 of the Michigan Vehicle Code.

(D) Any operation of an ORV which contravenes state law.

(Ord. 301, passed 4-20-09; Am. Ord. 302, passed 6-1-09; Am. Ord. 303, passed 6-15-09; Am. Ord. 311, passed 5-3-10) Penalty, see § 72.99

§ 72.99 PENALTY.

(A) Any person who shall violate any of the provisions of this chapter shall, upon conviction thereof, be subject to a fine of not more than \$500 or 90 days in jail or both.

(B) In the alternative to division (A) of this section, to the extent permitted by law, the city may issue a civil citation to any person who shall violate any of the provisions of this chapter. Said civil citation shall carry a fine of not more than \$500.

(C) Any person who shall violate §§ 72.55 through 72.58 shall be responsible for the cost of repairing any damage to the environment, road or street or public property which is a result of such violation. A violation of §§ 72.55 through 72.58 shall be a municipal civil infraction, with a fine of up to \$500, together with court costs; the court may further order restitution. Fines and restitution shall be deposited by the County Treasurer into the ORV fund with such funds to be distributed to the agencies and for the purposes set forth in M.C.L.A. § 324.81131(14).

(Ord. 196, passed 2-15-93; Ord. 200, passed 6-7-93; Ord. 301, passed 4-20-09; Am. Ord. 302, passed 6-1-09; Am. Ord. 303, passed 6-15-09; Am. Ord. 311, passed 5-3-10)

CHAPTER 73: TRAFFIC SCHEDULES

Schedule

I. Truck routes

SCHEDULE I. TRUCK ROUTES.

(A) The following streets are hereby designated as through streets for motor vehicles rated over 1-½ tons carrying capacity and all said vehicles shall use the routes and any said vehicle making deliveries shall do so on all other streets by the most direct route from and to said through streets.

<i>Street</i>	<i>Ord. No.</i>	<i>Date Passed</i>
<i>Street</i>	<i>Ord. No.</i>	<i>Date Passed</i>
Bowery Avenue	144	10-9-67
Buzzell Road	144	10-9-67
Cedar Avenue	144	10-9-67
Cemetery Street	144	10-9-67
First Street	144	10-9-67
North Silverleaf Street	144	10-9-67
South Antler Street	144	10-9-67
State Street	144	10-9-67
Weber Road	144	10-9-67

(B) The Traffic Safety Director shall maintain signs for enforcement of this section.

(Ord. 144, passed 10-9-67) Penalty, see § 10.99

TITLE IX: GENERAL REGULATIONS

Chapter

- 90. ABANDONED AND JUNKED VEHICLES
- 91. ANIMALS
- 92. FIRE PREVENTION
- 93. LITTERING
- 94. NUISANCES
- 95. PARKS AND RECREATION
- 96. STREETS AND SIDEWALKS
- 97. TREES AND SHRUBBERY

CHAPTER 90: ABANDONED AND JUNKED VEHICLES

Section

- 90.01 Definitions
- 90.02 Construction
- 90.03 Storage of dismantled or partially dismantled motor vehicles or parts
- 90.04 Permits; fee
- 90.05 Declaration of nuisance

Statutory reference:

Abandoned vehicles, procedure for removal, see M.S.A. §§ 9.1952(1) through 9.1952(7)

§ 90.01 DEFINITIONS.

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

DISMANTLED MOTOR VEHICLE. Any vehicle which is incapable of being self-propelled upon the public streets, or which does not meet the requirements for operation upon the public streets, including a current license.

DWELLING. Any house, building, structure, tent, shelter, trailer or vehicle or portion thereof which is occupied in whole or in part as the home, residence, living or sleeping place, or which is intended to be occupied by one or more human beings either permanently or transiently.

MOTOR VEHICLE. Any wheeled vehicle which is self-propelled or intended to be self-propelled.
(Ord. 147, passed 5-6-68; Am. Ord. 150, passed 4-7-69)

§ 90.02 CONSTRUCTION.

This chapter shall not be construed as repealing any ordinance now in effect or hereafter made effective relating to rubbish, litter, garbage, refuse, trash, or junk, but shall be construed as supplementary to any such ordinance as well as any state statutes relating thereto.

(Ord. 147, passed 5-6-68)

§ 90.03 STORAGE OF DISMANTLED OR PARTIALLY DISMANTLED MOTOR VEHICLES OR PARTS.

It is hereby declared to be unlawful for any person, firm or corporation to store on, place on or permit to be stored or placed on or allowed to remain on any city street or public right-of-way or on any platted or unplatted parcel of land, except in an industrial district as provided under the city Zoning Code, a dismantled or partially dismantled motor vehicle or any parts of a motor vehicle, unless at an establishment licensed as a dealer in new or used automobiles as provided under Title 11 of this code, or unless said partially dismantled motor vehicle or parts of a 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 is the owner, co-owner, tenant or co-tenant any one such dismantled or partially dismantled motor vehicle, for a period of not to exceed 14 days if such motor vehicle is registered in his, her or its name, provided further that any such owner, co-owner, tenant or co-tenant may in the event of hardship, upon payment of the fee hereinafter provided, secure a permit from the City Administrator to extend such period of 14 days for an additional period of not to exceed 14 days for any such dismantled or partially dismantled motor vehicle if such motor vehicle is registered in his, her or its name; provided further, this section shall not be construed to permit parking or placing of dismantled or partially dismantled vehicles on any street area in the city in any front yard.

(Ord. 147, passed 5-6-68; Am. Ord. 150, passed 4-7-69; Am. Ord. 261, passed 4-15-02; Am. Ord. 262, passed 5-6-02) Penalty, see § 10.99

§ 90.04 PERMITS; FEE.

Upon application duly made by the registered owner of a motor vehicle and upon showing of hardship, the City Administrator is hereby authorized to issue the permits provided for in § 90.03 of this chapter. A fee that shall from time to time be established by resolution of the City Council for each such permit issued shall be collected and shall be paid into the general fund.

(Ord. 147, passed 5-6-68; Am. Ord. 150, passed 4-7-69)

§ 90.05 DECLARATION OF NUISANCE.

The presence of a dismantled or partially dismantled motor vehicle or parts of a motor vehicle on any city street or public right-of-way or any platted or unplatted parcel of land in violation of the terms of this chapter is hereby declared to be public nuisance per se. Any court of competent jurisdiction may order such nuisance abated and the owner guilty of maintaining a nuisance per se.

(Ord. 147, passed 5-6-68) Penalty, see § 10.99

Cross-reference:

Nuisances, see Chapter 94

CHAPTER 91: ANIMALS

Section

- 91.01 Definitions
- 91.02 Keeping of certain animals prohibited
- 91.03 Cruelty to animals

- 91.04 Poisoning animals
- 91.05 Nuisance animals; confinement of female animals in heat
- 91.06 Animals at large
- 91.07 Number of cats allowed
- 91.08 Number of dogs allowed
- 91.09 Animal licenses required; tags; fees
- 91.10 Dangerous and vicious animals
- 91.11 Reporting animal bites
- 91.12 Impounding animals; disposition if unclaimed
- 91.13 Rabies prevention and control
- 91.14 Enforcement

Cross-reference:

Animal restrictions in public parks, see § 95.14

§ 91.01 DEFINITIONS.

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

ANIMAL. Any animal.

AT LARGE. An animal shall be deemed to be at large when off the property of the owner and not under restraint.

HARBOR. Any person who feeds or shelters an animal or allows an animal to remain about their premises whether owned or occupied.

NEUTERED. Rendered permanently incapable of reproduction.

OWNER. When applied to the proprietorship of an animal shall include any person having a right of property in an animal, and any person who keeps or harbors an animal or has it in their care, and any person who permits an animal to remain in or about their premises whether owned or occupied.

RESTRAINT. An animal shall be considered under restraint if it is within the real property limits of its owner, secured by a leash or lead attended by a person, or fixed securely to an immovable object.

VERMIN. Rats, mice, moles or other similar rodents commonly considered pests.

(Ord. 190, passed 12-21-92)

§ 91.02 KEEPING OF CERTAIN ANIMALS PROHIBITED.

No person shall keep, harbor, own or in any way possess:

- (A) Any warm-blooded, carnivorous or omnivorous primate, raccoon, skunk, fox, wild or exotic cat;
- (B) Any fowl, swine, sheep, cows, llama, buffalo, horses, mares, mules, goats, bulls or stags or any other animal commonly considered a farm animal, except in areas for which the keeping of such animals would be in conformity with the zoning ordinance of the city.

(C) Any mink, ferrets, rabbits or other such animals commonly raised for laboratory, research or other commercial purposes, except in areas for which the keeping of such animals would be in conformity with the zoning ordinance of the city.

(D) Any animal having poisonous bites.

(Ord. 190, passed 12-21-92) Penalty, see § 10.99

Editor's note:

A copy of the zoning ordinance is available for public inspection at the office of the City Clerk.

§ 91.03 CRUELTY TO ANIMALS.

No person shall neglect, cruelly treat or abuse any animal.

(Ord. 190, passed 12-21-92) Penalty, see § 10.99

§ 91.04 POISONING ANIMALS.

(A) No person shall throw or deposit any poisonous substance on any exposed public or private place where it endangers, or is likely to endanger, any animal.

(B) The meaning of this section shall not be construed so as to prohibit the use of poisons commonly used for the destruction of vermin, when such poisons are used in accordance with instructions for use or for the purpose for which they are manufactured.

(Ord. 190, passed 12-21-92) Penalty, see § 10.99

§ 91.05 NUISANCE ANIMALS; CONFINEMENT OF FEMALE ANIMALS IN HEAT.

(A) The following shall be deemed a public nuisance per se, and the owner deemed in violation of the provisions of this section:

(1) Any animal which shall, by loud, frequent or habitual barking, yelping or howling, or other noises, cause serious annoyance to the neighborhood, to people passing on the streets or to the public in general;

(2) Any animal which shall injure or destroy real or personal property of persons other than its owner;

(3) Any animal which shall molest or injure any person; or

(4) Any animal which shall cause unsanitary conditions because of droppings, uneaten food, or any other thing to cause odor or attraction of flies or vermin.

(B) Every female animal in heat shall be kept confined in a building or secure enclosure by the owner, in such a manner that she will not be in contact, except for intentional breeding purposes, with another animal nor create a nuisance by attracting other animals.

(Ord. 190, passed 12-21-92) Penalty, see § 10.99

Cross-reference:

Nuisances, see Chapter 94

Nuisance trees, see § 97.11

Nuisance junk yards, see § 113.05

§ 91.06 ANIMALS AT LARGE.

No person who owns, possesses or harbors an animal shall allow such animal to run without restraint.

(Ord. 190, passed 12-21-92) Penalty, see § 10.99

§ 91.07 NUMBER OF CATS ALLOWED.

No person shall possess, harbor, shelter, keep or have custody of more than two cats, at any time, that are six months old or older on the same premises in the city except in veterinary hospitals, clinics, pet shops, kennels or similar permitted uses in properly zoned districts or when such veterinary hospitals, clinics, pet shops, kennels and similar uses validly exist pursuant to the city zoning ordinance. Any person who allows a cat to habitually remain within or on his or her premises shall be considered as having custody of the cat within the meaning of this section.

(Ord. 190, passed 12-21-92) Penalty, see § 10.99

§ 91.08 NUMBER OF DOGS ALLOWED.

No person shall possess, harbor, shelter, keep or have custody of more than two dogs, at any time, that are three months old or older on the same premises in the city except in veterinary hospitals, clinics, pet shops, kennels or similar permitted uses in properly zoned districts or when such veterinary hospitals, clinics, pet shops, kennels and similar uses validly exist pursuant to the city zoning ordinance. Any person who allows a dog to habitually remain within or on his or her premises shall be considered as having custody of the dog within the meaning of this section.

(Ord. 190, passed 12-21-92) Penalty, see § 10.99

§ 91.09 ANIMAL LICENSES REQUIRED; TAGS; FEES.

(A) *License required.* No person, firm, corporation, kennel, pet shop or other establishment shall possess, harbor, shelter, keep or have custody of any scheduled animal that is six months old or older without first having obtained a license.

(B) *Application.* On or before March 1 of each year, the owner of any scheduled animal that is six months old or over shall apply to the City Clerk's office for a license for each such animal owned, possessed or harbored by him or her and upon payment of the license fee, the City Clerk's office shall issue a license to the owner for a term commencing from the date of the license and terminating the first day of the following year. The application for a license shall be accompanied by proof of vaccination of the animal for rabies, if the animal is a common carrier hereof, in the form of a valid certificate of vaccination for rabies, with a vaccine licensed by the United States Department of Agriculture, signed by an accredited veterinarian. The applicant for a license shall give his full name and address and the age and description of the animal.

(C) *Tags; License fees.* A license fee, the amount which shall be established by resolution of the City Council, shall be collected before issuing the license. The City Treasurer shall deliver to the applicant an animal tag duly stamped and engraved as may be determined by the city. License fees may be waived for animals serving the blind or deaf or government-owned animals used for law enforcement. All other licensing provisions shall apply.

(D) *Enforcement.* The City Council by resolution may waive any or all licensing requirements under this section reverting jurisdiction over all licensing to Gladwin County under the Gladwin County Animal Control Ordinance.

(E) *Scheduled animals.* The City Council, by resolution, shall adopt a schedule of animals for which licenses are required under this section, together with the license fees applicable thereto. The resolution may be amended from time to time by the City Council.

(Ord. 190, passed 12-21-92) Penalty, see § 10.99

§ 91.10 DANGEROUS AND VICIOUS ANIMALS.

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

DANGEROUS ANIMAL.

(1) An animal that, without provocation, has chased or approached in either a menacing fashion or an apparent attitude of attack, or has attempted to bite or otherwise endanger any person, while that animal is off the premises of its owner, keeper or harbinger and not under the reasonable control of its owner, keeper, harbinger or some other responsible person, or not physically restrained or confined in a locked pen which has a top, locked fenced yard or other locked enclosure which has a top.

(2) **DANGEROUS ANIMAL** means and includes:

(a) Any animal which in a vicious or terrorizing manner, approaches any person in apparent attitude of attack while upon the streets, sidewalks, or any public grounds or places;

(b) Any animal with a known propensity, tendency or disposition to attack without provocation, to cause injury or to otherwise endanger the safety of human beings or domestic animals;

(c) Any animal which attacks a human being or domestic animal without provocation; or

(d) Any animal owned or harbored primarily or in part for the purpose of animal fighting, or any animal trained for animal fighting, or any animal trained to attack people or other animals.

(e) No animal shall be deemed dangerous if it bites, attacks or menaces a trespasser on the property of its owner or harms or menaces anyone who has tormented or abused it.

(3) **DANGEROUS ANIMAL** does not include a police dog that has chased or approached in either a menacing fashion or an apparent attitude of attack, or has attempted to bite or otherwise endanger, any person while the police dog is being used to assist one or more law enforcement officers in the performance of their official duties.

MENACING FASHION or **TERRORIZING MANNER.** The terms mean that an animal would cause any person being chased or approached to reasonably believe that the animal will cause physical injury to that person.

POLICE DOG. A dog that has been trained, and may be used, to assist one or more law enforcement officers in the performance of their official duties.

VICIOUS ANIMAL. An animal that, without provocation, has killed or caused serious injury to any person or animal. **VICIOUS ANIMAL** does not include either of the following:

(1) A police dog that has killed or caused serious injury to any person or that has caused injury, other than killing or serious injury, to any person while the police dog is being used to assist one or more law enforcement officers in the performance of their official duties; or

(2) An animal that has killed or caused serious injury to any person while a person was committing or attempting to commit a trespass or other criminal offense on the property of the owner, keeper or harbinger of the animal.

WITHOUT PROVOCATION. An animal was not teased, tormented or abused by a person, or the animal was not coming to the aid or the defense of a person who was not engaged in illegal or criminal activity and who was not using the animal as a means of carrying out such activity.

(B) No person shall own or harbor any animal for the purpose of animal fighting, or train, torment, badger, bait or use any animal for the purpose of causing or encouraging such animal to commit unprovoked attacks upon human beings or domestic animals.

(C) No person shall possess with intent to sell or offer for sale, breed, buy or attempt to buy, within the city, any dangerous or vicious dog.

(D) If a law enforcement agent has probable cause to believe that a dangerous or vicious animal is being harbored or cared for in violation of any of the provisions of this section, the law enforcement agent may petition a court of competent jurisdiction to order the seizure and impoundment of the dangerous or vicious animal.

(E) Any dangerous or vicious animal which attacks a human being or another domestic animal may be ordered destroyed when, in the court's judgment, such dangerous or vicious animal represents a continuing threat of serious harm to human beings or domestic animals.

(F) Any person found guilty of violating any of the provisions of this section shall pay all expenses, including shelter, food and veterinary expenses, necessitated by the seizure of any animal for the protection of the public, and such other expenses as may be required for the destruction of such animal.

(Ord. 190, passed 12-21-92) Penalty, see § 10.99

§ 91.11 REPORTING ANIMAL BITES.

If any person is bitten by an animal, it shall be the duty of that person, or the owner or custodian of the animal having knowledge of the same, to report such fact to the Police Department or Animal Control within 12 hours thereafter. It shall be the duty of every person owning, possessing or harboring an animal which has been attacked or bitten by another animal showing symptoms of rabies to immediately notify the Police Department that he or she has such animal in his or her possession. No person shall refuse to show or exhibit, at any reasonable time, any animal which he or she is harboring, sheltering or keeping in his or her possession or custody to any city inspector, police officer or health official.

(Ord. 190, passed 12-21-92) Penalty, see § 10.99

§ 91.12 IMPOUNDING ANIMALS; DISPOSITION IF UNCLAIMED.

Any animal not under restraint found on highways, streets, alleys, sidewalks or public places of the city, or any animal restrained by a person which has found an animal at large shall be immediately impounded by a police officer or the Animal Control Officer and a charge as determined by resolution of the City Council may be made for such impoundment. All animals not claimed and released within five working days after being impounded may be destroyed, sold or disposed of as deemed appropriate by the County Animal Shelter.

(Ord. 190, passed 12-21-92)

§ 91.13 RABIES PREVENTION AND CONTROL.

No person shall own or harbor a vicious animal or an animal that has been bitten by any animal known to be afflicted with rabies. Any person who shall have in his possession an animal which has contracted, or is suspected of having contracted rabies or which has been bitten by any animal known to have been afflicted with rabies shall, upon demand of the health officer, or any police officer or designated authority of the city, produce and surrender such animal to the Gladwin County Health Department or Police Department of the city or Animal Control to be held for observation or treatment. With approval of the County Health Department any such animal may instead be surrendered to a registered veterinarian.

(Ord. 190, passed 12-21-92) Penalty, see § 10.99

§ 91.14 ENFORCEMENT.

(A) This chapter shall be enforced by the City Police Department and the County Animal Control Department and any deputies thereof. They are hereby authorized and empowered to serve a summons for a violation of this chapter and to issue and serve appearance tickets in lieu of a summons for said violation.

(B) It shall be unlawful for any person to interfere with, prevent or hinder any officer in the enforcement of this chapter or the performance of any act required or authorized by this chapter.

(Ord. 190, passed 12-21-92) Penalty, see § 10.99

CHAPTER 92: FIRE PREVENTION

Section

General Provisions

92.01 Fire Prevention Code adopted by reference

92.02 Storage of flammable liquids in aboveground tanks and storage of liquified petroleum gasses restricted

92.03 Amendments made in the Fire Prevention Code adopted

92.04 Modifications authorized

92.05 Appeals procedure

92.06 Enforcement

92.07 Freestanding wood burning furnaces

Open Burning

92.20 Definitions

92.21 Open fires prohibited

92.22 Exceptions

92.23 Recreational fires

92.24 Fireworks

92.99 Penalty

GENERAL PROVISIONS

§ 92.01 FIRE PREVENTION CODE ADOPTED BY REFERENCE.

There is hereby adopted by the City Council, for the purpose of prescribing regulations governing conditions hazardous to life and property from fire or explosion, that certain code known as Fire Prevention Code, Abbreviated Edition, recommended by the National Board of Fire Underwriters, being particularly the 1993 edition thereof and the whole thereof, save and except such portions as are hereinafter deleted, modified or amended by §§ 92.03 and 92.04, of which code not less than three copies have been and now are filed in the office of the City Clerk, and the same are hereby

adopted and incorporated as fully as if set out at length herein, and the provisions thereof shall be controlling within the limits of the city.

(Ord. 129, passed 4-16-56)

§ 92.02 STORAGE OF FLAMMABLE LIQUIDS IN ABOVEGROUND TANKS AND STORAGE OF LIQUIFIED PETROLEUM GASSES RESTRICTED.

The limits referred to in section 804a of the Fire Prevention Code adopted in § 92.01 in which storage of flammable liquids in outside aboveground tanks is prohibited, and the limits referred to in § 1104, in which bulk storage of liquified petroleum gas is restricted, are hereby established as follows: One block north and one block south of Cedar Avenue, between Michigan Central R.R. right-of-way on the east, and the Cedar River on the west.

(Ord. 129, passed 4-16-56)

§ 92.03 AMENDMENTS MADE IN THE FIRE PREVENTION CODE ADOPTED.

The Fire Prevention Code is amended and changed in the following respects: Section 101 to be amended to read only as follows: The provisions of this code shall apply equally to new and existing conditions.

(Ord. 129, passed 4-16-56)

§ 92.04 MODIFICATIONS AUTHORIZED.

The City Council shall have power to modify any of the provisions of the Fire Prevention Code upon application in writing by the owner or lessee, or his duly authorized agent, when there are practical difficulties in the way of carrying out the strict letter of the Code, provided that the spirit of the Code shall be observed, public safety secured, and substantial justice done. The particulars of such modifications when granted or allowed and the decision of the Common Council thereon shall be entered upon the records of the city, and a signed copy shall be furnished to the applicant.

(Ord. 129, passed 4-16-56)

§ 92.05 APPEALS PROCEDURE.

Whenever the Chief of the Fire Department shall disapprove an application or refuse to grant a license or permit applied for, or when it is claimed that the provisions of the Fire Prevention 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 of the Fire Department or the City Council, within 30 days from the date of the decision of the appeal.

(Ord. 129, passed 4-16-56)

§ 92.06 ENFORCEMENT.

The Fire Prevention Code shall be enforced by the Chief of the Fire Department.

(Ord. 129, passed 4-16-56)

§ 92.07 FREESTANDING WOOD BURNING FURNACES.

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

FREESTANDING WOOD BURNING FURNACE.

(a) Any device or structure that is:

1. Designed, intended, or used to provide heat and/or hot water to any residence or any structure, and/or accessory use (such as pools);
2. Operated by the burning of wood or other solid fuel;
3. Not located within the structure for which it is providing the heat or hot water.

(b) Excluded from the definition of a **FREESTANDING WOOD BURNING FURNACE** is any device which is design or used to heat or provide hot water for only the structure in which it is located.

(B) *Prohibition.* Except as provided below, it shall be unlawful to install, use, maintain, or operate a freestanding wood burning furnace, and to cause or permit the installation or operation of a freestanding wood burning furnace, within the city.

(C) *Separation and operation requirements.* A freestanding wood burning furnace shall be permitted under the following circumstance:

(1) Where it is located no closer than 150 feet from any adjoining residential or commercial structure (excluding in this calculation the structure for which it is used to provide heat and/or hot water); and

(2) Where it is operated such that it shall not emit smoke or fumes which annoy or constitute a nuisance to others living in the neighborhood; and

(3) Where all fuel for such furnace shall be stored at least 50 feet from any property line.

(D) *Existing uses.* Notwithstanding § 92.03, § 92.07 shall apply to any freestanding wood burning furnace that was installed, connected, or operating as of the effective date of this section, and, unless the separation and operation requirements are met pursuant to division (C) of this section, such use, maintenance, and operation of the freestanding wood burning furnace is hereby prohibited. Any such existing freestanding wood burning furnace shall be removed from service within 90 days of the adoption of this section unless conditions set forth in divisions (C)(1) through (3) of this section are satisfied.

(Ord. 275, passed 5-17-04)

OPEN BURNING

§ 92.20 DEFINITIONS.

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

ADMINISTRATOR. The City Administrator.

BONFIRE. A fire which is kindled for a civic, social or athletic event, made from wood, trees, branches, kindling, wood chips, boxes, compressed wood, or any other wood product. A **BONFIRE** is a type of **OPEN FIRE** as defined herein.

BUILDING MATERIALS. Includes, without limitation, lumber, electrical wiring or equipment, shingles, felt, or any other materials commonly used in constructing any structure.

CAMPFIRE. A fire which is kindled for a civic, social or athletic event, made from wood, trees, branches, kindling, wood chips, boxes, compressed wood, or any other wood product. A **CAMPFIRE** is a type of **OPEN FIRE** as defined herein.

COMBUSTIBLE WASTE MATTER. Magazines, books, trimmings from lawns, trees or flower gardens, leaves, pasteboard boxes, rags, papers, plastic, straw, sawdust, building materials, garbage,

rubbish and refuse or any other substance that will ignite through contact with flames or spark.

GARBAGE. The animal or vegetable waste and food wrap materials resulting from the handling, preparation, cooking or serving of food.

OPEN BURNING or **OPEN FIRE.** These terms mean and include, but shall not be limited to, a fire made from any combustible waste matter, garbage, rubbish, wood, or wood product of any kind or any flammable material of any type or kind.

PERSON or **OWNER.** Includes all natural persons, firms, co-partnerships, corporations, and all associations of natural persons, incorporated or unincorporated, owning or occupying any lot or land, whether acting by themselves, or by a servant, agent, or employee. All persons who violate any provisions of this subchapter, whether as owner, occupant, lessee, agent, servant or employee shall, except as herein otherwise provided, be equally liable as principals.

RUBBISH. Any combustible or noncombustible matter, except garbage, including but not limited to paper, rags, cartons, boxes, wood or wood products of any kind, excelsior, rubber, leather, plastics, tree branches, yard trimmings, leaves, tin cans, metals, automobile parts including tires, mineral or chemical matter, glass, crockery, dust and the residue from the burning of flammable material and/or combustible waste matter.

(Ord. 188, passed 9-21-92)

§ 92.21 OPEN FIRES PROHIBITED.

No person shall kindle, maintain any open fire or open burning or permit any such open fire or open burning to be maintained on any property, public or private in the city.

(Ord. 188, passed 9-21-92) Penalty, see § 92.99

§ 92.22 EXCEPTIONS.

The provisions of § 92.21 shall not apply to the following:

(A) The burning of wood, charcoal, coke, or other accepted fuel during the preparing of food in any form when such burning is in an approved container or utensil manufactured for food preparation, while being used in a safe and sanitary manner.

(B) The use of gaseous or liquified fired salamanders commonly employed in conjunction with building and construction operations when used in accordance with accepted safety standards.

(C) Roofers, tanners, plumbers, or other mechanics pursuing a business requiring the use of fire for the purpose of boiling tar, pitch, oil or other substances used in the regular course of their business or trade and while being used in a safe and sanitary manner conforming to all other applicable codes, requirements and acceptable safety practices.

(D) Campfires in licensed campgrounds when such fires are kindled and maintained in a pit constructed specifically to contain such campfire and said pits are approved by the Park Director.

(E) Campfires or bonfires in pits or other areas when said pits are constructed in accordance with the Michigan Department of Natural Resources specifications or in other areas as approved by the Fire Chief of the city or his designee.

(F) Matches or devices such as lighters which are being used to ignite a lawful fire.

(Ord. 188, passed 9-21-92)

§ 92.23 RECREATIONAL FIRES.

Recreational fires on private property are permitted according to the city above-ground burn pit specifications, provided that the following conditions are met:

- (A) All fires must be at least 15 feet from buildings, property lines, and combustible materials.
- (B) Fires are constantly attended by a person of suitable maturity until extinguished and ashes are cold. Fire extinguishing equipment shall be available for immediate use.
- (C) Only clean seasoned dry firewood or commercially produced fuel products are burnt.
- (D) The fire does not endanger other buildings or structures or vegetation.
- (E) Atmospheric conditions are favorable.
- (F) Emission of smoke or fumes which irritate, annoy, or constitute a nuisance to others living in the neighborhood is prohibited.
- (G) The fire is in a fire pit approved by the Fire Chief or within a pit described in Attachment A to Ord. 276.

(Ord. 276, passed 5-17-04) Penalty, see § 92.99

§ 92.24 FIREWORKS.

(A) *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 CFR parts 1500 and 1507, and that are listed in APA standard 87-1, 3.1.2, 3.1.3, or 3.5.

DISPLAY FIREWORKS. Large fireworks devices that are explosive materials intended for use in fireworks displays and designed to produce visible or audible effects by combustion, deflagration, or detonation, as provided in 27 CFR 555.11, 49 CFR 172, and APA standard 87-1, 4.1.

FIREWORK or FIREWORKS. Any composition or device, except for a starting pistol or flare designated for the purpose of producing a visible or audible effect by combustion, deflagration, or detonation. Fireworks consist of consumer fireworks, articles pyrotechnic, display fireworks, and special effects.

NOVELTIES. That 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:

- (a) 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 cup.
- (b) Toy pistols, toy cannons, toy canes, toy trick noisemakers, and toy guns in which toy caps as described in division (a) 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.
- (c) Flitter sparklers in paper tubes not exceeding one-eighth inch in diameter.

(B) *Prohibition on use of consumer fireworks.*

(1) 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 Section 7(2) of

Public Act 256 of 2011 and all other applicable local, state, or federal regulations. A person shall not ignite, discharge, or use consumer fireworks on public property, school property, church property, or the property of another person without that organization's or person's express permission, nor ignite, discharge or use consumer fireworks such that litter is created or placed on public property or the property of another unless specifically authorized.

(2) (a) **NATIONAL HOLIDAY**, as used in this chapter, shall mean:

1. New Year's Day, January 1;
2. Birthday of Martin Luther King, Jr., the third Monday in January;
3. George Washington's birthday, the third Monday in February;
4. Memorial Day, the last Monday in May;
5. Independence Day, July 4;
6. Labor Day, the first Monday in September;
7. Columbus Day, the second Monday in October;
8. Veteran's Day, November 11;
9. Thanksgiving Day, the fourth Thursday in November; and
10. Christmas Day, December 25.

(b) And any holidays as may be from time to time added, removed or changed under 5 USC Section 6103, or any replacement or amended legislation.

(C) *General restrictions on exempted holidays (day preceding holiday, day of holiday, and day after holiday).*

(1) Fireworks, including consumer fireworks, shall not be ignited within 30 feet of an open flame, a burner, gasoline or similar petroleum products or ignited gas or electric grill, or in any enclosed structure, garage, tent, or shed, or under any canopy or overhanging cover, of any nature.

(2) No consumer fireworks may be ignited, launched or discharged within 30 feet of any structure, building or vehicle, nor within 200 feet of any structure or building which is regularly and customarily used for purposes of human habitation.

(3) Fireworks may not be discharged during the hours of 11:00 p.m. and 11:00 a.m., and may not otherwise be discharged in violation of this chapter or the act, or any other ordinance.

(D) *Prohibitions on sale of fireworks.* It shall be unlawful for any person, firm, partnership or corporation to offer for sale, expose for sale, keep with the intent to sell at retail, or sell at retail to any person who has not yet attained the age of 18 years of age any blank cartridge, toy pistol, toy cannon, toy cane or toy gun in which explosives are used, the type of unmanned balloon which requires fire underneath to propel the same, firecrackers, torpedoes, skyrockets, Roman candles, daygo bombs or other fireworks of like construction, or any fireworks containing any explosive or inflammable compound or any tablets or other devices commonly used and sold as fireworks, containing nitrates, chlorates, oxalates, sulfides of lead, barium, antimony, arsenic, mercury, nitroglycerin, phosphorous or any compound containing any of the same or other modern explosives.

(E) *Other prohibitions.* Not included within the foregoing prohibition are model rockets and model rocket engines designed, sold and used for the purpose of propelling recoverable aero models. Also not included are sparklers containing not more than 0.0125 pounds of burning portion per sparkler, flitter sparklers in paper tubes not exceeding one-eighth inch in diameter, toy snakes not containing mercury, if packed in cardboard boxes with not more than 12 pieces per box for retail sale and if the

manufacturer's name and the quantity contained in each box are printed thereon, toy pistols, toy canes, toy guns or other devices manufactured to utilize paper and/or plastic caps containing not more than 0.25 of a grain of explosive content per cap, or said paper and/or plastic caps themselves, the sale of which shall be permitted at all times. Also not included is general display of fireworks for community purposes as approved by City Council.

(F) *Enforcement.* The Chief of Police, his or her designees and/or sworn law enforcement officers are authorized to enforce the provisions of this section.

(G) Nothing in this section shall preclude that enforcement of ordinances prohibiting conduct which is secondary or incidental to the use, discharge or ignition of fireworks, including but not limited to Chapters 94 and 130.

(H) A person who shall be in control of property, whether as tenant, owner or a person exercising apparent authority over the premises by reason of age, relationship or other status, shall be subject to the penalties of this section in addition to a person who directly shall violate this section; provided that a person who shall have control only as a non-resident owner shall be subject to penalties only if the premises have been habitually the resort of persons in violation of this section.

(I) A person who shall violate this section shall be subject to the general penalties for ordinances as set forth in § 10.99 or in alternative, a municipal civil infraction with a penalty being up to \$100 for a first offense and up to \$500 for any second or subsequent offense, all together with applicable court costs. A person who violates this section only as a non-resident owner shall only be subject to penalty as a municipal civil infraction.

(Ord. 322, passed 8-6-12; Am. Ord. 328, passed 8-4-14)

§ 92.99 PENALTY.

(A) Any person who shall violate any of the provisions of the Fire Prevention Code adopted in § 92.01 or fail to comply therewith, or who shall violate or fail to comply with any order made thereunder, or who shall build in violation of any detailed statement of specifications or plans submitted and approved thereunder, or any certificate or permit issued thereunder, and from which no appeal has been taken or who shall fail to comply with such an order as affirmed or modified by the City Council or by a court of competent jurisdiction within the time fixed therein, shall severally for each and every such violation and noncompliance respectively, be guilty of a misdemeanor, punishable by a fine of not less than \$2 nor more than \$100 or by imprisonment for not less than five days or more than 30 days or by both such fine and imprisonment. The imposition of one penalty for any violation shall not excuse the violation or permit it to continue and all such persons shall be required to correct or remedy such violations or defects within a reasonable time; and when not otherwise specified, each ten days that prohibited conditions are maintained shall constitute a separate offense. The application of this penalty shall not be held to prevent the enforced removal of prohibited conditions.

(Ord. 129, passed 4-16-56)

(B) Any person who shall violate §§ 92.07 or 92.21 shall, upon conviction thereof, be subject to a fine of not more than \$500 or 90 days in jail or both.

(Ord. 188, passed 9-21-92; Am. Ord. 275, passed 5-17-04)

(C) Any person who shall violate any provision of this chapter to which no other specific penalty applies shall, upon conviction thereof, be subject to the penalty set forth in § 10.99.

CHAPTER 93: LITTERING

Section

93.01 Littering prohibited

93.02 Odorous or dangerous litter in public places

93.03 Litter in gutter; duty of business owner to remove

93.04 Odorous or dangerous litter on private or public premises, or in water courses

§ 93.01 LITTERING PROHIBITED.

(A) *Definition.* For the purpose of this section, **LITTER** shall mean all rubbish, refuse, waste material, garbage, offal, paper, glass, cans, bottles, trash, debris or other foreign substances of every kind and description.

(B) *Prohibited.* It is unlawful for any person knowingly without the consent of the public authority having supervision of public property or the owner of private property, to dump, deposit, place, throw or leave, or cause or permit the dumping, depositing, placing, throwing or leaving of litter on any public or private property or waters other than property designated and set aside for such purposes.

(Ord. 140, passed 3-21-66) Penalty, see § 10.99

§ 93.02 ODOROUS OR DANGEROUS LITTER IN PUBLIC PLACES.

No person by himself or another shall cause or permit any animal or vegetable substance, dead animal, fish, shells, dirt, rubbish, excrement, filth, odor, slops, unclean or nauseous water or liquid, straw, ashes, cinders, soot, offal, or substance whatever which may cause a noisome, unwholesome or offensive smell or be dangerous to public health, to be dropped, thrown, left or scattered in or about any street, lane, alley, sidewalk, or other public place, and any person by whose fault, act or permission, any such noisome, offensive or unwholesome article or substance comes to be left or scattered in, on or about any street or other public place of this city, shall immediately remove the same, and shall clean and disinfect the street or public place in a manner satisfactory to the Board of Health.

(Ord. 166, passed 5-21-74) Penalty, see § 10.99

§ 93.03 LITTER IN GUTTER; DUTY OF BUSINESS OWNER TO REMOVE.

The owner of any shop, store or other place of business in this city shall keep the gutter of the street adjacent to, and along the front, rear or side of the place of business free from all rubbish or other matter which may impede the flow of surface water along said gutter, or cause filthy or stagnant water to stand or remain in said gutter.

(Ord. 166, passed 5-21-74) Penalty, see § 10.99

§ 93.04 ODOROUS OR DANGEROUS LITTER ON PRIVATE OR PUBLIC PREMISES, OR IN WATER COURSES.

No person shall place or keep on or in any lot, building or premises, public or private, of the city any dead animal, putrid, offensive or unsound beef, pork or other rotten soap grease, offal, garbage or any other animal or vegetable substance in such a condition as to cause a noisome, unwholesome or offensive smell or be dangerous to public health. Nor shall any person throw, drop, leave or scatter on or about his own premises, or those of another, any foul or nauseous liquid, water or slops, or nauseous or noxious animal or vegetable matter or substance or waste waters or products from any still house, brewery, soap or candle factory, dye house, workshop, factory machine shop, tannery, slaughter house or livery stable or other similar excrement. Nor shall any person throw or discharge

into the waters of the Cedar River or into any milling race, spring, well or public or private water course within the limits of this city, any of said nauseous or unwholesome animal or vegetable substances, or foul or noxious liquids or waste waters, or perform or neglect any other act whereby any of said waters are rendered filthy or dangerous to public health.

(Ord. 166, passed 5-21-74) Penalty, see § 10.99

CHAPTER 94: NUISANCES

Section

Blighted Structures or Conditions

- 94.01 Definitions
- 94.02 Unlawful to cause blighted condition
- 94.03 Notice to remedy prohibited condition
- 94.04 Failure to remedy prohibited condition; lien

Noise

- 94.15 Definitions
- 94.16 Declaration of policy
- 94.17 Unlawful to make noise
- 94.18 Violations enumerated
- 94.19 Effective hours of operation
- 94.20 Anti-noise regulations based upon dB(a) criteria
- 94.21 Regulations for decibel measurement of noise originating from private properties
- 94.22 Regulations for decibel measurement of motor driven vehicles on public roads
- 94.23 Measurement to be made by sound level meter
- 94.24 Permits

Noxious Weeds

- 94.35 Duty of property owner to cut specified weeds and grass
- 94.36 Public notice to cut weeds and grass; notice to individual property owner
- 94.37 City to cut upon failure of owner
- 94.38 Account of expenses; cut to constitute debt to city; collection
- 94.39 Assessment of cost against property

Cross-reference:

Nuisance animals, see § 91.05

Nuisance trees, see § 97.11

Nuisance junk yards, see § 113.05

BLIGHTED STRUCTURES OR CONDITIONS

§ 94.01 DEFINITIONS.

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

BLIGHTED STRUCTURE. Includes, without limitation, any dwelling garage, or outbuilding, warehouse or any other structure or part of a structure which because of fire, wind, or other natural disaster, physical deterioration, demolition or partial demolition when said demolition is not carried out within a reasonable period of time, or is no longer habitable as a dwelling, nor useful for the purpose for which it may have been intended, or has uncovered openings which may provide unrestrained access to enter the structure.

BUILDING MATERIALS. Includes, without limitation, lumber, brick, concrete or cinder blocks, plumbing materials, electrical wiring or equipment, heating ducts or equipment, shingles, felt, mortar, concrete, or cement, nails, screws, or any other materials used in constructing any structure.

JUNK. Includes, without limitation, the storage or accumulation of junk, trash, rubbish or refuse of any kind, except domestic refuse stored in such a manner as not to create a nuisance for a period not to exceed 30 days. The term **JUNK** shall include parts of machinery, equipment or motor vehicles, unused stoves, or other household appliances or furniture stored on any public or private premise, remnants of wood, metal or other materials or other castoff material of any kind whether or not the same could be put to any reasonable use.

PERSON or OWNER, both singular or plural, shall include all natural persons, firms, co-partnerships, corporations, and all associations of natural persons, incorporated or unincorporated owning or occupying any lot or land, whether acting by themselves, or by a servant, agent, or employee. All persons who violate any provisions of this subchapter, whether as owner, occupant, lessee, agent, servant, or employee shall, except as herein otherwise provided, be equally liable as principals.

PRIVATE PREMISES. Any dwelling, house, building, or other structure, designed or used either wholly or in part for private residential, industrial or commercial purposes, whether used or inhabited or temporarily or continuously unused or uninhabited or vacant, and shall include any ground, walk, driveway, porch, steps, vestibule or mailbox belonging or appurtenant to such dwelling, house, building or other structure.

TRASH or RUBBISH. Includes any and all forms of debris not herein otherwise defined.

(Ord. 185, passed 4-20-92; Am. Ord. 291, passed 3-19-07)

§ 94.02 UNLAWFUL TO CAUSE BLIGHTED CONDITION.

No person, owning or occupying any lot or land within the city, shall store or permit accumulations of junk, trash, rubbish, and/or building materials nor maintain any blighted structure on said lot or land except upon the premises of a licensed or approved junk dealer, junk buyer, or dealer in second hand goods or junk for sale when any such lot or lands are in a zoning district which permits said use.

(Ord. 185, passed 4-20-92; Am. Ord. 291, passed 3-19-07) Penalty, see § 10.99

§ 94.03 NOTICE TO REMEDY PROHIBITED CONDITION.

Upon the discovery of a prohibited condition existing as set forth in § 94.02, the City Manager, or his or her duly authorized representative, shall notify the owner of the property of such condition and require that it be remedied within ten calendar days. Said notification may be given in person, or by first class mail, addressed to the last known address of the property owner, or by posting the premises.

(Ord. 185, passed 4-20-92; Am. Ord. 291, passed 3-19-07)

§ 94.04 FAILURE TO REMEDY PROHIBITED CONDITION; LIEN.

Should the owner fail to remedy the condition after notice as described in § 94.03, the City Manager or his or her duly authorized representative shall remedy the condition or cause the same to be done by personnel of the city or by private contractor, and the actual cost of remedying the prohibited condition plus 10% for inspection and overhead and other additional costs in connection therewith, shall be collected as a special assessment against the premises as provided in the city and become a lien against the property. Levying or collecting such a special assessment shall not relieve any person offending against this subchapter from the penalty prescribed for the violation of same.

(Ord. 185, passed 4-20-92; Am. Ord. 291, passed 3-19-07) Penalty, see § 10.99

NOISE

§ 94.15 DEFINITIONS.

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

DECIBEL. A unit used to express the magnitude of sound pressure and sound intensity. The difference in decibels between two sound pressures is 20 times the common logarithm of their ratio. In sound pressure measurements, the sound pressure level of a given sound is defined to be 20 times the common logarithm of the ratio of that sound pressure to a reference pressure of $2 \times 10^{-5} \text{N/m}^2$ (newtons per meter squared). As an example of the effect of this formula, a three decibel change in the sound pressure level corresponds to a doubling or halving of the sound intensity, and a ten decibel change corresponds to a ten fold increase or decrease to 1/10th the former intensity.

dB(a). The sound pressure level in decibels measured on the "A" scale of a standard sound level meter having characteristics defined by the American National Standards Institute, Publication ANSISI.4-1971.

(Ord. 164, passed 12-17-73; Am. Ord. passed 5-20-75; Am. Ord. 292, passed 3-19-07)

§ 94.16 DECLARATION OF POLICY.

(A) It is hereby determined and declared that the making, creating or maintaining of loud, unnecessary, unnatural or unusual noises, without a specific permit which are prolonged or sustained in duration by reason of the hour of the day or night, place, or use, impair and are a detriment to the public health, comfort, convenience, safety, welfare and enjoyment of the residents of the city, and it is hereby declared to be necessary and in the public interest for the prohibitions and provisions as set forth in this subchapter to be enacted, all of which are in pursuance for the purpose of securing and promoting the public health, comfort, convenience, safety, welfare and enjoyment and for the peace and quiet of the residents of the city.

(B) The Police Department and the City Administrator are hereby authorized and empowered to enforce the provisions of this subchapter.

(Ord. 164, passed 12-17-73; Am. Ord. 292, passed 3-19-07)

§ 94.17 UNLAWFUL TO MAKE NOISE.

It is hereby declared to be unlawful for any person to make, create or continue or cause to be made, created or continued, any loud, unnecessary unnatural or unusual noise, which unreasonably annoys, disturbs, injures, endangers or impairs the comfort, repose, health, peace, convenience, safety, welfare or enjoyment of the residents of the neighborhood in which the noise originates.

(Ord. 164, passed 12-17-73; Am. Ord. 292, passed 3-19-07) Penalty, see § 10.99

§ 94.18 VIOLATIONS ENUMERATED.

The following acts, among others, are hereby declared to be loud, disturbing, annoying, injurious and unnecessary noises which are in violation of this subchapter, but said enumeration shall not be deemed to be exclusive, to wit:

(A) *Radios, phonographs, loud speakers.* The playing, using or operating, or permitting to be played, used or operated any radio receiving set, musical instrument, phonograph, loud speaker or other machine or device for the producing or reproducing of sound in such manner as to disturb the peace, quiet, repose, comfort, welfare and enjoyment of the neighboring residents or at any time with louder volume than is necessary for convenient hearing for the person or persons who are in the room, vehicle or place in which such machine or device is operated and who are voluntary listeners thereto. The operation of any such set, instrument, phonograph, machine or device between the hours of 11:00 p.m. and 6:00 a.m. the following morning in such manner as to cause unnecessary or objectionable noise penetrating more than a reasonable distance from the room, building, structure, place, or vehicle from which the noise emanates shall be prima facie evidence of a violation of this section.

(B) *Yelling, shouting, loud talking.* Yelling, shouting, hooting, whistling, singing or loud talking on the public streets or places or on private property, particularly between the hours of 11:00 p.m. and 6:00 a.m. the following morning or at any other time or place so as to unreasonably annoy or disturb the quiet, comfort, repose, welfare or enjoyment of persons in any office, dwelling, hotel or other type of residence or any persons in the vicinity thereof.

(C) *Animals.* The keeping of any animal which by causing frequent or long continued noise shall disturb the quiet, comfort, repose, welfare or enjoyment of any persons in the vicinity thereof.

(D) *Whistles.* The blowing of any locomotive whistles or whistles attached to any stationary boiler or air compressor of any kind or of any sirens except to give notice of the time to begin or stop work or as a warning of fire or danger, or upon the request of proper public authorities.

(E) *Exhaust and motor idling.*

(1) The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, motor boat, or motor vehicle except through a muffler or other device which will effectively prevent loud or explosive noises therefrom, or the permitting of the motors in motor vehicles to idle in the "warming up" process or the unnecessary racing of motors, particularly the idling or racing of truck motors, whether diesel or gasoline powered, either on the public street, public ways or public places or on private property. The operation of any such motor, motor vehicle or machine between the hours of 11:00 p.m. and 6:00 a.m. the following morning in such a manner as to cause unnecessary or objectionable noise penetrating more than a reasonable distance from the room, building, structure, vehicle or place from which the noise emanates, whether on public property or on private property, shall be prima facie evidence of a violation of this section.

(2) All internal combustion engines must be equipped with an adequate muffling device to eliminate effectively all unnecessary or excessive exhaust noise, and it shall be unlawful to operate a motor vehicle equipped with a muffler from which one or more baffles have been removed. Further, prolonged idling or operating or excessive racing of any type of engine, particularly trucks, operating at

any location, either on public or private property, may not be done when such operation causes unnecessary or excessive noise. It shall be unlawful to operate a motor vehicle at any time on the streets of the city with the so-called "cut out" open. It is not intended that this section shall apply to vehicles operated in conjunction with an organized event such as a fair or exposition.

(F) *Defect in vehicle or load.* The use of any motor vehicle, motor cycle or other vehicle so out of repair, so loaded or in such manner as to create loud and unnecessary grating, grinding, pounding, rattling or other disturbing noises.

(G) *Loading, unloading, opening boxes.* The creation of loud and excessive noise in connection with loading and unloading of any vehicle or the opening or destruction of bales, boxes, crates and containers between the hours of 11:00 p.m. and 6:00 a.m. the following morning.

(H) *Construction or repairing of buildings.* The erection, (including excavating) demolition, alteration or repair of any building other than between the hours of 6:00 a.m. and the following 11:00 p.m. of each week day which is attended by loud, continuous or unusual noises penetrating more than a reasonable distance outside the property lines of the property from which the noise originates except in case of urgent necessity in the interest of public health and safety, and then only with a permit from the city, which permit may be granted for a period of not to exceed three days while the emergency continues, which permit may be renewed for periods of three days while the emergency continues. If the city should determine that the public health, safety, quiet, repose, welfare, or convenience of the residents of the city, will not be impaired by the erection, demolition, alteration or repair of any buildings or the excavation of streets, highways or public places between the hours of 11:00 p.m. and 6:00 a.m. of the following morning then upon application being made a permit for such work may be issued during the progress of the work.

(I) *Schools, courts, churches, hospitals.* The creation of any excessive noise on any street adjacent to any school, institution of learning, church or court while such buildings are being used, or adjacent to any hospital, which unreasonably interferes with the operation and use of such institution or building or which disturbs or unduly annoys patients in such hospital, provided conspicuous signs are displayed in such streets indicating the location of such school, institution of learning, church, court or hospital.

(J) *Pile drivers, hammers, automatic screw machines, compressed air pumps, etc.* The operation between the hours of 11:00 p.m. and 6:00 a.m. of the following day of any type of noisy machine such as a pile driver, steam or power shovel, drop forge, pneumatic hammer or chisel or riveting machine, electric drill, drill press, punch press, steam or electric hoist, automatic screw machine, compressed air engine, air compressor, power saw or other appliance, the use of which is attended by loud, continuous or unusual noises in such a manner as to cause unnecessary or reasonable objectionable noise penetrating more than a reasonable distance outside the property lines of the property from which the noise originates; provided however, that in the event of an emergency which affects the public health or safety, the city may issue a special permit for a limited time only for the use of any such equipment or appliances as may be necessary.

(K) *Blowers.* The operation of any noise-creating blower or power fan unless the noise from such blower or fan is muffled sufficiently to deaden such noise and not cause unnecessary or unreasonably objectionable noise penetrating more than a reasonable distance from the nearest point on the property, either public or private, where such noise is created.

(Ord. 164, passed 12-17-73; Am. Ord. 292, passed 3-19-07)

§ 94.19 EFFECTIVE HOURS OF OPERATION.

Anything in this subchapter to the contrary notwithstanding, it is hereby declared that this subchapter on Sundays shall be in operation and effect between the hours of 11:00 p.m. and 6:00 a.m. Wherever the effective hours of operation appear in this subchapter, for the day Sunday, they shall be read and interpreted as provided in this section.

(Ord. 164, passed 12-17-73; Am. Ord. 292, passed 3-19-07)

§ 94.20 ANTI-NOISE REGULATIONS BASED UPON dB(a) CRITERIA.

Any noise in excess of the maximum decibel limits according to the regulations stated below is deemed to be a prima facie violation of this subchapter. However, violations under § 94.18 which have no decibel determination available shall nevertheless be deemed violations of this subchapter.

(Ord. 164, passed 12-17-73; Am. Ord. passed 5-20-75; Am. Ord. 292, passed 3-19-07) Penalty, see § 10.99

§ 94.21 REGULATIONS FOR DECIBEL MEASUREMENT OF NOISE ORIGINATING FROM PRIVATE PROPERTIES.

(A) Noise radiating from all properties or buildings, as measured at the boundaries of the property, which is in excess of the dB(a) established for the districts and times herewith listed shall constitute prima facie evidence that such noise unreasonably disturbs the comfort, quiet and repose of persons in the area and is therefore in violation of this subchapter. As an example, such noise shall include those emitting from the production, processing, cleaning, servicing, testing, repairing and manufacturing of materials, goods or products, including vehicles.

(B) *Decibel limitations.*

Zoning Districts	Limitations	Limitations
	6:00 a.m. to 11:00 p.m.	11:00 p.m. to 6:00 a.m.
Residential (including any area within 500 feet of a hospital or any dwelling under separate ownership regardless of zoning district)	65 dB(a)	60 dB(a)
Commercial where at least 500 feet from any dwelling under separate ownership	70 dB(a)	65 dB(a)
Industrial	75 dB(a)	70 dB(a)

(C) Harmonic or pure tones, and periodic or repetitive impulse sound shall be in violation when such sounds are at a sound pressure level of 4 dB(a) less than those listed above.

(D) When property is partly in two zoning districts or adjoins the boundary of a zoning district, the dB(a) levels of the zoning district of the property where the noise is emanating shall control.

(E) Violations shall exist when the source or sources of noise are identifiable, and the levels emanating from the source or sources exceed the above limitations.

(F) The following exceptions shall apply to these regulations under this section:

(1) Construction projects shall be subject to the maximum permissible noise levels specified for industrial districts as long as a valid building permit has been issued by the public authorities and is currently in effect.

(2) Noises caused by home or building repairs or from maintenance of grounds are excluded, provided, such noise does not exceed the limitations specified in § 94.20, by more than 20 dB(a) between 6:00 a.m. and sundown.

(3) Noises emanating from the discharge of firearms, providing the discharge of the firearms was authorized under Michigan law and all local ordinances.

(4) Any commercial, agricultural or industrial use of property which exists now or in the future as a legal nonconforming use (as defined in the city zoning ordinance) in a higher zoning classification shall be allowed to emit noise in excess of these limitations for the particular zoning classification where such use is located, providing that such noise does not exceed either of the following limitations:

(a) The noise level emitted by such use at the time it became a legal nonconforming use as a result of the enactment of an amendment of the city zoning ordinance.

(b) The limitations contained herein based upon such a use being located in the highest zoning district (either commercial or industrial) where such a use is specifically allowed as a permissible use.

(Ord. 164, passed 12-17-73; Am. Ord. passed 5-20-75; Am. Ord. 292, passed 3-19-07) Penalty, see § 10.99

Editor's note:

The city zoning ordinance is available for public inspection at the office of the City Clerk.

§ 94.22 REGULATIONS FOR DECIBEL MEASUREMENT OF MOTOR DRIVEN VEHICLES ON PUBLIC ROADS.

(A) All noise emitted from motor driven vehicles upon public roads shall be measured whenever possible at a distance of at least 50 feet from a noise source located within the public right-of-way. If measurement at 50 feet is not feasible, measurement may be made at 25 feet and six dB(a) shall be added to the limit provided below. All such noises in excess of the dB(a) as provided herein shall be prima facie evidence that such noise unreasonably disturbs the comfort, quiet and repose of persons in the area and is therefore in violation of this subchapter.

(B) *Decibel limitations.*

Vehicle	Weight	dB(a) Maximum Limitation
Trucks and buses	Over 10,000 lb. gross weight	82 dB(a)
Trucks and buses	Under 10,000 lb. gross weight	74 dB(a)
Passenger cars	Any weight	74 dB(a)
Motorcycles, snowmobiles and minibikes	Any weight	86 dB(a)
All other self-propelled motor vehicles	Any weight	74 dB(a)

(Ord. 164, passed 12-17-73; Am. Ord. passed 5-20-75; Am. Ord. 292, passed 3-19-07) Penalty, see § 10.99

§ 94.23 MEASUREMENT TO BE MADE BY SOUND LEVEL METER.

All measurements of dB(a) according to §§ 94.21 and 94.22 shall be made by using a sound level meter of standard design and operated on the "A" weight scale, with "slow" meter response.

(Ord. 164, passed 12-17-73; Am. Ord. passed 5-20-75; Am. Ord. 292, passed 3-19-07)

§ 94.24 PERMITS.

Upon application, the city through its Administrator or Police Department, may issue permits for the conduct of activities in conjunction with entertainment, political, social or cultural events, whereby the noise limitations of this subchapter may be exceeded for specific times and under specific conditions. The City Council may determine from time to time that a fee may be charged for such permit and may determine regulations which limit the number of such permits which may be granted during any period by reason of categories such as applicants, locations or otherwise.

(Ord. 292, passed 3-19-07)

NOXIOUS WEEDS

§ 94.35 DUTY OF PROPERTY OWNER TO CUT SPECIFIED WEEDS AND GRASS.

It shall be the duty of every owner, possessor, or occupier of land, and of every person having charge of any lands within the city, to cut or remove, and to destroy all Canada thistles, milkweed, asclipico, cornutus, weed carrots, ox-eye, daisies, ragweed or other noxious weeds and grass growing thereon, before the first day of May as often as may be necessary to keep the height no higher than eight inches. The aforesaid plants of the stated height are hereby declared to be noxious weeds and grass to constitute a public nuisance.

(Ord. 143, passed 8-7-67; Am. Ord. 290, passed 9-5-06) Penalty, see § 10.99

§ 94.36 PUBLIC NOTICE TO CUT WEEDS AND GRASS; NOTICE TO INDIVIDUAL PROPERTY OWNER.

(A) It shall be the duty of the city to give general notice in the following manner to every owner, possessor or occupier of land, and to every person having charge of any lands in this city, whereon noxious weeds and grass are growing, to cut and destroy such noxious weeds and grass. Notice shall be published twice in the official newspaper of the city for two successive weeks prior to April 1st. The notice shall set forth the fact that all noxious weeds and grass must be cut on or before May 1st. If any weeds are not cut or destroyed by May 1st, as aforesaid, then the city shall also mail similar notices to every owner, possessor or occupier of land, and to every person having charge of any lands in the city, whereon noxious weeds and grass are growing, whose post office address is known, and such notices shall direct the attention of such persons to the violation of this notice and shall state that unless the weeds and grass are cut and destroyed seven days following the date of the letter of notification, the city will enter upon the land and destroy the weeds and grass at the expense of the parties so failing to comply with this notice.

(B) Exceptions. The following lands shall be exempt from the provisions of this section, provided that the owner of the land petitions for exemption from the provisions of this section in writing to the City Administrator:

(1) Undeveloped wooded areas where tree growth is in excess of ten feet in height.

(2) Undeveloped parcels of four and one-half acres or more in non-subdivision areas must be rim cut at least 20-feet.

(3) Undeveloped industrial lots greater than two acres must be rim cut at least 20-feet. Rim cut shall be defined as any front, side or rear yard adjacent to a street or streets or adjacent to a developed lot.

(4) Lands where occupied lots have been developed without removing the original natural cover.

(C) Appeals. In the event the City Administrator shall deny a petition for exemption from the provisions of this section, the petitioner may appeal the decision in writing to the City Council within five business days.

(Ord. 143, passed 8-7-67; Am. Ord. 290, passed 9-5-06)

§ 94.37 CITY TO CUT UPON FAILURE OF OWNER.

If any person herein required to cut or destroy noxious weeds and grass shall fail or refuse to destroy such weeds and grass seven days following the date of the letter of notification, then the city shall enter upon the land and cause all such noxious weeds and grass to be cut down with as little damage to premises as may be, and he or she shall not be liable for damages in any action of trespass therefore.

(Ord. 143, passed 8-7-67; Am. Ord. 290, passed 9-5-06)

§ 94.38 ACCOUNT OF EXPENSES; CUT TO CONSTITUTE DEBT TO CITY; COLLECTION.

The city shall keep an account of the expenses incurred in carrying out the provisions of § 94.37 with respect to each parcel of land entered upon therefore. The amount of such expense incurred in the destruction of such weeds shall constitute a debt due the city by persons so failing to comply with this subchapter, and the city may maintain an appropriate action in a court of law for the collection thereof.

(Ord. 143, passed 8-7-67; Am. Ord. 290, passed 9-5-06)

§ 94.39 ASSESSMENT OF COST AGAINST PROPERTY.

In the event the costs of destroying such weeds as hereinbefore provided remains uncollected or unpaid after 30 days following the cutting of the weeds, the unpaid amount shall be returned by the city to the City Assessor, and the same, together with the interest at the rate of 6% per annum, shall be placed upon the tax roll next in course of preparation as a charge against the property upon which such order was carried out, and the same shall become a lien upon the land and shall be assessed and collected in the same manner as a special assessment of the city, and as assessed and collected shall be paid into the general fund to reimburse the outlay therefrom aforesaid.

(Ord. 143, passed 8-7-67; Am. Ord. 290, passed 9-5-06)

CHAPTER 95: PARKS AND RECREATION

Section

General Provisions

- 95.01 Definitions
- 95.02 Use of certain lands or waters prohibited
- 95.03 Damage to or destruction of city property or vegetation prohibited
- 95.04 Park hours; exception for campers
- 95.05 Peddling, distribution of handbills on park property restricted
- 95.06 Noise restrictions
- 95.07 Disorderly conduct prohibited
- 95.08 Building fires restricted
- 95.09 Unlawful disposal of garbage
- 95.10 Storage of personal property in park restricted

- 95.11 Glass containers prohibited in sunbathing or swimming areas
- 95.12 Alcoholic beverages prohibited
- 95.13 Motor vehicle regulations in city park
- 95.14 Animals in park restricted
- 95.15 Firearms and hunting prohibited
- 95.16 Exemptions
- 95.17 Violations
- 95.18 Credit card payments

Camping Regulations

- 95.25 Camping permit and fee required; permit nontransferable
 - 95.26 Visitation hours in campground; violations to be reported
 - 95.27 Motor vehicles prohibited in campground; exceptions
 - 95.28 Occupation of campsite during first 24 hours required
 - 95.29 Use of campground as residence or base of business prohibited
 - 95.30 Number of people per campsite limited; age restrictions
 - 95.31 Number of motor vehicles per campsite limited
- 95.99 Penalty

Statutory reference:

Authority to acquire and regulate parks, see M.S.A. § 5.2078

GENERAL PROVISIONS

§ 95.01 DEFINITIONS.

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

CAMP. The use of any device, shelter, or equipment for the purpose of sleeping or shelter; or to occupy a campsite.

PROPER WRITTEN PERMISSION. A written permit issued by the park manager, his authorized representatives, or the City Administrator.

UNLICENSED VEHICLE. Any motor vehicle as defined in the Motor Vehicle Code or other motorized vehicle which does not possess a valid park entry permit as provided by § 95.13.

(Ord. 210, passed 6-6-94)

§ 95.02 USE OF CERTAIN LANDS OR WATERS PROHIBITED.

A person shall not enter, use or occupy lands or waters when the lands are posted prohibiting such entry, use, or occupancy.

(Ord. 210, passed 6-6-94) Penalty, see § 95.99

§ 95.03 DAMAGE TO OR DESTRUCTION OF CITY PROPERTY OR VEGETATION PROHIBITED.

A person shall not destroy, damage, or remove city property, trees, shrubs, wild flowers, planted grasses, or other vegetation without first obtaining proper written permission. This does not apply to the picking and removal of mushrooms, berries, and edible fruits or nuts.

(Ord. 210, passed 6-6-94) Penalty, see § 95.99

§ 95.04 PARK HOURS; EXCEPTION FOR CAMPERS.

A person shall not enter or remain in the city park between one hour after sunset and sunrise unless the person is a lawfully registered camper.

(Ord. 210, passed 6-6-94) Penalty, see § 95.99

Cross-reference:

Revocation of camping permit for violation of rules, see § 95.17

§ 95.05 PEDDLING, DISTRIBUTION OF HANDBILLS ON PARK PROPERTY RESTRICTED.

A person shall not peddle or solicit business of any nature; distribute handbills or other advertising matter; post signs on any lands, waters, structures, or property; or use such areas as a base of commercial operations without first obtaining proper written permission.

(Ord. 210, passed 6-6-94) Penalty, see § 95.99

§ 95.06 NOISE RESTRICTIONS.

A person shall not use a loudspeaker, public address system, or sound-amplifying equipment of any kind without proper written permission. Permission shall not be granted if such equipment is capable of interfering with the use and enjoyment of the park by others. A person shall not operate any motor, motorboat, motor vehicle, radio, television, phonograph, tape recorder, or any other device in such a manner as to create excessive noise that may disturb or annoy others.

(Ord. 210, passed 6-6-94) Penalty, see § 95.99

§ 95.07 DISORDERLY CONDUCT PROHIBITED.

A person shall not engage in any violent, abusive, loud, boisterous, wanton, profane, obscene, or otherwise disorderly conduct tending to create a breach of the peace; disturb or annoy others; loiter, sit, or lie upon walks, passages, steps, or roads thereby obstructing the free passage of others; remove or damage the property of another.

(Ord. 210, passed 6-6-94) Penalty, see § 95.99

§ 95.08 BUILDING FIRES RESTRICTED.

A person shall not build fires except in designated firepits or in stoves or grills that are approved by the park manager or his representative.

(Ord. 210, passed 6-6-94) Penalty, see § 95.99

§ 95.09 UNLAWFUL DISPOSAL OF GARBAGE.

A person shall not dump, place, throw, or leave, or cause or permit the dumping, placing, throwing, or leaving of litter in the park, or waters, except in containers provided; deposit refuse or waste

material that has originated outside the park in receptacles or dumpsters provided for park uses; set fire to the contents of a refuse or trash container; or place or burn garbage in a fire ring or stove.

(Ord. 210, passed 6-6-94) Penalty, see § 95.99

Cross-reference:

Garbage disposal, see Ch. 50

§ 95.10 STORAGE OF PERSONAL PROPERTY IN PARK RESTRICTED.

A person shall not store or leave a boat, trailer, camper, or other property in the park without first obtaining proper written permission.

(Ord. 210, passed 6-6-94) Penalty, see § 95.99

§ 95.11 GLASS CONTAINERS PROHIBITED IN SUNBATHING OR SWIMMING AREAS.

A person shall not possess a glass container within any land or water that is designated as a bathing beach or a land or water area that is regularly used for sunbathing, swimming or wading.

(Ord. 210, passed 6-6-94) Penalty, see § 95.99

§ 95.12 ALCOHOLIC BEVERAGES PROHIBITED.

A person shall not possess or consume any alcoholic beverages in the North Park recreation area.

(Ord. 210, passed 6-6-94) Penalty, see § 95.99

Cross-reference:

Driving under influence, see §§ 70.25 through 70.31

Alcohol and minors, see § 130.02

Possession or use of weapon while under influence, see § 131.05

§ 95.13 MOTOR VEHICLE REGULATIONS IN CITY PARK.

(A) Motor vehicles may not enter the park unless a city park motor vehicle permit has been obtained and affixed to the vehicle windshield.

(B) A person shall not operate or park a motor vehicle except on designated roads or designated parking areas; operate a motor vehicle on a park road or parking lot at a speed in excess of ten miles per hour, in an unsafe manner, at a speed greater than that posted, or disobey traffic or parking signs. When a motor vehicle is found parked in the city park, the registration plate displayed on the motor vehicle shall constitute prima facie evidence that the owner of the vehicle is the person who parked it there.

(C) A person shall not operate a motor-driven vehicle or any motorized device except on roads and parking lots constructed for the operation of licensed vehicles.

(D) A person shall not operate an unlicensed vehicle on a park road or parking lot.

(E) All vehicles entering the park shall make a complete stop when the stop sign is displayed, proceeding only after being signalled to do so by the park attendant.

(Ord. 210, passed 6-6-94) Penalty, see § 95.99

§ 95.14 ANIMALS IN PARK RESTRICTED.

(A) A person shall not possess a dog or other animal unless it is under immediate control on a leash not exceeding six feet in length.

(B) A person shall not allow a dog or other animal within a water or land area designated as a bathing beach; bring a dog or other animal, except leader dogs for the blind, into an enclosed park building, or leave a dog or other animal unattended at any time; permit a dog or other animal to run loose or create a disturbance; or fail to properly control a dog or other animal. Any dog found not in the possession of, or under the immediate control of, its owner or the owner's agent, or any dog creating a nuisance or disturbance, may be removed from the park.

(C) A person shall not ride, permit, or allow horses or other riding animals within the city park.

(Ord. 210, passed 6-6-94) Penalty, see § 95.99

§ 95.15 FIREARMS AND HUNTING PROHIBITED.

(A) A person shall not carry or have in possession a firearm, or bow and arrow. This does not apply to registered campers who are legally transporting firearms or bow and arrow.

(B) A person shall not hunt, trap, kill, wound, capture, or intentionally disturb any bird, animal or other wildlife.

(C) A person shall not discharge any device that propels a projectile by gas, air, spring or rubber.

(Ord. 210, passed 6-6-94) Penalty, see § 95.99

§ 95.16 EXEMPTIONS.

City employees acting in the line of duty or persons performing specific acts authorized by written permission are exempt from the provisions of these rules.

(Ord. 210, passed 6-6-94)

§ 95.17 VIOLATIONS.

Violation of any park rule may result in revocation of a camping permit or eviction from the park or both. Violation of any park rule may also result in a criminal complaint being initiated.

(Ord. 210, passed 6-6-94) Penalty, see § 95.99

§ 95.18 CREDIT CARD PAYMENTS.

The city determines that it is in the best interest of the residents and taxpayers of the city to have the Parks and Recreation Department accept payments by credit card. Credit card payments may be made by the following credit cards: Visa, MasterCard, Discover and American Express.

(Ord. 293, passed 8-20-07)

CAMPING REGULATIONS

§ 95.25 CAMPING PERMIT AND FEE REQUIRED; PERMIT NONTRANSFERABLE.

(A) A person shall not camp without a camping permit issued by an authorized representative of the city. A person may camp in a designated campground or campsite only when the established fee is paid.

(B) A person shall not obtain a camping permit for use by a camping party of which the person is not a member.

(Ord. 210, passed 6-6-94) Penalty, see § 95.99

Cross-reference:

Revocation of camping permit for violation of rules, see § 95.17

§ 95.26 VISITATION HOURS IN CAMPGROUND; VIOLATIONS TO BE REPORTED.

(A) A noncamper shall not visit campers between one hour after sunset and sunrise.

(B) It shall be the responsibility of the registered camper to report anyone refusing to leave their campsite one hour after sunset or anyone entering onto the campsite prior to sunrise.

(Ord. 210, passed 6-6-94) Penalty, see § 95.99

§ 95.27 MOTOR VEHICLES PROHIBITED IN CAMPGROUND; EXCEPTIONS.

A person shall not drive a vehicle into or through, the campground area. This provision does not apply to registered campers and their vehicles or to persons legitimately visiting a specific, registered camper.

(Ord. 210, passed 6-6-94) Penalty, see § 95.99

§ 95.28 OCCUPATION OF CAMPSITE DURING FIRST 24 HOURS REQUIRED.

A registered camper party shall not leave a campsite continuously unoccupied during the first 24 hours of the permit period. A campsite is considered to be occupied if at least one member of the registered camping party is in attendance during the nighttime hours of the initial 24-hour period.

(Ord. 210, passed 6-6-94) Penalty, see § 95.99

§ 95.29 USE OF CAMPGROUND AS RESIDENCE OR BASE OF BUSINESS PROHIBITED.

A person shall not use a campground for a permanent residence or as a base of operation of a business.

(Ord. 210, passed 6-6-94) Penalty, see § 95.99

§ 95.30 NUMBER OF PEOPLE PER CAMPSITE LIMITED; AGE RESTRICTIONS.

(A) No more than one single family nor more than four unrelated persons shall camp on one campsite. For the purposes of this rule, a single family shall include a mother and father and their children. A single family may include relatives if no more than one shelter is used.

(B) When persons that are not a single family obtain a campsite, all persons shall print and sign their names on the camp registration card.

(C) Persons that are not part of a single family must be at least 18 years old to register or occupy a campsite, unless such persons are part of a chaperoned group, that is, scouts, cyclists, church, athletic teams.

(Ord. 210, passed 6-6-94) Penalty, see § 95.99

§ 95.31 NUMBER OF MOTOR VEHICLES PER CAMPSITE LIMITED.

A person shall not allow, place or drive more than two motor vehicles onto one campsite except four motorcycles are permitted if each is operated by a registered camper.

(Ord. 210, passed 6-6-94) Penalty, see § 95.99

Cross-reference:

Motor vehicle regulations in city park, see § 95.13

§ 95.99 PENALTY.

(A) Any person who shall violate any of the provisions of this chapter shall, upon conviction thereof, be subject to a fine of not more than \$500 or 90 days in jail or both.

(B) In the alternative to division (A) of this section, to the extent permitted by law, the city may issue a civil citation to any person who shall violate any of the provisions of this chapter. The civil citation shall carry a fine of not more than \$500.

(Ord. 210, passed 6-6-94)

CHAPTER 96: STREETS AND SIDEWALKS

Section

General Provisions

- 96.01 Unauthorized excavation prohibited
- 96.02 Construction materials on public ways
- 96.03 Obstructions and encumbrances prohibited; generally
- 96.04 Operation on sidewalks and crosswalks prohibited
- 96.05 Crowds; obstructing road prohibited
- 96.06 Throwing objects, building fires prohibited
- 96.07 Unattended animals
- 96.08 Signs in or over streets or sidewalks
- 96.09 Picketing animals
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Sidewalk Construction and Maintenance

- 96.25 Short title
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- 96.27 New construction, reconstruction or replacement; resolution; notice; public hearing
- 96.28 Cost of construction, replacement, certain repairs
- 96.29 Liability of property owner
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- 96.31 Specifications, standards and inspection
- 96.32 Construction, reconstruction or replacement by city; lien
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- 96.34 Construction, reconstruction, replacement or repair in conjunction with street project
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Street Opening

- 96.45 Street defined
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- 96.54 Street installations, public property; destruction, etc., is strictly prohibited
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- 96.56 Supervision; restriction
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- 96.58 Coal, sand, dirt, etc.; hauling; dropping, scattering, etc., prohibited
- 96.59 Inspections

- 96.99 Penalty

Statutory reference:

Authority over streets and public ways, see M.S.A. § 5.2081

GENERAL PROVISIONS

§ 96.01 UNAUTHORIZED EXCAVATION PROHIBITED.

No person, unless authorized by the Council, shall make any excavation, remove or carry away any earth, sand, gravel, stone or soil from any street, alley, highway or public ground in the city.

(Ord. 54, passed 8-27-07) Penalty, see § 10.99

§ 96.02 CONSTRUCTION MATERIALS ON PUBLIC WAYS.

(A) No person shall place or having placed shall allow to remain any stone, brick, lumber, lath, shingles, slabs, sand, gravel, or other material in or upon any street, alley, highway or public ground in the city, for the purpose of building on a site adjacent to any street, alley, highway, or public ground.

(B) No person shall place or having placed shall allow to remain any stone, brick, lumber, lath, shingles, slab, sand, gravel or other material which obstructs any gutter, drainage ditch, or any part of the sidewalk.

(Ord. 54, passed 8-27-07) Penalty, see § 10.99

§ 96.03 OBSTRUCTIONS AND ENCUMBRANCES PROHIBITED; GENERALLY.

(A) No person shall place, or having placed, shall allow to remain in or upon any street, alley, highway or public ground within the city any implements, goods, wares, merchandise, box, barrel, cask, keg, wood, hay, or straw, and every day such thing shall remain in the street, alley, highway or public ground after notice from the city to remove it shall constitute a separate violation of this section.

(B) No person shall place or having placed, shall allow to remain, any wagon, sled, cart or carriage without a team, horse or horses attached thereto for the purpose of moving such vehicle in the ordinary manner; or any fence or railing; or place any ashes, paper, manure or rubbish of any kind in any street, alley, highway, or public ground within the city, except in accordance with any pickup service identified elsewhere in this Code, and every day such thing shall remain in the street, alley, highway or public ground, after notice from the city to remove it, shall constitute a separate violation of this section.

(Ord. 54, passed 8-27-07) Penalty, see § 10.99

Cross-reference:

Littering, see Ch. 93

§ 96.04 OPERATION ON SIDEWALKS AND CROSSWALKS PROHIBITED.

No person shall drive or lead any team, horse, mule, ox or cow, nor ride, drive or draw or cause to be driven or drawn any automobile, wagon, sled or cart upon or along any sidewalk in any street, highway or public ground in the city, nor shall any person halt any automobile, wagon, sled or cart or other vehicle upon any crosswalk, except for the purpose of alighting from or entering in such vehicle, and then only for sufficient time for that purpose.

(Ord. 54, passed 8-27-07; Am. Ord. 82, passed 5-8-17) Penalty, see § 10.99

§ 96.05 CROWDS; OBSTRUCTING ROAD PROHIBITED.

It shall not be lawful for persons to gather in crowds on any sidewalk, street or highway in the city so as to obstruct the road upon such sidewalk, street or highway.

(Ord. 54, passed 8-27-07) Penalty, see § 10.99

§ 96.06 THROWING OBJECTS, BUILDING FIRES PROHIBITED.

No person shall throw any lath, stone, stick or other missile in, upon or over any street, alley, highway, or public ground nor build any fire in any street or highway used for public travel without the permission of the Mayor or Street Commissioner.

(Ord. 54, passed 8-27-07) Penalty, see § 10.99

§ 96.07 UNATTENDED ANIMALS.

No person shall leave any horse or horses or any other animal attached to any vehicle standing in any street, alley, highway or public ground without being securely fastened or under the immediate care of some person competent to take care of such horse or horses or other animals.

(Ord. 54, passed 8-27-07) Penalty, see § 10.99

Cross-reference:

Traffic rules, see Ch. 70

§ 96.08 SIGNS IN OR OVER STREETS OR SIDEWALKS.

No person shall place any sign post, awning post or pole or other post or pole (except, hitching posts, telegraph and telephone and electric light poles, which shall be of such dimensions and placed as the Council may direct) in any street, alley, highway or public ground nor any sign, awning in upon or over any street or highway.

(Ord. 54, passed 8-27-07) Penalty, see § 10.99

§ 96.09 PICKETING ANIMALS.

No person shall picket any animal in such a manner as to allow such animal to go upon any street, alley, highway or public ground.

(Ord. 54, passed 8-27-07) Penalty, see § 10.99

§ 96.10 EXPLOSIVES PROHIBITED.

No person shall fire, light or set off any fire cracker, squib, gunpowder, firework, explosive, detonating material or compound or discharge any gun, cannon, or pistol or throw any fire ball or bomb in or over any street, alley or public ground within the city without the permission of the Council.

(Ord. 54, passed 8-27-07) Penalty, see § 10.99

§ 96.11 SNOW REMOVAL.

(A) It shall be unlawful for any person, persons or corporation to place, put, push or shovel any snow or ice in or on any gutter or street surface after the gutters and streets have been plowed and cleaned of snow and ice.

(B) It shall be unlawful for any person, persons or corporation to place or put any snow or ice on any public property or street, alley, or sidewalk surface which may impede or obstruct vision, pedestrian traffic, or vehicular traffic; or to push or plow any snow or ice across any street or alley.

(Ord. 112, passed 1-14-43) Penalty, see § 10.99

§ 96.12 PROCEDURE FOR VACATION OF STREETS.

(A) A request to vacate, discontinue or abandon all, or any part, of a street in a subdivision in the city may be initiated by any person, or by the City Administrator. Such request shall set forth the description of the relief sought and the reasons therefor. The request shall be filed with the City Clerk.

(B) Following the receipt of such request, the Clerk shall cause such request to be placed on the agenda of the City Council. The City Council may deny the request or may refer the request to the Planning Commission for recommendation by the Planning Commission.

(C) The Planning Commission shall hold a public hearing on any such request which is referred to the Planning Commission. There shall be a notice of public hearing published in a newspaper of general circulation in Gladwin County at least one time prior to the hearing, and the public hearing

shall be no less than four weeks following the date the public hearing is ordered. A copy of the notice of public hearing shall be mailed by first class mail to all property owners within 300 feet of the portion of the street subject to the request, according to the most recent tax records of the city and all utility companies registered with the city.

(D) At the public hearing, the Planning Commission shall consider the request and provide opportunity for comment thereon, either orally or in writing. Following the public hearing, the Planning Commission shall make recommendation on the request to the City Council, including any conditions or comments which the Planning Commission considers appropriate. The Planning Commission shall provide its recommendation on or before the end of the Planning Commission's meeting next held.

(E) The City Clerk shall place the recommendation of the Planning Commission upon the agenda of the City Council. The City Council may approve the request, deny the request or grant partial or conditional relief. The City Council shall determine if any action shall reserve appropriate rights-of-way for public or private utilities, or otherwise. Any grant of relief shall require at least five affirmative votes of Council members.

(F) In the discretion of the City Council, the Council may provide for an additional public hearing, which shall be conducted in a fashion consistent with the conduct of a Planning Commission hearing provided above.

(G) The action of the City Council may be recorded in the office of the Register of Deeds, provided however, that the City Council may refer the action to the City Attorney for form and content.

(H) The City Council may establish a schedule of fees or charges pertaining to actions on requests under this section, which may include reimbursement of any actual costs of publication or mailing.

(Ord. 332, passed 10-17-16)

SIDEWALK CONSTRUCTION AND MAINTENANCE

§ 96.25 SHORT TITLE.

This subchapter may be cited or referred to as the city sidewalk ordinance.

(Ord. 182, passed 12-16-91)

§ 96.26 DEFINITIONS.

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

OWNER. A person who is a fee owner, whether as a tenant in common or in a joint or entireties capacity. In the case of a recorded land contract, the owner shall be the vendee thereon. A person whose ownership is only as security for a debt shall not be considered the owner with the owner being the person entitled to equitable possession.

SIDEWALK. A concrete foot path designed for pedestrian use by the public which is situated within the public right-of-way of a public street, highway or road. The term shall not include any portion of a driveway between a street and a proposed or existing sidewalk or a private walkway or foot path, nor any area open to vehicular traffic.

(Ord. 182, passed 12-16-91)

§ 96.27 NEW CONSTRUCTION, RECONSTRUCTION OR REPLACEMENT; RESOLUTION; NOTICE; PUBLIC HEARING.

(A) Subject to the provisions of this section, the City Council may by resolution require the owners of lots or premises to construct sidewalks in the public street right-of-way adjacent to or abutting upon such lots and premises at locations where sidewalks are absent or have not previously existed; or to reconstruct sidewalks at locations where the City Council determines that existing sidewalks are determined to require substantial repair such that replacement with new sidewalks is proper. The resolution shall contain a description of the sidewalk to be constructed, reconstructed or replaced, and specify the period of time for performance. A certified copy of said resolution shall be mailed by first class mail to each property owner of lots of premises adjacent to or abutting said sidewalks or proposed sidewalks at the address shown on the last general tax assessment roll of the city, and to each party in interest whose name and address appears on said tax assessment roll.

(B) The resolution by the City Council shall be preceded by a notice and by a public hearing at which matters pertaining to new construction or to the reconstruction or replacement of sidewalks, the period of time in which the acts shall be performed, and all other related matters shall be addressed and considered. Property owners and parties in interest of adjacent or abutting lots or premises shall be provided with notice providing a description of the proposed work and the period of time for performance, and the date, time, and place of the public hearing. The notice shall be in writing and shall be served in the manner prescribed in division (A) of this section not less than ten days prior to the date of hearing. Notice shall also be made by one publication in a newspaper published or circulated within the city. Publication shall be made not less than seven days prior to the date of hearing. Property owners and other interested parties may address the City Council in person or by representative, or in writing.

(Ord. 182, passed 12-16-91)

§ 96.28 COST OF CONSTRUCTION, REPLACEMENT, CERTAIN REPAIRS.

The cost of new sidewalk construction, or reconstruction or replacement of existing sidewalk, and of sidewalk repairs, shall be paid by the owner of the property adjacent to or abutting thereon. At the discretion of the City Council, the expense of new sidewalk construction or of the reconstruction or replacement of existing sidewalk, and the expense of sidewalk repairs exceeding \$500, may be paid by the establishment of a special assessment against the adjacent/abutting property or by such other method as established by the City Council.

(Ord. 182, passed 12-16-91)

§ 96.29 LIABILITY OF PROPERTY OWNER.

(A) It shall be the responsibility of the owner and the occupant of lots or premises adjacent to or abutting upon sidewalks that the same shall be kept at all times in good repair and safe for pedestrian use, free of hazard and maintained as herein provided; and the owner shall assume and pay the expense of repair, maintenance and freedom from hazards. Sidewalk repairs shall consist of the filling with concrete of cracks, hollows or crevices, and the correction of any other condition of disrepair which presents a hazard to pedestrians. Sidewalk maintenance shall consist of the removal of weeds, grass or other vegetation from cracks or crevices in the surface of a sidewalk, and the removal or trimming of tree limbs, shrubbery or other vegetation which restrict the full use of a sidewalk for pedestrian travel or which constitute a hazard to pedestrians. Freedom from hazards shall consist of removal of ice, snow and any other object/or condition hazardous to pedestrian travel.

(B) The failure, neglect or refusal of a property owner to keep in good repair a sidewalk adjacent to or abutting upon lands owned by him, and safe for use as a public pedestrian way, or to maintain a sidewalk as aforesaid, shall constitute a misdemeanor, and the property owner shall, upon conviction, be subject to the penalties prescribed in § 96.99; and in addition, a property owner shall be liable to the city for any injury to persons or damage to property recovered against the city (including costs and reasonable attorney fees) by reason of said sidewalk being unsafe or in a state of disrepair or inadequately maintained.

(Ord. 182, passed 12-16-91; Am. Ord. 225, passed 8-15-05) Penalty, see § 96.99

§ 96.30 PERMIT REQUIRED; EXCEPTION.

(A) Except as provided in division (B) of this section, no person shall construct, reconstruct, replace or repair any sidewalk without first obtaining a written permit from the city prior to the commencement of such work. A permit shall be prominently displayed at the work site.

(B) Minor sidewalk repairs which do not exceed one square foot in any single place or ten square feet in total combined area adjacent to a lot or premises may be performed by the property owner or his contractor without the necessity of obtaining a permit. No permit is required for usual and customary maintenance of sidewalks.

(Ord. 182, passed 12-16-91) Penalty, see § 96.99

§ 96.31 SPECIFICATIONS, STANDARDS AND INSPECTION.

(A) No person shall construct, reconstruct, replace or repair any sidewalk except in accordance with the line, grade, slope, and specifications approved by the city, or without first complying with the provisions of § 96.30 above.

(B) Whenever practical, the city shall direct that the construction of a sidewalk be on a line parallel with the edge of the public right-of-way; provided that exceptions may be made for aesthetic design or preservation of substantial trees.

(C) Line and grade stakes as may be necessary for proper control of the work shall be approved by the city; provided, however, that the approval shall not relieve the owner of the responsibility for making careful and accurate measurements in sidewalk construction, reconstruction, replacement or repair.

(D) Sidewalks shall be constructed of four inch thick, 3,000 pound per square inch portland cement concrete poured on a compacted base. Sidewalks shall be five feet in width, provided, however, that the city may approve a greater or lesser width for the purposes of conformity of new or replacement sidewalks with existing connecting sidewalks. Sidewalks shall be installed with a slope toward the center of the right-of-way and constructed to the grades specified by the city. Portions of sidewalks crossed by driveways shall be a minimum of six inches of thickness. Contraction joints shall be spaced every five feet and expansion joints shall be spaced at least every 40 feet of length. One-half inch thick, six inch wide expansion joints shall be constructed where a sidewalk touches a street curb. The City Council, upon the recommendation of the city administration and a finding of unique or special circumstances with respect to a particular sidewalk or portion thereof, may alter or add to said specifications as deemed necessary for proper construction, reconstruction, replacement or repair.

(E) A property owner undertaking to construct, reconstruct, replace or repair a sidewalk (with the exception of minor sidewalk repair as provided in § 96.30(B) shall notify the city no less than 48 hours prior to commencement thereof. The work shall not proceed until the city shall have inspected the rails and subgrade and approved the work as in conformance with slope, grade, and other specifications. The sidewalk shall also be subject to the approval of the city by a final inspection performed after all work has been completed.

(F) The location and specifications of sidewalks shall be shown on site development and grading plans for a new structure under consideration by the Building Official for issuance of a building permit, and the same shall be approved by the city prior to issuance of a building permit.

(Ord. 182, passed 12-16-91) Penalty, see § 96.99

§ 96.32 CONSTRUCTION, RECONSTRUCTION OR REPLACEMENT BY CITY; LIEN.

If an owner of lots or premises shall fail, neglect or refuse to construct, reconstruct or replace any sidewalk adjacent to or abutting upon property owned by him in accordance with the provisions of this subchapter within the period of time specified in a resolution so to do as provided in § 96.27(A), the city may, after the expiration of the time prescribed for the work to be performed by the owner, cause the sidewalk to be constructed, reconstructed or replaced by the city together with an administration fee of 10% of costs thereof, all of which shall be charged to the owner thereof and shall be payable in full within 30 days after completion of the work; and if not so paid, a lien shall be established upon the property pursuant to § 96.35 of this subchapter.

(Ord. 182, passed 12-16-91)

§ 96.33 REPAIR OR MAINTENANCE; NOTICE; PERFORMED BY CITY; LIEN.

In instances in which sidewalk repairs or maintenance are determined by the city to be necessary, the city shall report same to the City Administrator or designee thereof. If the City Administrator or designee thereof concurs, he or she shall cause notice to the property owner to be made in the manner prescribed in § 96.27(A), stating the determination of the necessity for repairs or maintenance, specifying the site or sites requiring repair or maintenance, methods or procedures for accomplishing same, and the time for performance. In the event a property owner fails, neglects or refuses to cause said sidewalk repairs to be made or maintenance to be performed, and the city shall undertake the same. The expense so incurred, plus 10%, as an administrative fee, shall be payable in full within 30 days after completion of the work, and if not so paid, a lien shall be established upon the property pursuant to § 96.35 of this chapter.

(Ord. 182, passed 12-16-91)

§ 96.34 CONSTRUCTION, RECONSTRUCTION, REPLACEMENT OR REPAIR IN CONJUNCTION WITH STREET PROJECT.

When the City Council shall consider the necessity for construction, reconstruction, widening, resurfacing, installing curb and gutter or otherwise improving a public street, the necessity of construction, reconstruction, replacement or repair of abutting or adjacent sidewalks shall simultaneously be considered. Whenever feasible, sidewalk work shall be performed in conjunction with the street project as finally approved by the City Council. A separate special assessment district established for a street project may, at the discretion of the City Council, include all sidewalk work performed in conjunction therewith.

(Ord. 182, passed 12-16-91)

§ 96.35 LIEN; RECOVERY OF CITY EXPENSES.

The failure, neglect or refusal of a property owner to pay in full when due the total expenses, together with applicable administrative fee, incurred by the city by reason of work performed for new sidewalk construction or for the reconstruction or replacement of existing sidewalk, or for the repair or maintenance of sidewalk, whether said expenses are incurred in the form of work performed by city employees or by independent third parties with whom the city has contracted, shall cause a lien in favor of the city to be established on the property. If the amount due and owing is not paid by April 1 next following, and is certified as unpaid by the City Treasurer, the City Assessor shall enter the total amount of the unpaid expenses and fees, together with interest at 12% per annum, upon the next general tax roll of the city as delinquent charges against the property. Said lien shall remain in effect until the amount due and owing, and interest thereon, is fully paid; and said amount, plus interest, may be collected in the manner provided by law for delinquent and/or unpaid taxes, or at the direction of the City Council, by such proceedings as are permitted by law and as may be recommended by the City Attorney.

(Ord. 182, passed 12-16-91)

§ 96.36 ENFORCEMENT; APPEARANCE TICKETS.

(A) The provisions of this subchapter shall be enforced by the City Administrator or designee thereof.

(B) Any person(s) designated to enforce the provisions of this subchapter pursuant to this section shall have the authority to issue and serve appearance tickets for appearance before a county competent jurisdiction.

(Ord. 182, passed 12-16-91)

STREET OPENING

§ 96.45 STREET DEFINED.

For the purpose of this subchapter, the word "street" shall include within its meaning any public highway or alley including its entire right-of-way, and any public easements in the City without regard to how such highway or alley may be designated or named, and shall further be, in all cases, construed to mean the entire width of such highway or alley including its entire right-of-way, and any public easements unless the context shall indicate that a lesser portion of such highway is intended. Also included as part of the street are all permanently installed fixtures, structures (such as mail boxes, public utility installations, traffic signs and signals, etc.) and living plant organisms (such as trees, shrubs, grass and flowers) that are located on, above or under the ground within the street right-of-way boundaries.

(Ord 228, passed 4-20-98)

§ 96.46 STREET CUTS, EXCAVATIONS; PERMIT REQUIRED.

(A) No person shall make any opening or excavation in or under any street nor construct nor change any driveway approach, except for the addition of gravel or any other acceptable repair practices, nor do any work, except for minor landscaping (e.g. lawn mowing, flower planting, etc.), under nor within the right-of-way limits of any street without first obtaining a permit therefor from the City. The application for a permit shall be issued by the City clerk, who shall also collect proof of insurance, a surety bond (which shall be redeemed by the City in the event the City must make repair, alter or complete any work listed, mentioned or illustrated in the permit and/or in any attached or otherwise associated documents), and all permit fees listed on the application; however, no permit will be required for the replacement of public utility poles in the same location nor will permits be required for work done at the direction of the City, either by contract or by employees of the City. No such permit shall be granted until the plans and specifications for the work proposed to be done have been approved by the City. In case of emergency occurring after office hours, at night, or on a Sunday or legal holiday, when an immediate excavation may be necessary for the protection of the public or private property, the same shall be reported to the police department, which shall grant permission to make the necessary excavation upon the express condition that an application be made for a permit on or before noon of the next business day.

(B) Any public utility operating in the state under the jurisdiction and control of the Michigan Public Service Commission, its successors or assigns, upon written application on a form furnished by the City and upon filing a certificate of insurance and the payment of a annual fee, as hereinafter provided, shall be granted a permit under the provision hereof for the repair of any underground facilities in a public street for a period of one year from the date thereof Any public utility which has not procured an annual permit, may not be issued permits without deposits and shall pay the regular permit fee. All construction and replacement work shall comply with § 96.46, paragraph (A)

(C) The issuance of such a permit shall be contingent upon fulfillment of the following conditions:

(1) The applicant shall agree to keep the operations carefully barricaded, lighted at night, and otherwise protected as required by the City to secure the safety of the public and property.

(2) The application shall be accompanied by the fee established herein, which fee is declared to be for the purpose of reimbursing the City for the costs of making application and of inspecting the excavation or opening, the work done therein and the closure of the excavation.

(3) The applicant shall agree to complete the operations within the time specified in the permit.

(4) Before any permit is issued, the City shall require from all applicants, such public liability and property damage insurance as shall protect the applicant and the City from claims for damages for personal injury, including wrongful death, as well as claims for property damage. Said policy shall name the City as an additional assured, by means of certificate copy of insurance to said City. Amounts of such insurance shall not be less than \$100,000 for injuries, including wrongful death to any one person, and subject to the same limit for each person, and in an amount not less than \$300,000 on account of one accident and property damage insurance in an amount not less than \$10,000. Any person other than utility companies doing excavation work in any City street or alley shall provide the City with a surety bond in the amount of \$1000 or 100% of the estimated cost to restore the excavation work site, which ever is greater, for each job or \$10,000 per year guaranteeing that the contractor will complete the work in accordance with all subsections and the plans and specifications as approved by the City. In lieu of a surety bond, such as required above, a person may leave the same face dollar amount (as the surety bond) of legal United States of America currency or certified check or money order, as the work performance warranty deposit, with the City.

(5) Each contractor making an excavation shall be required to notify MISS DIG in accordance with all MISS DIG notification procedures.

(6) Each contractor must agree to replace any and all trees that must be uprooted or that may become damaged-(to the point that the tree may not be expected to live) during the permitted work operations. Replacement trees must be at minimum 2.5 inches in diameter, in good health, properly planted, and of the same species (or approved equal) as the original tree it replaces. Failure to comply with this provision allows the City to redeem and use the surety bond or deposit to make said tree replacement(s).

(7) Each contractor must agree to replace any and all permanently installed fixtures and structures that become removed or significantly damaged. Failure to comply with this provision allows the City to redeem and use the surety bond or deposit to make said tree replacement(s).

(D) Mail Boxes and Newspaper Boxes

(1) Single mail boxes that are mounted on a 5 inch diameter wood post that is imbedded in the soil, or on a lesser structure, are not required to be permitted under this subsection. Mail boxes mounted on a more substantial structure shall not be erected unless its plans and specifications are approved by the City.

(2) Clustered mail boxes shall be placed in a location approved by the City.

(3) Newspaper boxes shall be mounted on the same post or other mounting structure as the mail box for any given address.

(Ord. 228, passed 4-20-98; Am. Ord. 229, passed 5-18-98)

§ 96.47 PERMIT FEES.

Application for a permit shall be made to the City Clerk in such form and detail as it shall prescribe, accompanied with the payment of all appropriate charges as determined from a schedule of fees established by resolution of the City Council. A billing arrangement may be established with a public utility.

(Ord. 228, passed 4-20-98; Am. Ord. 229, passed 5-18-98)

§ 96.48 OBSTRUCTIONS, RESTRICTIONS.

No person shall, in doing any work authorized by a permit, issued hereunder obstruct more than one-half of the traveled portion of any street or alley without permission granted by the City. However, should it become necessary to totally block any street or alley (for any emergency, such as a broken gas main), the responsible person in charge must first notify the police and fire departments through the Gladwin County Sheriff Department Central Dispatch.

(Ord. 228, passed 4-20-98)

§ 96.49 BACKFILL, REQUISITES.

All excavations made in either a paved or any unpaved street, unless specifically exempted by the City, shall be backfilled with sound, uncontaminated sand (that shall be compacted), and topped with at least six inches of gravel of the type that shall be specified by the City prior to any paving that may be required to restore or furnish the final street surface that is required.

(Ord. 228, passed 4-20-98)

§ 96.50 PERMITS; REVOCATION, SUSPENSION.

All work done pursuant to any permit shall be inspected or cause to be inspected by the City. Any permit so granted may be suspended or revoked where either the workmanship or materials used do not conform to the plans and specifications approved or required upon issuance of the permit, or when the terms of any permit or of this subsection are violated. No person shall perform any work authorized by any permit or cause any such work to be performed while that permit is suspended or revoked.

(Ord. 228, passed 4-20-98)

§ 96.51 ADDITIONAL CONSTRUCTION REGULATIONS.

The City may make such additional rules and regulations, subject to the approval of the City Council, pertaining to the making of openings or excavations in streets as are necessary to secure the health and safety of the public and for the protection of property, and such rules and regulations shall constitute the standards upon which the permit herein above required shall be issued. Such rules and regulations are incorporated herein by reference with the same force and effect as though set forth herein Fully and at length. No work shall be done by any permittee except in accordance with the specifications and directions contained in the permit.

(Ord. 228, passed 4-20-98)

§ 96.52 MOVING BUILDINGS; PERMIT REQUIRED.

No person shall remove, or cause to be removed, or aid or assist in removing, any building onto, along or across any street, alley or public way without first procuring a permit.

(Ord. 228, passed 4-20-98)

§ 96.53 LIABILITY TO City FOR LOSS OR DAMAGE.

Whenever any person performs any work, as provided in this subsection, either under contract with the City or by virtue of any permit issued by the City, such person shall be liable to the City for any and every loss or damage which the City may sustain and for all sums which it may have to pay to any person or organization by reason of any loss or injury sustained through any carelessness or

negligence in doing the work, or by reason of any neglect or failure to comply with the provisions of this subsection or code.

(Ord. 228, passed 4-20-98)

§ 96.54 STREET INSTALLATIONS, PUBLIC PROPERTY; Destruction, ETC., IS STRICTLY PROHIBITED.

It shall be unlawful for any person to destroy, damage, deface or remove any barrier erected to protect any excavation or obstruction in any street, alley or public place, or any light placed as a warning of such excavation or obstruction; or any street sign placed to designate the name of the street, avenue, court, drive, boulevard, lane, circle, road or place; or street lamp, light post, pole or any of the parts or attachments thereto; or any telephone or telegraph pole or any wire or appliances thereof; or any device or any public property whatsoever erected by the authority of the City.

(Ord. 228, passed 4-20-98)

§ 96.55 UTILITY POLES, WIRES; ERECTION, PROHIBITION.

No person shall erect any telegraph, telephone or electric light pole or wire within any street or any other public place within the City without first obtaining a permit as provided herein.

(Ord. 228, passed 4-20-98)

§ 96.56 SUPERVISION; RESTRICTION.

No wires shall be erected over the fire alarm wires, nor shall any wires be erected or placed with 15 feet of the ground in any street, alley or other public place.

(Ord. 228, passed 4-20-98)

§ 96.57 CITY RIGHTS, RESERVATION.

The provisions of § 96.55 and 96.56. shall not be construed as granting any right to the maintenance of any poles and wires already erected in the streets, alleys or other public ways of the City, except such rights as have heretofore been granted by the City Council, and the right to compel the removal or change of any such poles and wires is reserved by the City.

(Ord. 228, passed 4-20-98)

§ 96.58 COAL, SAND, DIRT, ETC.; HAULING, DROPPING, SCATTERING, ETC., IS STRICTLY PROHIBITED.

No person shall drop, leave or scatter on any street, alley or public way in the City any coal, sand, dirt gravel, brick, scrap material or any other material that is being hauled or carted about in a truck' trailer, wagon, cart or other vehicle. All persons using trucks, trailers, wagons, carts or other vehicles to cart or haul coal, sand, dirt, gravel, brick, scrap material or any other material shall not load the same above the top of the side or end boards of such truck, trailer, wagon, cart or other vehicle. The body of any such truck, trailer, wagon, cart or other vehicle used for the aforesaid purpose shall be constructed as to prevent the dropping, leaving, or scattering of such materials.

(Ord. 228, passed 4-20-98)

§ 96.59 INSPECTIONS.

Inspection by the City is required prior to start of excavation and shall include a before photograph. Inspection is also required prior to connection/alteration/repair/installation of any water service or main, any sewer service or main and prior to connection/alteration/repair/installation of any other

public utility or work in any street, alley or any public way in the City. Inspection by the City is also required prior to backfill and compaction of any excavation or opening in any street, alley or any public way in the City. Furthermore, inspection by the City is required prior to any concrete or asphalt placement in any street, alley or any public way in the City. The above mentioned surety bond/deposit will remain in the possession of the City until all required inspections and as-built sketches are received and approved by the City; if any work is found deficient in completeness or quality by the City, the surety bond will be redeemed or the deposit will be kept by the City and the funds will be used to make corrections to and/or complete the work.

(Ord. 228, passed 4-20-98)

§ 96.99 PENALTY.

(A) Any person convicted of a violation of any provision of §§ 96.25 through 96.36, or of any rule or regulation adopted or issued in pursuance thereof, shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine of not more than \$500 and cost of prosecution, or by imprisonment for not more than 90 days, or by both such fine and imprisonment. Each act of violation and every day upon which any such violation shall occur shall constitute a separate offense. In addition to the penalties provided herein, the city may enjoin or abate any violation of this subchapter by appropriate action. Proceedings pursuant to this section shall not preclude the establishment of a lien or proceedings for collection of delinquent accounts as provided in § 96.35 of this chapter.

(Ord. 182, passed 12-16-91)

(B) Any person, firm, or corporation who violates any provision of §§ 96.46 through 96.59 shall, upon conviction, be subject to a fine not exceeding \$500 plus all related costs or to imprisonment of not more than 90 days or both. A separate offense shall be deemed committed upon each act of violation and each day during which a violation occurs or continues.

(C) In the alternative to division (B) of this section, to the extent permitted by law, the City may issue a civil citation to any person who shall violate any provision of this code. The civil citation shall carry a fine of not more than \$500.

CHAPTER 97: TREES AND SHRUBBERY

Section

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- 97.03 Tree Board
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- 97.13 Appeal of order to treat or destroy tree
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§ 97.01 PURPOSE.

The purpose of this chapter is to promote the general welfare, health and safety of the public by encouraging the preservation, maintenance, culture, and planting of shade trees, plants, and shrubs upon the public highways and public parks; creation of a Tree Board and prescribing duties thereof; to declare certain uses and conditions public nuisances; to provide procedures for abatement of nuisances; and to provide penalties for violation thereof.

(Ord. 195, passed 2-15-93)

§ 97.02 DEFINITIONS.

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

PARK. Any park, tot lot, or area owned by the city to which the public has free access for any use thereon permitted by law.

PRIVATE TREE. Any tree now existing or which may exist on land owned by a person or entity which is not part of any governmental unit.

PUBLIC TREE. Any tree or shrub now existing or which may exist on any land owned by the city, any park, any parkway, any roadway, or any public street.

PUBLIC UTILITY. Any franchised entity owning or operating a pole, line, pipe, wire or conduit for the transmission of electricity, gas, telephone, water, sewage or cable television service.

SCHEDULE OF OFFICIAL PUBLIC TREES. The schedule of official public trees as prescribed in the Comprehensive Tree Management Plan.

SHRUBS. Shrubbery, flowers, leafy plants or vegetation, dead, alive or dormant.

TOPPING. The severe cutting back of limbs to stubs larger than three inches within the tree's crown to the extent that the natural canopy is removed and the tree is disfigured.

(Ord. 195, passed 2-15-93)

§ 97.03 TREE BOARD.

(A) A Tree Board is hereby created. Members of the Tree Board shall consist of the Members of the City Planning Commission.

(B) The Tree Board shall assist the City Administrator in developing a comprehensive tree management and prevention program.

(C) The comprehensive tree management and prevention program as prescribed by division (B) of this section, upon presentation to and adoption by the City Council, shall be known as the Comprehensive Tree Management Plan. All rules and regulations therein contained and amendments thereto as may be deemed necessary from time to time, not inconsistent with this chapter, shall be supplementary to and have the same force and effect as if adopted herein.

(Ord. 195, passed 2-15-93)

§ 97.04 SITE PLANS.

When the development of any property requiring site plan approval occurs, the Planning Commission shall review landscaping plans and may require trees to be planted on or near the site consistent with the elements of the adopted community land use plan, also known as the "Master Plan," and with the Comprehensive Tree Management Plan.

Editor's note:

A copy of the Master Plan is available for public inspection at the office of the City Clerk.

§ 97.05 TREE MAINTENANCE AND PROTECTION.

(A) No person shall break, injure, mutilate, kill, destroy, set fire to or permit a fire to be set to any public tree or shrub. No person shall knowingly cause or permit to be caused the seepage, drainage, injection or emptying of any chemicals or other materials harmful or injurious to a tree on, into or within 20 feet of any tree in the city. Normal treatment of lawns with weed killer and lawn fertilizer shall be exempt from this section unless the weed killer or lawn fertilizer used is contained on a list of prohibited chemicals published by any agency of the governments of the United States or the State of Michigan.

(B) No person shall use any public tree as an anchor. No person shall fasten or hang any material of any kind to any public tree. No person shall attach any electrical wire or insulation to any public tree. This provision does not apply to residential Christmas holiday decorations.

(C) Any person who has under his or her care, custody, or control any facility which interferes with the care or removal of a public tree by the city must promptly abate such interference upon the request of the City Administrator or his designee.

(D) Public utilities have the responsibility to maintain their overhead or underground pipes, conduit mains or lines in such a manner as to prevent any leakage therefrom. In the event of such a leakage, the public utility charged with maintaining the line as to prevent leakage shall be charged the cost of removal and replacement of any public or private trees which occurs in order to repair the leak.

(E) The topping of any public tree is prohibited without written authorization of the City Administrator or his designee.

(F) No person may remove or cut down a public tree without written authorization from the City Administrator or his designee. Any person who violates this subsection shall be required, in addition to any other penalties imposed by this chapter or any other law, to replace all public trees so removed or cut down at the violator's expense. Specifications of any replacement tree shall be determined by the City Administrator.

(G) The city shall have the right to cause the removal of any private tree or any part thereof which meets the definition of the term nuisance as set forth in this chapter. In order to cause the removal of any such private tree, the city shall follow and fully comply with the procedures for abating such a nuisance as set forth in this chapter.

(Ord. 195, passed 2-15-93) Penalty, see § 97.99

Cross-reference:

Nuisance declared, see § 97.11

§ 97.06 APPROVAL FOR PLANTING.

No person shall plant any shade or ornamental tree, plant or shrub in any public highway or park until the City Administrator, or designee thereof, shall have approved the kind, size, and variety of the tree and designated the location for planting the same. The City Administrator shall not approve the planting of and no person shall plant any tree, plant or shrub upon any street or highway, except and unless under the following conditions:

- (A) That such tree is one of the species listed on the schedule of official public trees; and
- (B) That such tree is free from infectious disease.

(Ord. 195, passed 2-15-93) Penalty, see § 97.99

§ 97.07 TREES OR SHRUBS OBSTRUCTING SIDEWALKS OR STREETS.

No person, firm or corporation owning or occupying real property within the city shall maintain or allow to be maintained any tree or shrub which in any way obstructs, protrudes into or impedes the use of any street or sidewalk.

(Ord. 195, passed 2-15-93) Penalty, see § 97.99

Cross-reference:

Nuisance declared, see § 97.11

§ 97.08 TREES OR SHRUBS OBSTRUCTING VISIBILITY AT INTERSECTIONS.

No person, firm or corporation owning or occupying real property within the city shall maintain or allow to be maintained any tree or shrub, or part thereof, at or near corners of city streets, which hangs over into the intersection and obstructs the vision of a driver while approaching, at or in any intersection.

(Ord. 195, passed 2-15-93) Penalty, see § 97.99

Cross-reference:

Nuisance declared, see § 97.11

§ 97.09 TREES OR SHRUBS OBSTRUCTING VIEW FROM DRIVE OR ALLEY.

No person, firm or corporation owning or occupying real property within the city shall maintain or allow to be maintained any tree or shrub which obstructs, in any manner, view of the street or sidewalk, in either direction, so as to hinder a driver's ability to see oncoming vehicular, bicycle or pedestrian traffic while pulling onto or backing from a street, driveway or alley.

(Ord. 195, passed 2-15-93) Penalty, see § 97.99

Cross-reference:

Nuisance declared, see § 97.11

§ 97.10 DISEASED TREES.

No person, firm or corporation owning or occupying real property within the city shall maintain or allow to be maintained any tree which is diseased or infected with insects, whose structure is

weakened so that there is a danger of the tree or any part thereof falling or infecting surrounding trees or vegetation.

(Ord. 195, passed 2-15-93) Penalty, see § 97.99

Cross-reference:

Nuisance declared, see § 97.11

§ 97.11 NUISANCE DECLARED.

The situations or conditions referred to in §§ 97.07 through 97.10 herein are hereby declared a public nuisance.

(Ord. 195, passed 2-15-93)

Cross-reference:

Nuisances, see Ch. 94

Nuisance animals, see § 91.05

Nuisance junk yards, see § 113.05

§ 97.12 NOTICE OF NUISANCE TO OWNER OR OCCUPANT REQUIRED; EXCEPTION.

Except when the City Administrator deems the situation or condition to constitute an emergency requiring immediate abatement, the city shall notify the owner or occupant of the property and request that the public nuisance described herein be abated within seven days from the date of the notice. Notice may be given in person, posting securely on the premises, first class mail or any other method reasonably calculated to give notice to the owner or occupant of the property.

(Ord. 195, passed 2-15-93)

§ 97.13 APPEAL OF ORDER TO TREAT OR DESTROY TREE.

In case the owner, agent or occupant of the property shall feel himself aggrieved resulting from any order of the city requiring the treatment or destruction of any tree, such person may within 48 hours make an appeal to the City Council by filing a written statement of appeal with the City Clerk. The Council shall hear such appeal at its next regular meeting, unless another time shall be set, and shall determine the matter under such expert advice as may be necessary.

(Ord. 195, passed 2-15-93)

§ 97.14 FAILURE TO COMPLY WITH ORDER.

In the event that the owner or occupant of the property fails to abate the nuisance as requested in the notice, the city shall cause the nuisance to be abated.

(Ord. 195, passed 2-15-93)

§ 97.15 COSTS OF ABATEMENT.

In the event the city is required to abate a nuisance, the owner and occupant shall be jointly and severally liable for all actual costs directly incurred by the city in abating the nuisance plus 10% thereof for indirect costs incurred, such as inspection and overhead.

(Ord. 195, passed 2-15-93)

§ 97.16 COLLECTION OF COSTS.

All costs incurred in connection with the abatement of the nuisance shall become a lien against the property and may be collected in the same manner as taxes and assessments are collected. In addition, the city may, at its sole option, institute legal proceedings to collect all costs of abatement of the nuisance.

(Ord. 195, passed 2-15-93)

§ 97.99 PENALTY.

In addition to remedies provided by §§ 97.12 through 97.14 of this chapter:

(A) Any person who shall violate any of the provisions of this chapter shall, upon conviction thereof, be subject to a fine of not more than \$500 or 90 days in jail or both.

(B) In the alternative to division (A) of this section, to the extent permitted by law, the city may issue a civil citation to any person who shall violate any of the provisions of this chapter. The civil citation shall carry a fine of not more than \$500.

(Ord. 195, passed 2-15-93)

TITLE XI: BUSINESS REGULATIONS

Chapter

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CHAPTER 110: CABLE TELEVISION

Section

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§ 110.01 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 Communications Act of 1934, as amended (and specifically as amended by the Cable Television Consumer Protection and Competition Act of 1992, U.S. Public Law 102-385), and as may be amended from time to time.

ASSOCIATED EQUIPMENT. All equipment and services subject to regulation pursuant to 47 CFR 76.923.

BASIC CABLE SERVICE. "Basic 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 RULES. All rules of the FCC promulgated from time to time pursuant to the Act.

FCC. The Federal Communications Commission.

INCREASE IN RATES. An increase in rates or a decrease in programming or customer services as provided in the FCC Rules.

(B) All other words and phrases used in this chapter shall have the same meaning as defined in the Act and FCC Rules.

(Ord. 203, passed 9-7-93; Am. Ord. 205, passed 10-4-93)

§ 110.02 PURPOSE; INTERPRETATION.

The purpose of this chapter is to adopt regulations consistent with the Act and the FCC Rules with respect to basic cable service rate regulation, and prescribe procedures to provide a reasonable opportunity for consideration of the views of interested parties in connection with basic cable service rate regulation by the city. This chapter shall be implemented and interpreted consistent with the Act and FCC Rules.

(Ord. 203, passed 9-7-93)

§ 110.03 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.

(Ord. 203, passed 9-7-93)

§ 110.04 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 Council may, by resolution or otherwise, adopt rules and regulations as allowed by law 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 that is related and helpful 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 may establish reasonable 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 CFR 76.922 and 76.923.

(Ord. 203, passed 9-7-93; Am. Ord. 205, passed 10-4-93) Penalty, see § 10.99

Cross-reference:

Revocation or denial of renewal of franchise, see § 110.17

§ 110.05 PROPRIETARY INFORMATION.

(A) If this chapter, any rules or regulations adopted by the city pursuant to § 110.04(A) of this chapter, or any request for information pursuant to § 110.04(B) of this chapter 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. The request must state the reason why the information should be treated as proprietary and the facts that support those reasons. 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. 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, then 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 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 CFR 0.459.

(Ord. 203, passed 9-7-93)

§ 110.06 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 § 110.04(A) above, 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 Council shall first consider the schedule of rates or the proposed increase. This notice shall be mailed by first-class mail at least three days before the meeting. In addition, if a written staff or consultant's report on the schedule of rates or the proposed increase is prepared for consideration of the City Council, then the City Clerk shall mail a copy of the report by first-class mail to the cable operator at least three days before the meeting at which the City Council shall first consider the schedule of rates or the proposed increase.

(Ord. 203, passed 9-7-93)

§ 110.07 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 § 110.04(A) unless the City Council (or other properly authorized body or official) tolls the 30-day deadline pursuant to 47 CFR 76.933 by issuing a brief written order, by resolution or otherwise, within 30 days of the date of filing. The City Council may toll the 30-day deadline for an additional 90 days in cases not involving cost-of-service showings and for an additional 150 days in cases involving cost-of-service showings.

(Ord. 203, passed 9-7-93)

§ 110.08 PUBLIC NOTICE; HEARING ON BASIC CABLE SERVICE RATES FOLLOWING TOLLING OF 30-DAY DEADLINE.

(A) If a written order has been issued pursuant to § 110.07 and 47 CFR 76.933 to toll the effective date of existing rates for the basic service tier and associated equipment or a proposed increase in these rates, the cable operator shall submit to the city any additional information required or requested pursuant to § 110.04 of this chapter. In addition, the City Council shall hold a public hearing to consider the comments of interested parties within the additional 90-day or 150-day period, as the case may be.

(B) The City Clerk shall publish a public 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 Clerk.

(C) The public notice shall be published not less than 15 days before the hearing. In addition, the City Clerk shall mail by first-class mail a copy of the public notice to the cable operator not less than 15 days before the hearing.

(Ord. 203, passed 9-7-93)

§ 110.09 STAFF OR CONSULTANT REPORT; WRITTEN RESPONSE.

Following the public hearing, the City Administrator shall cause a report to be prepared for the City Council which shall (based on the filing of the cable operator, the comments or objections of interested parties, information requested from the cable operator and its response, staff or consultant's review, and other appropriate information) include a recommendation for the decision of the City Council pursuant to § 110.10. The City Clerk shall mail a copy of the report to the cable operator by first-class mail not less than 20 days before the City Council acts under § 110.10. The cable operator may file a written response to the report with the City Clerk. If at least ten copies of the response are filed by the cable operator with the City Clerk within ten days after the report is mailed to the cable operator, the City Clerk shall forward it to the City Council.

(Ord. 203, passed 9-7-93)

§ 110.10 RATE DECISIONS AND ORDERS.

The City Council 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 Council issues an order allowing the existing rates or proposed increase to become effective subject to refund, it shall also direct the cable operator to maintain an accounting pursuant to 47 CFR 76.933. The order specified in this section shall be issued within 90 days of the tolling order under § 110.07 of this chapter in all cases not involving a cost-of-service showing. The order shall be issued within 150 days after the tolling order under § 110.07 of this chapter in all cases involving a cost-of-service showing.

(Ord. 203, passed 9-7-93)

§ 110.11 REFUNDS; NOTICE.

The City Council may order a refund to subscribers as provided in 47 CFR 76.942. Before the City Council orders any refund to subscribers, the City Clerk shall give at least seven days written notice to the cable operator by first class mail of the date, time, and place at which the City Council shall consider issuing a refund order and shall provide an opportunity for the cable operator to comment. The cable operator may appear in person, by agent, or by letter at such time for the purpose of submitting comments to the City Council.

(Ord. 203, passed 9-7-93)

§ 110.12 WRITTEN DECISIONS; PUBLIC NOTICE.

Any order of the City Council pursuant to §§ 110.10 or 110.11 shall be in writing, shall be effective upon adoption by the City Council, and shall be deemed released to the public upon adoption. The

Clerk shall publish a public notice of any such written order in a newspaper of general circulation within the city which shall summarize the written decision, and state that copies of the text of the written decision are available for inspection or copying from the office of the Clerk. In addition, the City Clerk shall mail a copy of the text of the written decision to the cable operator by first-class mail.

(Ord. 203, passed 9-7-93)

§ 110.13 RULES AND REGULATIONS.

In addition to rules promulgated pursuant to § 110.04 of this chapter, the City Council may, by resolution or otherwise, adopt rules and regulations for basic cable service rate regulation proceedings (including, without limitation, the conduct of hearings), consistent with the Act and the FCC Rules.

(Ord. 203, passed 9-7-93)

§ 110.14 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 Council so long as there is substantial compliance with this chapter.

(Ord. 203, passed 9-7-93; Am. Ord. 205, passed 10-4-93)

§ 110.15 ADDITIONAL HEARINGS.

In addition to the requirements of this chapter, the City Council may, in its sole discretion, hold additional public hearings upon such reasonable notice as the City Council shall prescribe.

(Ord. 203, passed 9-7-93; Am. Ord. 205, passed 10-4-93)

§ 110.16 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.

(Ord. 203, passed 9-7-93)

§ 110.17 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 franchise 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 franchise.

(Ord. 203, passed 9-7-93)

CHAPTER 111: USED AUTOMOBILE DEALERS

Section

- 111.01 Definitions
- 111.02 License required
- 111.03 Application for license
- 111.04 License fee
- 111.05 Records to be kept
- 111.06 Place of business to be neat
- 111.07 Repossession; report required

Statutory reference:

Authority to regulate trades and occupations, see M.S.A. § 5.2082(4)

§ 111.01 DEFINITIONS.

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

DEALER IN NEW AUTOMOBILES. A dealer having a contract, franchise or agreement with any manufacturer or distributor of new automobiles for the conduct or operation of a new automobile sales agency in the city, and who shall be actively engaged in the selling of new automobiles in the city.

USED AUTOMOBILE DEALER. A dealer in used automobiles when purchased or sold as a unit.
(Ord. 108, passed 7-18-38)

§ 111.02 LICENSE REQUIRED.

No person shall engage in business as a used automobile dealer in the city without first having secured a license from the City Clerk as herein provided.

(Ord. 108, passed 7-18-38) Penalty, see § 10.99

§ 111.03 APPLICATION FOR LICENSE.

(A) Application for license as a used automobile dealer shall be made by the owner or authorized agent upon blanks to be furnished by the City Clerk and shall contain:

- (1) The full name, age and residence of the owner;
- (2) The site upon which such business is to be conducted;
- (3) Length of time in business as a used automobile dealer continuously prior to the date of application; and
- (4) The date of license from the Secretary of State authorizing the conduct of a business in used automobiles.

(B) The application shall be subscribed and sworn to by the applicant and filed with the City Clerk. The application shall be referred by the City Clerk to the City Council who shall cause an investigation to be made of the fitness and eligibility of the applicant as to character and ability to conduct such business. The City Council shall have the right to withhold its approval as to any site, the occupancy of which would, in the opinion of the City Council, be non-conforming to the general uses of the area immediately surrounding said site and detrimental to the property values of said neighborhood. If, in

the opinion of the City Council, the person making the application is a proper person and the place to be used is zoned for such business, they may authorize the granting of the license upon the payment of the license fee, which license shall be issued by the City Clerk.

(Ord. 108, passed 7-18-38)

§ 111.04 LICENSE FEE.

(A) The license fee for license of a used automobile business by a dealer in new cars shall from time to time be established by resolution of the City Council for each lot or location at which he offers used cars for sale. The license fee herein provided for each site used by any person who is not a new car dealer, but who has a regularly established used automobile business in the city, shall also from time to time be established by resolution of the City Council. The license fee herein provided for each site used by any person engaging temporarily in the used automobile business in the city as a transient merchant shall from time to time be established by resolution of the City Council.

(B) Every person shall be considered as an itinerant merchant engaging temporarily in business as a used automobile dealer until the assessable portion of his goods, wares or merchandise has been assessed for taxation in the city and paid.

(Ord. 108, passed 7-18-38)

Cross-reference:

Itinerant merchants, see Ch. 112

§ 111.05 RECORDS TO BE KEPT.

Every used automobile dealer shall keep in the place of business named in such license so issued to him, a record of the purchase and sale of all automobiles and all such other records as are required by the Secretary of the State which are now in force by law or which may hereafter be required, the same to be kept up to date and legibly written in the English language, and all such records and stock in trade shall be open to the inspection of the Chief of Police, Mayor, or any member of the several Police Departments, without the formality of legal process.

(Ord. 108, passed 7-18-38) Penalty, see § 10.99

§ 111.06 PLACE OF BUSINESS TO BE NEAT.

All places of business and sites upon which a license has been issued as aforesaid, shall be kept neat and orderly at all times, and in cases of open lots, automobiles shall not be parked closer than one foot to the lot line.

(Ord. 108, passed 7-18-38) Penalty, see § 10.99

§ 111.07 REPOSSESSION; REPORT REQUIRED.

All used automobile dealers, finance companies or any other corporation, co-partnership or individual who shall seize or repossess any automobile for any reason what-so-ever, with or without legal process, unless the automobile is voluntarily delivered by the possessor to the reposessor, shall immediately make report of such action to the Police Department of the city.

(Ord. 108, passed 7-18-38) Penalty, see § 10.99

CHAPTER 112: PEDDLERS, ITINERANT MERCHANTS, AND SOLICITORS

Section

- 112.01 Definitions
- 112.02 Provisions
- 112.03 License requirement
- 112.04 Application procedure
- 112.05 Standards for issuance
- 112.06 Revocation procedure
- 112.07 Standards for revocation
- 112.08 Appeal procedure
- 112.09 Exhibition of identification
- 112.10 City policy on soliciting
- 112.11 Notice regulating soliciting
- 112.12 Duty of solicitors
- 112.13 Uninvited soliciting prohibited
- 112.14 Time limit on soliciting
- 112.15 Regulations regarding traffic and noise making

Statutory reference:

Authority to regulate trades and occupations, see M.S.A. § 5.2082(4)

§ 112.01 DEFINITIONS.

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

BUSINESS. The business carried on by any person who is an itinerant merchant, peddler, or solicitor as defined in this section.

GOODS. Merchandise of any description whatsoever, and includes, but is not restricted to, wares and foodstuffs.

ITINERANT MERCHANT. Any person, whether as owner, agent, or consignee, who engages in a temporary business of selling goods within the city and who, in the furtherance of such business, uses any building, structure, vehicle, or any place within the city.

PEDDLER. Any person, not an itinerant merchant, who:

(1) Travels from place to place by any means carrying goods for sale, or making sales, or making deliveries; or

(2) Without traveling from place to place, sells or offers goods for sale from any public place within the city.

SOLICITOR. Any person who travels by any means from place to place, taking or attempting to take orders for sale of goods to be delivered in the future or for services to be performed in the future. A person who is a solicitor is not a peddler.

§ 112.02 PROVISIONS

The provisions of this chapter shall not be construed to apply to nor regulate commercial travelers employed by wholesale houses and selling staple articles of merchandise to merchants of the city to be retained by them; nor to persons selling milk; nor to the delivery of goods sold by business houses of the city; nor to sales for local charitable purposes or local nonprofit organizations.

§ 112.03 LICENSE REQUIREMENT.

(A) Any person who is an itinerant merchant, peddler, or solicitor shall obtain a license before engaging in such activity within the city.

(B) The fee for the license required by this chapter shall be as set from time to time by the City Council.

(C) No license issued under this chapter shall be transferable.

Penalty, see § 10.99

§ 112.04 APPLICATION PROCEDURE.

(A) All applicants for licenses required by this chapter shall file an application with the Clerk. This application shall be signed by the applicant if an individual, or by all partners if a partnership, or by the president if a corporation. The applicant may be requested to provide information concerning the following items:

(1) The name and address of the applicant;

(2) (a) The name of the individual having management authority or supervision of the applicant's business during the time that it is proposed to be carried on in the city;

(b) The local address of such individual;

(c) The permanent address of such individual;

(d) The capacity in which such individual will act;

(3) The name and address of the person, if any, for whose purpose the business will be carried on, and, if a corporation, the state of incorporation;

(4) The time period or periods during which it is proposed to carry on applicant's business;

(5) (a) The nature, character, and quality of the goods or services to be offered for sale or delivered;

(b) If goods, their invoice value and whether they are to be sold by sample as well as from stock;

(c) If goods, where and by whom such goods are manufactured or grown, and where such goods are at the time of application;

(6) The nature of the advertising proposed to be done for the business;

(7) Whether or not the applicant, or the individual identified in division (A)(2)(a) above, or the person identified in division (A)(3) has been convicted of any crime or misdemeanor and, if so, the nature of each offense and the penalty assessed for each offense.

(B) Applicants for peddler or solicitor licenses may be required to provide further information concerning the following items, in addition to that requested under division (A) above:

(1) A description of the applicant;

(2) A description of any vehicle proposed to be used in the business, including its registration number, if any.

(C) All applicants for licenses required by this chapter shall attach to their application, if required by the city, credentials from the person, if any, for which the applicant proposes to do business, authorizing the applicant to act as such representative.

Penalty, see § 10.99

§ 112.05 STANDARDS FOR ISSUANCE.

(A) Upon receipt of an application, an investigation of the applicant's business reputation and moral character shall be made.

(B) The application shall be approved unless such investigation discloses tangible evidence that the conduct of the applicant's business would pose a substantial threat to the public health, safety, morals, or general welfare. In particular, tangible evidence that the applicant:

(1) Has been convicted of a crime of moral turpitude; or

(2) Has made willful misstatements in the application; or

(3) Has committed prior violations of ordinances pertaining to itinerant merchants, peddlers, solicitors, and the like; or

(4) Has committed prior fraudulent acts; or

(5) Has a record of continual breaches of solicited contracts.

will constitute valid reasons for disapproval of an application.

§ 112.06 REVOCATION PROCEDURE.

Any license or permit granted under this chapter may be revoked by the Clerk after notice and hearing, pursuant to the standards in § 112.07. Notice of hearing for revocation shall be given in writing, setting forth specifically the grounds of the complaint and the time and place of the hearing. Such notice shall be mailed to the licensee at his last known address, at least ten days prior to the date set for the hearing.

§ 112.07 STANDARDS FOR REVOCATION.

A license granted under this chapter may be revoked for any of the following reasons:

(A) Any fraud or misrepresentation contained in the license application; or

(B) Any fraud, misrepresentation, or false statement made in connection with the business being conducted under the license; or

(C) Any violation of this chapter; or

(D) Conviction of the licensee of any felony, or conviction of the licensee of any misdemeanor involving moral turpitude; or

(E) Conducting the business licensed in an unlawful manner or in such a way as to constitute a menace to the health, safety, morals, or general welfare of the public.

§ 112.08 APPEAL PROCEDURE.

(A) Any person aggrieved by a decision under §§ 112.05 or 112.07 shall have the right to appeal to the City Council. The appeal shall be taken by filing with the City Council, within 14 days after notice of the decision has been mailed to such person's last known address, a written statement setting forth the grounds for appeal. The City Council shall set the time and place for a hearing, and notice for such hearing shall be given to such person in the same manner as provided in § 112.06.

(B) The order of the City Council after the hearing shall be final.

§ 112.09 EXHIBITION OF IDENTIFICATION.

(A) Any license issued to an itinerant merchant under this chapter shall be posted conspicuously in or at the place named therein. In the event more than one place within the city shall be used to conduct the business licensed, separate licenses shall be issued for each place.

(B) The Clerk shall issue a license to each peddler or solicitor licensed under this chapter. The license shall contain the words "Licensed Peddler" or "Licensed Solicitor," the expiration date of the license, and the number of the license. The license shall be kept with the licensee during such time as he is engaged in the business licensed.

Penalty, see § 10.99

§ 112.10 CITY POLICY ON SOLICITING.

It is hereby declared to be the policy of the city that the occupants of the residences in the city shall make the determination of whether solicitors shall be, or shall not be, invited to their respective residences.

§ 112.11 NOTICE REGULATING SOLICITING.

(A) Notice of the refusal of invitation to solicitors, to any residence, shall be given on a weatherproof card, approximately three inches by four inches in size, exhibited upon or near the main entrance door to the residence, indicating the determination by the occupant, containing the applicable words, as follows:

"NO SOLICITORS INVITED"

(B) The letters shall be at least 1/3-inch in height. For the purpose of uniformity, the cards shall be provided by the Chief of Police to persons requesting, at the cost thereof.

(C) The card so exhibited shall constitute sufficient notice to any solicitor of the determination by the occupant of the residence of the information contained thereon.

§ 112.12 DUTY OF SOLICITORS.

(A) It shall be the duty of every solicitor upon going onto any premises in the city upon which a residence is located to first examine the notice provided for in § 112.11 if any is attached, and be governed by the statement contained on the notice. If the notice states "NO SOLICITORS INVITED," then the solicitor, whether registered or not, shall immediately and peacefully depart from the premises.

(B) Any solicitor who has gained entrance to any residence, whether invited or not, shall immediately and peacefully depart from the premises when requested to do so by the occupant.

Penalty, see § 10.99

§ 112.13 UNINVITED SOLICITING PROHIBITED.

It is hereby declared to be unlawful and shall constitute a nuisance for any person to go upon any premises and ring the doorbell upon or near any door, or create any sound in any manner calculated to attract the attention of the occupant of such residence, for the purpose of securing an audience with the occupant thereof and engage in soliciting in defiance of the notice exhibited at the residence in accordance with the provisions of § 112.11 above.

Penalty, see § 10.99

§ 112.14 TIME LIMIT ON SOLICITING.

It is hereby declared to be unlawful and shall constitute a nuisance for any person to go upon any premises and ring the doorbell upon or near any door of a residence located thereon, or rap or knock upon any door, or create any sound in any other manner calculated to attract the attention of the occupant of such residence, for the purpose of securing an audience with the occupant thereof and engage in soliciting, prior to 9:00 a.m. or after 9:00 p.m. of any weekday or Saturday, or at any time on a Sunday, on a state or national holiday, or on an election day.

Penalty, see § 10.99

§ 112.15 REGULATIONS REGARDING TRAFFIC AND NOISE MAKING

No licensee shall continue to hawk or peddle merchandise or services on any street, alley, or public place in the city when requested by a police officer to refrain therefrom because of congested traffic conditions. No licensee shall shout or call his or her wares in a loud, boisterous, or unseemly manner, or to the disturbance of citizens or dwellers in the city, nor shall any licensee use any loud or harsh horn or bell or other noise making devise to call attention to his or her wares or to his or her presence for the purpose of conducting the business or acts for which his or her license was granted.

Penalty, see § 10.99

CHAPTER 113: JUNK YARDS

Section

- 113.01 Operation without license prohibited
- 113.02 License application requirements; fence required around junk yard
- 113.03 Holding period; records to be kept
- 113.04 Restriction on purchases
- 113.05 Conditions on license

Statutory reference:

Authority to regulate trades and occupations, see M.S.A. § 5.2082(4)

§ 113.01 OPERATION WITHOUT LICENSE PROHIBITED.

No individual, firm or corporation shall keep a junk yard, junk shop or a place for the dismantling of automobiles, or engage in the business of buying, collecting and selling of old rope, iron, brass, copper, lead, rubber, paper or automobile parts, without first procuring a license to do so as hereinafter provided.

(Ord. 107, passed 10-4-37) Penalty, see § 10.99

§ 113.02 LICENSE APPLICATION REQUIREMENTS; FENCE REQUIRED AROUND JUNK YARD.

Application for a license shall be made to the City Clerk, and shall contain the name or names of the applicant, and the place proposed to be operated by him. This application shall be referred by the City Clerk to a committee appointed by the Mayor and said committee shall investigate as to the moral character of the applicant and also as to where the business is proposed to be carried on. If the report of the committee is favorable in all respects, the committee shall authorize the City Clerk to issue to the applicant a license upon the payment of such fees as shall from time to time be established by resolution of the City Council. The license shall be good for one year from date of the license. No person now carrying on a business requiring such license shall be allowed to continue such business until he has obtained a license and designation of place of business hereunder. There shall be a six foot high fence around all junk yards within the city.

(Ord. 107, passed 10-4-37) Penalty, see § 10.99

§ 113.03 HOLDING PERIOD; RECORDS TO BE KEPT.

(A) A licensee hereunder shall not sell or dispose of any article nor dismantle any automobile, until the same has been in his possession for at least 48 hours.

(B) The licensee shall also keep a book containing the name and description of every seller to him of any article, and the book shall at all times be open to the inspection of any police officer of the city, county or state.

(Ord. 107, passed 10-4-37) Penalty, see § 10.99

§ 113.04 RESTRICTION ON PURCHASES.

No licensee hereunder shall buy or receive any article or automobile from anyone under the age of 21 years, nor shall he buy any article from an intoxicated person, nor from any person whom he suspects or knows to be a thief, or an associate of thieves or a receiver of stolen property.

(Ord. 107, passed 10-4-37) Penalty, see § 10.99

§ 113.05 CONDITIONS ON LICENSE.

The committee investigating any application for a license may impose as a condition for the granting of the license that the licensee shall run the place, yard or shop in such a manner that the place, yard or shop shall not become a nuisance by reason of noise, disagreeable odors or fumes, and may make such other regulations as may be necessary to prevent the business of the licensee from being a noisy and offensive business within the city limits.

(Ord. 107, passed 10-4-37)

Cross-reference:

Nuisances, see Ch. 94

Nuisance animals, see § 91.05

Nuisance trees, see § 97.11

CHAPTER 114: YARD SALES

Section

- 114.01 Definition
- 114.02 Sales in violation of chapter prohibited
- 114.03 Permit required
- 114.04 Information in permit; display required
- 114.05 City wide rummage, yard and garage sale
- 114.06 Limitation on number of sales
- 114.07 Duration of permit
- 114.08 Signs; fees for failure to remove
- 114.09 Zones subject to chapter

- 114.99 Penalty

§ 114.01 DEFINITION.

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

RUMMAGE SALE, YARD SALE or GARAGE SALE. The sale of any new, used, antique or second-hand merchandise conducted in any yard, garage, home, building or vacant lot within the city.

(Ord. 169, passed 4-18-77)

§ 114.02 SALES IN VIOLATION OF CHAPTER PROHIBITED.

It shall be unlawful for any person, corporation or entity to conduct any rummage, yard or garage sale at any residential location without first complying with the provision of this chapter.

(Ord. 169, passed 4-18-77; Am. Ord. 299, passed 3-16-09) Penalty, see § 114.99

§ 114.03 PERMIT REQUIRED.

Before any sale defined under § 114.01 shall be permitted, a permit shall be obtained from the city hall and the fee as prescribed by the City Council shall be paid.

(Ord. 169, passed 4-18-77) Penalty, see § 114.99

§ 114.04 INFORMATION IN PERMIT; DISPLAY REQUIRED.

The permit shall state the date or dates and the time the sale shall be permitted, and shall be publicly displayed at the site of the sale.

(Ord. 169, passed 4-18-77) Penalty, see § 114.99

§ 114.05 CITY WIDE RUMMAGE, YARD AND GARAGE SALE.

The City Council may designate a specified weekend as a city wide rummage, yard and garage sale. This shall be a voluntary, permit free weekend consisting of Thursday, Friday, Saturday, Sunday and Monday. No commercial sales or vendors will be permitted.

(Ord. 299, passed 3-16-09)

§ 114.06 LIMITATION ON NUMBER OF SALES.

No more than one sale shall be permitted at any one location within a three-month period. Sales conducted during the permit free weekend shall not be subject to this section.

(Ord. 169, passed 4-18-77; Am. Ord. 299, passed 3-16-09) Penalty, see § 114.99

§ 114.07 DURATION OF PERMIT.

The permit shall be for no more than five consecutive days.

(Ord. 169, passed 4-18-77)

§ 114.08 SIGNS; FEES FOR FAILURE TO REMOVE.

(A) Any and all signs posted for such sale shall display the permit number and shall be removed prior to the expiration time set forth on the permit.

(B) The permit applicant shall pay such additional fees as prescribed by the City Council for the failure to remove such signs.

(Ord. 169, passed 4-18-77) Penalty, see § 114.99

§ 114.09 ZONES SUBJECT TO CHAPTER.

This chapter shall apply to all residential and agricultural zones of the city as defined by the city zoning ordinance.

(Ord. 169, passed 4-18-77)

Editor's note:

A copy of the city zoning ordinance is available for public inspection at the office of the City Clerk.

§ 114.99 PENALTY.

Any person convicted of a violation of this chapter shall be guilty of a misdemeanor, punishable by \$100 fine or imprisonment of 90 days in jail or both fine and imprisonment.

(Ord. 299, passed 3-16-09)

CHAPTER 115: TELECOMMUNICATIONS

Section

- 115.01 Purpose
- 115.02 Definitions
- 115.03 Permit required
- 115.04 Issuance of permit
- 115.05 Construction/engineering permit
- 115.06 Conduit or utility poles
- 115.07 Route maps

- 115.08 Repair of damage
- 115.09 Establishment and payment of maintenance fee
- 115.10 Modification of existing fees
- 115.11 Savings clause
- 115.12 Use of funds
- 115.13 Annual report
- 115.14 Cable television operators
- 115.15 Existing rights
- 115.16 Compliance
- 115.17 Reservation of police powers
- 115.18 Authorized city officials

- 115.99 Penalty

§ 115.01 PURPOSE.

The purposes of this chapter are to regulate access to and ongoing use of public rights-of-way by telecommunications providers for their telecommunications facilities while protecting the public health, safety, and welfare and exercising reasonable control of the public rights-of-way in compliance with the Metropolitan Extension Telecommunications Rights-of-Way Oversight Act (Act No. 48 of the Public Acts 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.

(Ord. 267, passed 10-21-02)

§ 115.02 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 (Act No. 48 of the Public Acts of 2002), as amended from time to time.

CITY. The City of Gladwin.

CITY ADMINISTRATOR. The City Administrator or his or her designee.

CITY COUNCIL. The City Council of the City of Gladwin or its designee. This section does not authorize delegation of any decision or function that is required by law to be made by the City Council.

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 Section 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.

TELECOMMUNICATIONS 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. **TELECOMMUNICATIONS FACILITIES or FACILITIES** do not include antennas, supporting structures for antennas, equipment shelters or houses, and any ancillary equipment and miscellaneous hardware used to provide federally licensed commercial mobile service as defined in Section 332(d) of part I of Title III of the Communications Act of 1934, Chapter 652, 48 Stat. 1064, 47 U.S.C. 332 and further defined as commercial mobile radio service in 47 C.F.R. 20.3, and service provided by any wireless, two-way communication device.

TELECOMMUNICATIONS PROVIDER, PROVIDER and TELECOMMUNICATIONS SERVICES. Those terms as defined in Section 102 of the Michigan Telecommunications Act, Public Act 179 of 1991, being M.C.L.A. § 484.2102. **TELECOMMUNICATIONS PROVIDER** does not include a person or an affiliate of that person when providing a federally licensed commercial mobile radio service as defined in Section 332(d) of part I of the Communications Act of 1934, Chapter 652, 48 Stat. 1064, 47 U.S.C. 332 and further defined as commercial mobile radio service in 47 C.F.R. 20.3, or service provided by any wireless, two-way communication device. For the purpose of the Act and this chapter only, a **PROVIDER** also includes all of the following:

(a) A cable television operator that provides a telecommunications service.

(b) Except as otherwise provided by the Act, a person who owns telecommunication facilities located within a public right-of-way.

(c) A person providing broadband internet transport access service.

(Ord. 267, passed 10-21-02)

§ 115.03 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 Section 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 Section 6(5) of the Act.

(C) *Confidential information.* If a telecommunications provider claims that any portion of the route maps submitted by it as part of its application contains trade secret, proprietary, or confidential information, which is exempt from the Freedom of Information Act, Public Act 442 of 1976, being M.C.L.A. §§ 15.231 to 15.246, pursuant to Section 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 Section 6(2) of the Act.

(F) *Previously issued permits.* Pursuant to Section 5(1) of the Act, authorizations or permits previously issued by the city under Section 251 of the Michigan Telecommunications Act, Public Act 179 of 1991, being M.C.L.A. § 484.2251, and authorizations or permits issued by the city to telecommunications providers prior to the 1995 enactment of Section 251 of the Michigan Telecommunications Act but after 1985, shall satisfy the permit requirements of this section.

(G) *Existing providers.* Pursuant to Section 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 Section 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 subchapter. Pursuant to Section 5(3) of the Act, a telecommunications provider submitting an application under this division is not required to pay the \$500 application fee required under division (D) above. A provider under this division shall be given up to an additional 180 days to submit the permit application if allowed by the Authority, as provided in Section 5(4) of the Act.

(Ord. 267, passed 10-21-02) Penalty, see § 115.99

§ 115.04 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 Section 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 § 115.03(B) of this chapter for access to a public right-of-way within the city. Pursuant to Section 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 Sections 6(1), 6(2) and 15 of the Act.

(C) *Conditions.* Pursuant to Section 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 Section 15(3) of the Act, and without limitation on division (C) above, the City Administrator may require that a bond be posted by the telecommunications provider as a condition of the permit. If a bond is required, it shall not exceed the reasonable cost to ensure that the public right-of-way is returned to its original condition during and after the telecommunications provider's access and use.

(Ord. 267, passed 10-21-02)

§ 115.05 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 Chapter 96 of this code, as amended, for construction within the public rights-of-way. No fee shall be charged for such a construction or engineering permit.

(Ord. 267, passed 10-21-02) Penalty, see § 115.99

§ 115.06 CONDUIT OR UTILITY POLES.

Pursuant to Section 4(3) of the Act, obtaining a permit or paying the fees required under the Act or under this chapter does not give a telecommunications provider a right to use conduit or utility poles.

(Ord. 267, passed 10-21-02)

§ 115.07 ROUTE MAPS.

Pursuant to Section 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. The route maps should be in paper format unless and until the MPSC determines otherwise, in accordance with Section 6(8) of the Act.

(Ord. 267, passed 10-21-02)

§ 115.08 REPAIR OF DAMAGE.

Pursuant to Section 15(5) of the Act, a telecommunications provider undertaking an excavation or construction or installing telecommunications facilities within a public right-of-way or temporarily obstructing a public right-of-way in the city, as authorized by a permit, shall promptly repair all damage done to the street surface and all installations under, over, below, or within the public right-of-way and shall promptly restore the public right-of-way to its preexisting condition.

(Ord. 267, passed 10-21-02) Penalty, see § 115.99

§ 115.09 ESTABLISHMENT AND PAYMENT OF MAINTENANCE FEE.

In addition to the non-refundable application fee paid to the city set forth in § 115.03(D), a telecommunications provider with telecommunications facilities in the city's public rights-of-way shall pay an annual maintenance fee to the Authority pursuant to Section 8 of the Act.

(Ord. 267, passed 10-21-02) Penalty, see § 115.99

§ 115.10 MODIFICATION OF EXISTING FEES.

In compliance with the requirements of Section 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 Section 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 Section 8 of the Act. The city shall provide each telecommunications provider affected by the fee with a copy of this chapter, in compliance with the requirement of Section 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.

(Ord. 267, passed 10-21-02)

§ 115.11 SAVINGS CLAUSE.

Pursuant to Section 13(5) of the Act, if Section 8 of the Act is found to be invalid or unconstitutional, the modification of fees under § 115.10 shall be void from the date the modification was made.

(Ord. 267, passed 10-21-02)

§ 115.12 USE OF FUNDS.

Pursuant to Section 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 Act No. 51 of the Public Acts of 1951.

(Ord. 267, passed 10-21-02)

§ 115.13 ANNUAL REPORT.

Pursuant to Section 10(5) of the Act, the City Administrator shall file an annual report with the Authority on the use and disposition of funds annually distributed by the Authority.

(Ord. 267, passed 10-21-02)

§ 115.14 CABLE TELEVISION OPERATORS.

Pursuant to Section 13(6) of the Act, the city shall not hold a cable television operator in default or seek any remedy for its failure to satisfy an obligation, if any, to pay after November 1, 2002, the effective date of this Act, a franchise fee or similar fee on that portion of gross revenues from charges the cable operator received for cable modem services provided through broadband internet transport access services.

(Ord. 267, passed 10-21-02)

§ 115.15 EXISTING RIGHTS.

Pursuant to Section 4(2) of the Act, except as expressly provided herein with respect to fees, this chapter shall not affect any existing rights that a telecommunications provider or the city may have under a permit issued by the city or under a contract between the city and a telecommunications provider related to the use of the public rights-of-way.

(Ord. 267, passed 10-21-02)

§ 115.16 COMPLIANCE.

The city hereby declares that its policy and intent in adopting this chapter is to fully comply with the requirements of the Act, and the provisions hereof should be construed in such a manner as to achieve that purpose. The city shall comply in all respects with the requirements of the Act, including but not limited to the following:

(A) Exempting certain route maps from the Freedom of Information Act, Public Act 442 of 1976, being M.C.L.A. §§ 15.231 to 15.246, as provided in § 115.03(C) of this chapter;

(B) Allowing certain previously issued permits to satisfy the permit requirements hereof, in accordance with § 115.03(F);

(C) 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 § 115.03(G);

(D) Approving or denying an application for a permit within 45 days from the date a telecommunications provider files an application for a permit for access to and usage of a public right-of-way within the city, in accordance with § 115.04(A);

(E) Notifying the MPSC when the city has granted or denied a permit, in accordance with § 115.04(A);

(F) Not unreasonably denying an application for a permit, in accordance with § 115.04(A);

(G) Issuing a permit in the form approved by the MPSC, with or without additional or different permit terms, as provided in § 115.04(B);

(H) Limiting the conditions imposed on the issuance of a permit to the telecommunications provider's access and usage of the public right-of-way, in accordance with § 115.04(C);

(I) Not requiring a bond of a telecommunications provider which exceeds the reasonable cost to ensure that the public right-of-way is returned to its original condition during and after the telecommunication provider's access and use, in accordance with § 115.04(D);

(J) Not charging any telecommunications providers any additional fees for construction or engineering permits, in accordance with § 115.05;

(K) Providing each telecommunications provider affected by the city's right-of-way fees with a copy of this chapter, in accordance with § 115.10;

(L) Submitting an annual report to the Authority, in accordance with § 115.13; and

(M) Not holding a cable television operator in default for a failure to pay certain franchise fees, in accordance with § 115.14.

(Ord. 267, passed 10-21-02) Penalty, see § 115.99

§ 115.17 RESERVATION OF POLICE POWERS.

Pursuant to Section 15(2) of the Act, this chapter shall not limit the city's right to review and approve a telecommunication provider's access to and ongoing use of a public right-of-way or limit the city's authority to ensure and protect the health, safety, and welfare of the public.

(Ord. 267, passed 10-21-02)

§ 115.18 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 this code.

(Ord. 267, passed 10-21-02)

§ 115.99 PENALTY.

A violation of this chapter shall be a violation of this code and shall be a misdemeanor, with a maximum penalty of 90 days in jail and/or a \$100 fine. Nothing in this section shall be construed to limit the remedies available to the city in the event of a violation by a person of this chapter or a permit.

(Ord. 267, passed 10-21-02)

CHAPTER 116: RECREATIONAL MARIHUANA FACILITIES

Section

116.01 Recreational marihuana facilities prohibited

§ 116.01 RECREATIONAL MARIHUANA FACILITIES PROHIBITED.

(A) This chapter may be referred to as the Gladwin City Opt Out Ordinance.

(B) No recreational marihuana facility shall be established or operated within the jurisdiction of the city.

(Ord. 340, passed 12-17-18)

TITLE XIII: GENERAL OFFENSES

Chapter

130. OFFENSES AGAINST PUBLIC ORDER

131. OFFENSES AGAINST PUBLIC HEALTH AND SAFETY

CHAPTER 130: OFFENSES AGAINST PUBLIC ORDER

Section

General Provisions

130.01 Curfew for minors

130.02 Alcohol and minors

130.03 Parental neglect

Disorderly Conduct

130.15 Short title

130.16 Definitions

130.17 Disorderly persons subject to penalty

130.18 Prohibited acts enumerated

Electrical Interference With Radio Reception

130.30 General provisions

130.31 Compliance at owner's expense

GENERAL PROVISIONS

§ 130.01 CURFEW FOR MINORS.

(A) It shall be unlawful for any minor under the age of 18 years to be on the streets or alleys of the city between the hours of 10:30 p.m. and 6:00 a.m. unless accompanied by parents or a guardian 21 years-of-age or older.

(B) Persons 17 years of age or older shall not be in violation of division (A) of this section between the hours of 10:30 p.m. and 12:00 midnight on Friday and Saturday nights.

(C) Minors working in the evening shall secure a card or note from employers if on the streets after 10:30 p.m.

(D) Students attending school functions shall be at their respective homes within 30 minutes after such program closes.

(E) Any person of the age of 17 years or over assisting, aiding, abetting, allowing, permitting, or encouraging any minor under the age of 17 years to violate the provisions of divisions (A) or (B) of this section hereby is guilty of a misdemeanor.

(Ord. 113, passed 8-2-43; Am. Ord. passed 10-20-69) Penalty, see § 10.99

§ 130.02 ALCOHOL AND MINORS.

(A) No person under the age of 21 years shall purchase or attempt to purchase, possess, transport or have under their control any alcoholic liquor, unless said person is employed by a licensee under the Michigan Liquor Control Act, being Public Act 8 of the Extra Session of 1933, as amended, being M.S.A. §§ 18.971 et seq., as amended, and is possessing, transporting, or having such alcoholic liquor under their control during regular working hours and in the course of their employment.

(B) No person under the age of 21 years shall consume alcoholic liquor.

(Ord. 193, passed 2-15-93) Penalty, see § 10.99

Cross-reference:

Possession or use of weapon while under influence, see § 131.05

Driving under the influence, see §§ 70.25 through 70.31

Alcoholic beverages prohibited in parks, see § 95.12

§ 130.03 PARENTAL NEGLECT.

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

CRIMINAL ACTS. Those acts which violate the state statutes or the city ordinances, and shall include traffic violations.

HABITUAL OFFENDER. One who repeatedly commits two or more criminal acts, including traffic violations, within a 12-month period.

MINOR. Any person under the age of 17 years residing at the home of the parent as defined herein.

PARENT. Mother, father, legal guardian or any other person having the care, custody and control of any minor, or such other adult with whom a minor may be found to reside with.

(B) *Parental neglect prohibited.* It shall be unlawful for the parent of any minor to fail to supervise a reasonable degree of parental control which would result in the minor committing any criminal act as defined herein or to permit a minor to become delinquent as defined in the Michigan Probate Code pertaining to juveniles.

(C) *Notification and responsibility.*

(1) Whenever a minor shall be arrested or detained for the commission of any criminal act within the city or becomes delinquent as defined in the Michigan Probate Code, the parent of such a minor shall be immediately notified by the Police Department advising the parent of such arrest or detention, the reason therefor and their responsibility under this section.

(2) A record of such notifications shall be kept by the City Police Department.

(D) The parent of an habitual offender may be deemed guilty of parental neglect and shall be subject to the penalty provided in § 10.99.

(Ord. 157, passed 9-8-70) Penalty, see § 10.99

Statutory reference:

Juvenile delinquency defined, see M.S.A. § 27.3178(598.2)

DISORDERLY CONDUCT

§ 130.15 SHORT TITLE.

This subchapter shall be known as the "Disorderly Persons" ordinance and it shall be deemed sufficient, in any actions for the enforcement of the provisions hereof, to define the same by such short title, and by reference to the number hereof.

(Ord. 161, passed 8-20-73)

§ 130.16 DEFINITIONS.

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

ENGAGED IN LAWFUL BUSINESS. Going to or from or presence inside a lawful business establishment located on the land or premises, during the time that the business establishment is open for business.

PUBLIC PLACE. Any street, alley, park, public building, any place of business or assembly open to or frequented by the public, and any other place which is open to the public view, or to which the public has access.

(Ord. 161, passed 8-20-73; Am. Ord. 161A, passed 10-2-89)

§ 130.17 DISORDERLY PERSONS SUBJECT TO PENALTY.

Any person who shall be a disorderly person within the terms of this subchapter, or who shall engage in any acts of disorderly conduct, shall be punished as provided in § 10.99.

(Ord. 161, passed 8-20-73) Penalty, see § 10.99

Cross-reference:

Prohibited acts of disorderly conduct, see § 130.18

§ 130.18 PROHIBITED ACTS ENUMERATED.

Any person who shall engage in any of the following acts shall be deemed a disorderly person within the terms of this subchapter:

(A) Commit an assault, or an assault and battery on any person;

- (B) Be drunk in any public place or under the influence of any drug in any public place, and who is either endangering directly the safety of another person or of property, or is acting in a manner that causes a public disturbance;
- (C) Engage in any indecent, insulting, immoral, or obscene conduct in any public place;
- (D) Engage in peeping in the windows of any inhabited place;
- (E) Beg in any public place;
- (F) Swim or bathe in any public place without wearing proper apparel;
- (G) Utter vile, profane or obscene language in any public place;
- (H) Engage in fortune telling or pretend to tell fortunes for hire, gain, or reward;
- (I) Make any immoral exhibition or indecent exposure of his or her person;
- (J) Summon, as a joke or prank or otherwise without any good reason therefor, by telephone or otherwise, the Police or the Fire Department or any public or private ambulance to go to any address where the service called for is not needed;
- (K) Destroy, injure or in any manner deface any drinking fountain located in the city or throw or deposit any substance therein, or in any manner pollute the water in the basin of any fountain or detach the cups or other parts of such drinking fountain;
- (L) Insult, accost, molest, or otherwise annoy, either by word of mouth, sign or motion any person in a public place;
- (M) Engage in any disturbance, fight or quarrel in a public place;
- (N) Jostle or roughly crowd persons in any street, alley, park or public building;
- (O) Loiter on any street or sidewalk or in any park or public building or conduct himself in any public place so as to obstruct the free and uninterrupted passage of the public;
- (P) 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;
- (Q) Engage in any act of prostitution;
- (R) Attend, frequent, operate or be an occupant or inmate of any place where prostitution, gambling, the illegal sale of intoxicating liquor or any other illegal or immoral business or occupation is permitted or conducted;
- (S) Engage in prostitution, gambling, the illegal sale of intoxicating liquor, or any other illegal or immoral business or occupation;
- (T) Solicit or accost any person for the purpose of inducing the commission of any illegal or immoral act;
- (U) Knowingly transport any person to a place where prostitution or gambling is practiced, encouraged, or allowed for the purpose of enabling such person to engage in gambling or in any illegal or immoral act;
- (V) 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;
- (W) Disturb the public peace and quiet by loud, boisterous, or vulgar conduct;

(X) Permit or suffer any place occupied or controlled by him to be a resort of noisy, boisterous or disorderly persons;

(Y) Obstruct, resist, hinder, or oppose any member of the police force, or any peace officer in the discharge of his duties as such;

(Z) Willfully enter upon the lands or premises of another without lawful authority, after having been forbidden so to do by the owner or occupant, agent or servant of the owner or occupant; or neglect or refuse to depart from the land or premises of another, upon being notified to depart therefrom by the owner or occupant or the agent of either, if without lawful authority to remain. If it shall appear that the lands or premises in question have been conspicuously posted by a sign or signs approved by the city as to content, size, and location which forbids trespassing in general, trespassing between certain specified times or entry upon said lands or premises when not engaged in lawful business with the owner or occupant, such a showing shall be prima facie evidence that a person found on the land or premises, who is not engaged in lawful business with the owner or occupant, is there without lawful authority and has been forbidden to enter or notified to depart as required by this division.

(AA) Spit on any sidewalk or on the floor or seat of any public carrier, or on any floor, wall, seat or equipment of any place of public assemblage;

(BB) Wrongfully throw or propel any snowball, missile, or object from any moving automobile;

(CC) Wrongfully throw or propel any snowball, missile or object toward any person or automobile;

(DD) Wilfully destroy, remove, damage, alter or in any manner deface any property not his own, or any public school building, or any public building, bridge, fire hydrant, alarm box, streetlight, street sign, traffic control device, railroad sign or signal; or mark or post hand bills on, or in any manner mar the walls of any public building, or fence, tree, or pole within the city; or destroy, take, or meddle with the 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; or disturb, tamper with, disconnect or damage any city water meter without proper authority;

(EE) Commit the offense of larceny, by stealing, of the property of another, any money, goods or chattels, or any bank note, bank bill, bond, promissory note, due bill, bill of exchange, or other bill, draft, order or certificate, or any book of accounts for or concerning money or goods due or to become due, or to be delivered, or any deed or writing containing a conveyance of land, or any other valuable contract in force or any receipt, release of defeasance of any writ, process or public record of the value of \$100 or less.

(FF) Solicit, petition, canvass, or in any way interfere with the access of persons to and from polling places in local, state, or national elections, either at or within such polling places or within 100 feet from the entrance of such polling places; and

(GG) Telephone any person repeatedly or cause the same to be done for the primary purpose of harassing such other person or his family, whether or not conversation ensues, or use any threatening, vulgar, indecent, obscene, immoral, or insulting language over any telephone.

(HH) Knowingly or intentionally use or possess a controlled substance (as defined by Michigan statute), an official prescription form or prescription form unless the controlled substance, official prescription form or prescription form was obtained directly from or pursuant to a valid prescription or order of a practitioner while acting in the course of the practitioner's professional practice.

(Ord. 161, passed 8-20-73; Am. Ord. 161A, passed 10-2-89; Am. Ord. 248, passed 10-4-99; Am. Ord. 285, passed 6-6-05) Penalty, see § 10.99

ELECTRICAL INTERFERENCE WITH RADIO RECEPTION

§ 130.30 GENERAL PROVISIONS.

(A) It shall be unlawful for any person, persons or corporation to operate or cause to have operated, within the city limits, during the hours of from 7 a.m. in the morning, until 12:00 midnight, any high frequency electrical apparatus, which produces electrical waves that interfere with radio reception and which apparatus cannot be shielded or grounded so as to entirely eliminate the interference.

(B) It shall be unlawful for any person, persons, or corporation to operate or cause to have operated in the city limits at any time any electrical apparatus such as motors, vacuum sweepers, fans, heat pads, vibrating buzzers, electric drills, and the like, unless same be shielded, grounded or fitted with condensers or choke calls which will eliminate the radio interference.

(Ord. 95B, passed 8-18-30) Penalty, see § 10.99

§ 130.31 COMPLIANCE AT OWNER'S EXPENSE.

It shall be the duty of all owners or users of electrical apparatus, as described in § 130.30, to eliminate all interference from such apparatus at their own expense.

(Ord. 95B, passed 8-18-30) Penalty, see § 10.99

CHAPTER 131: OFFENSES AGAINST PUBLIC HEALTH AND SAFETY

Section

Weapons Control

- 131.01 Definition
- 131.02 Aiming weapons prohibited
- 131.03 Discharge of weapons prohibited
- 131.04 Reckless use of weapons
- 131.05 Possession or use of weapon while under influence
- 131.06 Hunting prohibited

WEAPONS CONTROL

§ 131.01 DEFINITION.

For the purpose of this chapter, **WEAPON** shall include any instrument used in the propulsion of shot, shell, bullets, darts, B-B's or projectiles of any kind or any combination thereof, by the action of gun-powder exploded within it, or by means of any propellant, gas, spring action, compressed air or other means. A bow and arrow or sling shot shall be deemed a weapon within the meaning of this chapter.

(Ord. 194, passed 2-15-93)

§ 131.02 AIMING WEAPONS PROHIBITED.

No person shall intentionally, with or without malice, point or aim any weapon at or toward any other person.

(Ord. 194, passed 2-15-93) Penalty, see § 10.99

§ 131.03 DISCHARGE OF WEAPONS PROHIBITED.

(A) It shall be unlawful for any person, except a police officer or other peace officer in the discharge of their duties, to fire or discharge any weapon in the city; further provided, nothing in this chapter shall prevent the discharge of weapons in a regularly licensed public or private target gallery or range, under suitable regulations for the protection and safety of citizens and inhabitants of the city, and located in zoning districts as may be provided by the city zoning ordinance, but in no case shall such an activity be permitted in any residential district.

(B) It shall be unlawful for any person to use a weapon in any way to destroy, damage or injure any electric light, equipment, vehicle, aircraft or any animal or any other real or personal property, public or private, within the city; provided this section shall not apply to any police officer or other peace officer acting in discharge of their duties.

(Ord. 194, passed 2-15-93) Penalty, see § 10.99

Editor's note:

A copy of the city zoning ordinance is available for public inspection at the office of the City Clerk.

§ 131.04 RECKLESS USE OF WEAPONS.

No person shall use, carry, handle or discharge any weapon carelessly and heedlessly in willful or wanton disregard for the rights, safety, or property of others, or without due caution or circumspection.

(Ord. 194, passed 2-15-93) Penalty, see § 10.99

§ 131.05 POSSESSION OR USE OF WEAPON WHILE UNDER INFLUENCE.

No person while under the influence of intoxicating liquor or exhilarating or stupefying drugs shall carry, have in their possession or control, use or discharge any weapon.

(Ord. 194, passed 2-15-93) Penalty, see § 10.99

Cross-reference:

Alcohol and minors, see § 130.02

Driving under the influence, see §§ 70.25 through 70.31

Alcoholic beverages prohibited in parks, see § 95.12

§ 131.06 HUNTING PROHIBITED.

No person shall hunt any fowl, wild game or animals of any kind with a weapon, loaded or unloaded, within the city.

(Ord. 194, passed 2-15-93) Penalty, see § 10.99

TITLE XV: LAND USAGE

Chapter

150. DOWNTOWN DEVELOPMENT

151. HOUSING CODE

152. PLANNING

153. SUBDIVISION CODE**154. ZONING CODE****155. UNIFORM CODE FOR ABATEMENT OF DANGEROUS BUILDINGS****156. FLOODPLAIN MANAGEMENT****CHAPTER 150: DOWNTOWN DEVELOPMENT**

Section

Downtown Development Authority

150.01 Title

150.02 Definitions

150.03 Determination of necessity

150.04 Creation of Authority

150.05 Description of Downtown District

150.06 Board of Trustees

150.07 Powers of Authority

150.08 Director; bond of Director

150.09 Fiscal year; adoption of budget

Development Plan and Tax Increment Financing Plan

150.20 Definitions

150.21 Approval and adoption of the Development Plan and Tax Increment Financing Plan

150.22 Boundaries of Development Area

150.23 Preparation of base year assessment roll

150.24 Preparation of annual assessment roll

150.25 Account status report

150.26 Implementation

150.27 Duration

Cross-reference:*Departments, boards and commissions, see Ch. 32**Downtown Development Authority District Boundaries, see T.S.O. I***DOWNTOWN DEVELOPMENT AUTHORITY****§ 150.01 TITLE.**

This subchapter shall be known and may be cited as the "Downtown Development Authority ordinance."

(Ord. 180, passed 3-18-91)

§ 150.02 DEFINITIONS.

For the purpose of this subchapter, terms shall either have the same meaning as given to them in Public Act 197 of 1975, being M.S.A. §§ 5.3010(1) et seq., or the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ACT 197. The Downtown Development Authority Act, Public Act 197 of 1975, being M.S.A. §§ 5.3010(1) et seq., as may be amended.

AUTHORITY. The Downtown Development Authority created by this subchapter.

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

CAPTURED ASSESSED VALUE. The amount in any one year by which the current assessed value as finally equalized of all taxable property in the Development Area exceeds the initial assessed value, as defined in this section and more fully described in the Development Plan and Tax Increment Financing Plan.

CHIEF EXECUTIVE OFFICER. The Mayor of the City.

DOWNTOWN DISTRICT. The downtown district designated by this subchapter as now existing or hereafter amended.

INITIAL ASSESSED VALUE. The most recently assessed value, as finally equalized by the State Board of Equalization, of all taxable property within the boundaries of the Downtown Development Authority District at the time of adoption of this chapter, as more fully described in the Downtown Development Authority Plan and Tax Increment Financing Plan.

(Ord. 180, passed 3-18-91)

§ 150.03 DETERMINATION OF NECESSITY.

The City Council hereby determines that it is necessary for the best interests of the city to halt property value deterioration and increase property tax valuation where possible in the business district of the city, to eliminate the causes of that deterioration and to promote economic growth by establishing a Downtown Development Authority pursuant to Act 197.

(Ord. 180, passed 3-18-91)

§ 150.04 CREATION OF AUTHORITY.

There is hereby created, pursuant to Act 197, 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 "City of Gladwin Downtown Development Authority." The Authority may adopt a seal, may sue and be sued in any court for this state and shall possess all of the powers necessary to carry out the purpose of its incorporation as provided by this subchapter and Act 197. The enumeration of a power in this subchapter or in Act 197 shall not be construed as a limitation upon the general powers of the Authority.

(Ord. 180, passed 3-18-91)

§ 150.05 DESCRIPTION OF DOWNTOWN DISTRICT.

The Downtown District in which the Authority shall exercise its powers, as provided by Act 197, shall consist of the territory in the city as set forth in the boundary map, subject to changes which may be made by the City Council pursuant to this subchapter and Act 197. The most current boundary map is available for public inspection at the office of the City Clerk.

(Ord. 180, passed 3-18-91)

§ 150.06 BOARD OF TRUSTEES.

The Authority shall be under the supervision and control of a Board of Trustees consisting of the Chief Executive Officer of the city and at least eight members as provided by Act 197. The members shall be appointed by the Chief Executive Officer subject to approval by the Council and shall hold office for the terms provided in Act 197. All members shall hold office until the member's successor is appointed. By resolution, the Council may enlarge the membership of the Board to up to 12 members (exclusive of the Mayor), or may decrease the membership to no less than eight members (exclusive of the Mayor) provided that no member shall be removed from the Board by such action until his/her term shall have expired.

(Ord. 180, passed 3-18-91)

§ 150.07 POWERS OF AUTHORITY.

Except as specifically otherwise provided in this subchapter, the Authority shall have all powers provided by law, including but not limited to those set forth in Act 197 as amended, subject to the limitations imposed by law and herein. The Authority shall have the power to adopt a tax increment financing plan pursuant to §§ 14 through 18 of Act 197, being M.S.A. §§ 5.3010(14) through 5.3010(18), with such financing to provide that the captured assessed value subject to such tax increment financing plan shall be limited to such value as does not represent increases in valuation as a result of adjustments to the initial valuation due solely to changes in general economic conditions of the community. Absent an amendment to this subchapter, the Authority shall not have authority to levy an ad valorem tax as permitted by § 12 of Act 197, being M.S.A. § 5.3010(12).

(Ord. 180, passed 3-18-91)

§ 150.08 DIRECTOR; BOND OF DIRECTOR.

If a Director is employed as authorized by Section 5 of Act 197, being M.S.A. § 5.3010(5), he or she shall post bond in the penal sum of \$5,000 as required by said section of said statutes, or shall be subject to such bond as is generally provided by the officers of the city. The Director shall act as the Chief Executive Officer of the Authority.

(Ord. 180, passed 3-18-91)

§ 150.09 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 Council on the same date that the proposed budget for the city is required by the City Charter to be submitted to the Council. The Board shall not finally adopt a budget for any fiscal year until the budget has been approved by the City Council. 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 subchapter authorizing the revenue bonds.

(C) The Authority shall submit financial reports to the City Council as required by the City Council. 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 Council.

(Ord. 180, passed 3-18-91)

DEVELOPMENT PLAN AND TAX INCREMENT FINANCING PLAN

§ 150.20 DEFINITIONS.

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

ACT 197. The Downtown Development Authority Act, Public Act 197 of 1975, being M.S.A. §§ 5.3010(1) et seq., as may be amended.

AUTHORITY. The Downtown Development Authority created by this subchapter.

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

CAPTURED ASSESSED VALUE. The amount in any one year by which the current assessed value as finally equalized of all taxable property in the Development Area exceeds the initial assessed value, as defined in this section and more fully described in the Development Plan and Tax Increment Financing Plan.

CHIEF EXECUTIVE OFFICER. The Mayor of the City.

DEVELOPMENT AREA. The area within the boundaries of the Downtown Development Authority District, as described in § 150.05 and as illustrated in the Downtown Development Authority Development Plan and Tax Increment Financing Plan.

DEVELOPMENT PLAN. The Development Plan for the Downtown Development Authority District, illustrated in the Downtown Development Authority Development Plan and Tax Increment Financing Plan.

DOWNTOWN DEVELOPMENT AUTHORITY. The city's Downtown Development Authority as established by § 150.04.

DOWNTOWN DISTRICT. The downtown district designated by this subchapter as now existing or hereafter amended.

INITIAL ASSESSED VALUE. The most recently assessed value, as finally equalized by the State Board of Equalization, of all taxable property within the boundaries of the Downtown Development Authority District at the time of adoption of this chapter, as more fully described in the Downtown Development Authority Plan and Tax Increment Financing Plan.

TAX INCREMENT. That portion of the tax levy of all taxing jurisdictions paid each year on real and personal property in the Downtown Development Authority District on the captured assessed value, as more fully described in the Downtown Development Authority Development Plan and Tax Increment Financing Plan.

TAX INCREMENT FINANCING PLAN. The Tax Increment Financing Plan for the Downtown Development Authority District, including the Development Plan, as transmitted to the City Commission by the Downtown Development Authority for public hearing, and as confirmed by this subchapter, copies of which are on file in the office of the City Clerk.

TAXING JURISDICTION. Each unit of government levying an ad valorem property tax on property in the Downtown Development Authority District.

(B) All other undefined terms, unless the context of this subchapter specifically requires otherwise, shall have the meanings attributed to them by current usage.

(Ord. 187, passed 5-4-92; Am. Ord. 309, passed 3-1-10)

§ 150.21 APPROVAL AND ADOPTION OF THE DEVELOPMENT PLAN AND TAX INCREMENT FINANCING PLAN.

(A) Pursuant to § 19(1) of Act 197, being M.S.A. § 5.3010(19)(1), the City Council hereby finds and determines as follows:

- (1) That the Development Plan and Tax Increment Financing Plan constitutes and embodies a public purpose of the city;
- (2) That the Development Plan and Tax Increment Financing Plan meets the requirements set forth in §§ 14(2) and 17(2) of Act 197, being M.S.A. §§ 5.3010(14)(2) and 5.3010(17)(2);
- (3) That the proposed method of financing the development activities described in the Development Plan and Tax Increment Financing Plan is feasible, and that the Downtown Development Authority had the ability to arrange the financing;
- (4) That the development activities described in the Development Plan and Tax Increment Financing Plan are reasonable and necessary to carry out the purposes of Act 197;
- (5) That the land to be acquired within the Downtown Development Authority District is reasonably necessary to carry out the purpose of the Development Plan and Tax Increment Financing Plan and the purposes of Act 197;
- (6) That the Development Plan and Tax Increment Financing Plan is in reasonable accord with the approved community land use plan, also known as the "Master Plan," of the city;
- (7) That public services, such as fire and police protection and utilities are, or will be, adequate to service the Downtown Development Authority District; and
- (8) That such changes in zoning, streets, street levels intersections, and utilities as are contemplated by the Development Plan and Tax Increment Financing Plan are reasonably necessary for the Project.

(B) In accordance with the foregoing considerations, the Downtown Development Authority Development Plan and Tax Increment Financing Plan are hereby approved and adopted for all purposes of Act 197 consistent with the plan, with the following modification: Delete § 8.2(b) - Authority to levy two mills for operations.

(C) A copy of the Development Plan and Tax Increment Financing Plan, and all respective amendments thereto, shall be maintained on file in the City Clerk's office for public inspection, and shall be cross-indexed to this subchapter.

(Ord. 187, passed 5-4-92; Am. Ord. 309, passed 3-1-10)

Editor's note:

The Master Plan is available for public inspection at the office of the City Clerk.

§ 150.22 BOUNDARIES OF DEVELOPMENT AREA.

The boundaries of the Development Area are hereby adopted and confirmed and are coterminous with the Downtown Development Authority boundaries.

(Ord. 187, passed 5-4-92; Am. Ord. 309, passed 3-1-10)

§ 150.23 PREPARATION OF BASE YEAR ASSESSMENT ROLL.

(A) Within 90 days of the effective date of this chapter, the City Assessor shall prepare the initial base year assessment roll. The base year assessment roll shall list each taxing jurisdiction in which the Downtown Authority District is located, the initial assessed value of the Development District on the effective date of this chapter, and the amount of tax revenue derived by each taxing jurisdiction from ad valorem taxes on the property in the Development District.

(B) The City Assessor shall transmit copies of the base year assessment roll to the City Treasurer, the County Treasurer, the Downtown Development Authority, and each taxing jurisdiction, together with a notice that the assessment roll has been prepared in accordance with this subchapter and the Development Plan and Tax Increment Financing Plan approved by this subchapter.

(Ord. 187, passed 5-4-92; Am. Ord. 309, passed 3-1-10)

§ 150.24 PREPARATION OF ANNUAL ASSESSMENT ROLL.

Each year within 15 days following the final equalization of property in the Development District, the City Assessor shall prepare an updated annual assessment roll. The annual assessment roll shall show the information required in the base year assessment roll and, in addition, the captured assessed value for that year. Copies of the annual assessment roll shall be transmitted by the Assessor to the same person as the base year assessment roll, together with a notice that it has been prepared in accordance with this subchapter and the Development Plan and Tax Increment Financing Plan.

(Ord. 187, passed 5-4-92; Am. Ord. 309, passed 3-1-10)

§ 150.25 ACCOUNT STATUS REPORT.

Annually, the Authority shall submit to both City Council and the State Tax Commission a report on the status of the Tax Increment Financing account. The report shall include: the amount and source of revenue in the account; the amount and purpose of expenditures from the account; the amount of principle and interest on any outstanding bonded indebtedness; the initial assessed value of the project area; the captured assessed value retained by the authority; the tax increments received; and any additional information that the City Council or the State Tax Commission considers necessary. The report shall be published in a newspaper of general circulation in the city.

(Ord. 187, passed 5-4-92; Am. Ord. 309, passed 3-1-10)

§ 150.26 IMPLEMENTATION.

All tax increments shall be transmitted by the City Treasurer into an account of the Downtown Development Authority at the earliest practicable date. All tax increments, so received by the Downtown Development Authority, shall be disbursed in accordance with the provisions of the Development Plan and Tax Increment Financing Plan and the requisitions of the Downtown Authority. Surplus funds shall revert proportionately to the respective taxing bodies. For the purpose of segregation and transfer of such funds, the City Treasurer shall maintain a separate fund which shall be kept in a depository bank account or accounts in a bank or banks approved by the City Council, to be designated Downtown Development Authority project fund. All amounts payable to the Downtown Development Authority shall, subject to the foregoing, be deposited directly in the Downtown Authority Project Fund.

(Ord. 187, passed 5-4-92; Am. Ord. 309, passed 3-1-10)

§ 150.27 DURATION.

The Tax Increment Financing Plan will continue in effect until all purposes of the Development Plan and Tax Increment Financing Plan have been fulfilled.

(Ord. 187, passed 5-4-92; Am. Ord. 309, passed 3-1-10)

CHAPTER 151: HOUSING CODE

Section

General Provisions

- 151.001 Title
- 151.002 Definitions
- 151.003 Application of chapter
- 151.004 Compliance required
- 151.005 Application of building code and zoning law
- 151.006 Conflict
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151.088 Inspections

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151.094 Occupancy of building

151.095 Report of notice to vacate

151.096 Violations

151.097 Right of appeal

151.999 Penalty

GENERAL PROVISIONS

§ 151.001 TITLE.

This chapter shall be known as the Minimum Housing Standards Code for dwellings and multi-family dwellings and is herein referred to as the Housing Code or "this code."

(Ord. 151, passed 4-21-69)

§ 151.002 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning. Where terms are not defined in this section and are defined in the Basic Building Code, they shall have the meaning ascribed to them as in the building code.

APPROVED. As applied to a material, device or method of construction, approved by the Building Official under the provisions of this code, or approved by other authority designated by law to give approval in the matter in question.

BASEMENT. A portion of the building partly underground, but having less than half its clear height below the average grade of the adjoining ground (see **CELLAR**).

BASIC BUILDING CODE. The Basic Building Code, latest edition and accumulative supplement issued by the Building Officials Conference of America, a copy of which is available in the office of the City Clerk.

BOARDING HOUSE, LODGING HOUSE, TOURIST HOUSE. See **DWELLINGS**.

BUILDING CODE. Basic Building Code, latest edition and current accumulative supplement officially adopted by the city, or such other code as may be officially designated by the legislative body of the city for the regulation of construction, alteration, addition, repair, removal, demolition, use, location, occupancy and maintenance of buildings and structures.

BUILDING OFFICIAL. The official designated by the city to enforce building, zoning or similar laws and this code, or his duly authorized representative.

CELLAR. The portion of the building partly underground, having half or more than half of its clear height below the average grade of the adjoining ground.

DWELLINGS.

BOARDING HOUSE, LODGING HOUSE, TOURIST HOUSE. A building arranged or used for lodging with or without meals, for compensation, more than five and not more than 20 individuals.

ONE-FAMILY DWELLING. A building containing one dwelling unit with not more than five lodgers or boarders.

MULTI-FAMILY APARTMENT HOUSE. A building containing more than two dwelling units.*

TWO-FAMILY DWELLING. A building containing two dwelling units with not more than five lodgers or boarders per family but not more than 20 individuals.

DWELLING UNIT. One or more rooms arranged for the use of one or more individuals living together as a single housekeeping unit, with cooking, living, sanitary and sleeping facilities.*

ENFORCEMENT OFFICER. The official designated herein or otherwise charged with the responsibilities of administering this code, or his authorized representatives.

EXTERIOR PROPERTY AREAS. The open space on the premises and on adjoining property under the control of owners or operators of such premises.

EXTERMINATION. The control and elimination of insects, rodents or other pests by eliminating their harborage places; by removing or making inaccessible materials that may serve as their food; by poison spraying, fumigating, trapping, or by any other approved pest elimination methods.

FAMILY. A group of persons related by blood, marriage or adoption within and including the degree of first cousins.

GARBAGE. The animal and vegetable waste resulting from the handling, preparation cooking and consumption of food.

GROSS FLOOR AREA. The total area of all habitable space in a building or structure.

HABITABLE ROOM. A room or enclosed floor space arranged for living, eating, and sleeping purposes (not including bathrooms, water closet compartment, laundries, pantries, foyers, hallways and other accessory floor spaces).

HOTEL. See **DWELLINGS**.

INFESTATION. The presence, within or contiguous to a multi-family dwelling, dwelling unit, rooming house, rooming unit, or premises, of insects, rodents, vermin or other pests.

MOTEL. For purposes of this code, a motel shall be defined the same as a hotel.

MULTI-FAMILY (MULTIPLE) DWELLING. See **DWELLINGS**.

OCCUPANT. Any person over one year of age (including owner or operator) living and sleeping in a dwelling unit or having actual possession of said dwelling or rooming unit.

OPENABLE AREA. That part of a window or door which is available for unobstructed ventilation and which opens directly to the outdoors.

OPERATOR. Any person who has charge, care or control of a multi-family dwelling or rooming house, in which dwelling units or rooming units are let or offered for occupancy.

OWNER. The owner or owners of the freehold of the premises or lesser estate therein, a mortgagee or vendee in possession, assignee or rents, receiver, executor, trustee, lessee or other person, firm or corporation in control of the building, or their duly authorized agents.

PERSON. An individual, firm, corporation, association or partnership.

PLUMBING or PLUMBING FIXTURES. Water heating facilities, water pipes, gas pipes, garbage and disposal units, waste lavatories, bathtubs, shower baths, installed clothes washing machines, or other similar equipment, catch basins, drains, vents, or other similarly supplied fixtures, together with all connections to water, gas, sewer or vent lines.

PREMISES. A lot, plot or parcel of land including the buildings or structures thereon.*

RESIDENCE BUILDING. A building in which sleeping accommodation or sleeping accommodation and cooking facilities as a unit are provided; except when classified as an institution under the building code.*

ROOMING HOUSE. Any residence building, or any part thereof, containing one or more rooming units, in which space is let by the owner or operator to more than five persons who are not members of the family.* (See **DWELLINGS - BOARDING HOUSE**)

ROOMING UNIT. Any room or group of rooms forming a single habitable unit used or intended to be used for living and sleeping, but not for cooking or eating purposes.*

RUBBISH. Combustible and non-combustible waste materials, except garbage; and the term shall include the residue from the burning of wood, coal, coke, and other combustible materials, paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass, crockery and dust and other similar material.

SUPPLIED. Installed, furnished or provided by the owner or operator.

VENTILATION. The process of supplying and removing air by natural or mechanical means to or from any space.

MECHANICAL. Ventilation by power-driven devices.

NATURAL. Ventilation by opening to outer air through windows, skylights, doors, louvers, or stacks without wind driven devices.

WORKMANLIKE. Whenever the words **WORKMANLIKE STATE OF MAINTENANCE AND REPAIR** are used in this code, they shall mean that such maintenance and repair shall be made in a reasonably skillful manner.

YARD. An open, unoccupied space on the same lot with a building extending along the entire length of a street, or rear, or interior lot line.

*Whenever the words **MULTI-FAMILY DWELLING, RESIDENCE BUILDING, DWELLING UNIT, ROOMING HOUSE, ROOMING UNIT** or **PREMISES** are used in this code, they shall be construed as though they were followed by the words "or any part thereof."

(Ord. 151, passed 4-21-69)

§ 151.003 APPLICATION OF CHAPTER.

(A) The provisions of the Housing Code shall apply to all structures used for human habitation, which are now, or may become in future, sub-standard with respect to structure, protection against fire hazard, equipment or maintenance, inadequate provisions for light and air, lack of proper heating, unsanitary conditions and overcrowding, or otherwise may be deemed to constitute a menace to the safety, health or welfare of their occupants; except as provided in § 151.007 of this chapter. The existence of such conditions, factors or characteristics adversely affect public safety, health and welfare and lead to the continuation, extension and aggravation of urban blight. Adequate protection of the public, therefore, requires the establishment and enforcement of these minimum housing standards.

(B) All moveable units used for human habitation and the areas, grounds or parcels on which they are located, as provided in Section 425 of the Basic Building Code, or such other codes, laws or chapters of the city applicable thereto, shall comply with the requirements of this Housing Code.

(Ord. 151, passed 4-21-69)

§ 151.004 COMPLIANCE REQUIRED.

Every portion of a building or premise used or intended to be used for residential purposes, except hotels and motels serving transient guests only, rest homes, convalescent homes, and nursing homes, shall comply with the provisions of this code, irrespective of when such building shall have been constructed, altered, or repaired, except as hereinafter provided.

(Ord. 151, passed 4-21-69) Penalty, see § 151.999

§ 151.005 APPLICATION OF BUILDING CODE AND ZONING LAW.

(A) Any alterations to buildings, or changes of use therein, which may be caused directly or indirectly by the enforcement of this code shall be done in accordance with applicable sections of the building code of the city.

(B) Nothing in this code shall permit the establishment or conversion of a multi-family dwelling in any zone except where permitted by the zoning law; nor the continuation of such nonconforming use in any zone except as provided therein.

(Ord. 151, passed 4-21-69) Penalty, see § 151.999

§ 151.006 CONFLICT.

Except as provided in § 151.007 of this chapter, in any case where a provision of this code is found to be in conflict with a provision of any zoning, building, fire, safety, or health chapter or code of this city existing on the effective date of this code, the provision which establishes the higher standard for the promotion and protection of the safety and health of the people shall prevail. In any case where a provision of this code is found to be in conflict with a provision of any other ordinance or code of this city existing on the effective date of this code which establishes a lower standard for the promotion and protection of the safety and health of the people, the provisions of this code shall prevail, and such other ordinances or codes are hereby declared to be repealed to the extent that they may be found in conflict with this code.

(Ord. 151, passed 4-21-69)

§ 151.007 EXISTING BUILDINGS AND REMEDIES.

(A) This code establishes minimum requirements for the initial and continued occupancy of all buildings used for human habitation and does not replace or modify requirements otherwise

established for the construction, repair, alteration or use of buildings, equipment or facilities except as provided in this section.

(B) Nothing in this code shall be deemed to abolish or impair existing remedies of the city or its officers or agencies relating to the removal or demolition of any buildings which are deemed to be dangerous, unsafe or unsanitary.

(Ord. 151, passed 4-21-69)

ENVIRONMENTAL REQUIREMENTS

§ 151.020 SCOPE.

The provisions of this subchapter shall govern the minimum conditions of property and buildings to be used for human occupancy. Every building or structure occupied by humans, except as exempted by § 151.007 of this chapter, and premises on which it stands, shall comply with the conditions herein prescribed as they may apply thereto.

(Ord. 151, passed 4-21-69) Penalty, see § 151.999

§ 151.021 EXTERIOR PROPERTY AREAS.

No person shall occupy as owner/occupant, or let to another for occupancy, any dwelling unit for the purpose of living therein, or premises, which does not comply with the following requirements. The Building Official of the city shall cause periodic inspections to be made of dwelling premises to secure compliance with these requirements.

(A) *Sanitation.* All exterior property areas shall be maintained in a clean and sanitary condition free from any accumulation of rubbish or garbage.

(B) *Grading and drainage.* All premises shall be graded and maintained so as to prevent the accumulation of stagnant water thereon, or within any building or structure thereon.

(C) *Noxious weeds.* All exterior property areas shall be kept free from species of weeds or plant growth which are noxious or detrimental to public health.

(D) *Insect and rodent harborage.* Every owner of a dwelling or multi-family dwelling shall be responsible for the extermination of insects, rodents, vermin, or other pests in all exterior areas of the premises; except that the occupant shall be responsible for such extermination in the exterior areas of the premises of a single-family dwelling. Whenever infestation exists in the shared or public parts of the premises of other than a single-family dwelling, extermination shall be the responsibility of the owner.

(E) *Accessory structures.* All accessory structures, including detached garages, shall be maintained structurally sound and in good repair.

(Ord. 151, passed 4-21-69) Penalty, see § 151.999

§ 151.022 EXTERIOR STRUCTURE.

No person shall occupy as owner/occupant, or let to another for occupancy, any dwelling or multi-family dwelling, dwelling unit, rooming house, rooming unit, or portion thereof for the purpose of living therein, which does not comply with the following requirements:

(A) *Foundations, walls and roof.* Every foundation, exterior wall, roof and all other exterior surfaces shall be maintained in a workmanlike state of maintenance and repair and shall be kept in such condition as to exclude rodents.

(1) *Foundations.* The foundation elements shall adequately support the building at all points.

(2) *Exterior walls.* Every exterior wall shall be free of holes, breaks, loose or rotting boards or timbers, and any other conditions which might admit rain, or dampness to the interior portions of the walls or to the occupied spaces of the building.

(3) *Roofs.* The roof shall be structurally sound, tight, and have no defects which might admit rain; and roof drainage shall be adequate to prevent rain water from causing dampness in the walls or interior portion of the building.

(B) *Stairs - porches and railings.* Stairs and other exit facilities shall be adequate for safety as provided in Section 606 of the Basic Building Code, and shall comply with the following divisions.

(1) *Structural safety.* Every outside stair, every porch, and every appurtenance attached thereto, shall be so constructed as to be safe to use and capable of supporting the loads to which it is subjected as required by the building code; and shall be kept in sound condition and good repair.

(2) *Handrails.* Where the Building Official deems it necessary for safety, every flight of stairs, which is more than two risers high shall have handrails which shall be located as required by the building code; and every porch which is more than two risers high shall have handrails so located and of such design as required by the building code. Every handrail and balustrade shall be firmly fastened and shall be maintained in good condition.

(C) *Windows, doors and hatchways.* Every window, exterior door and basement hatchway shall be substantially tight and shall be kept in sound condition and repair.

(1) *Windows to be glazed.* Every window sash shall be fully supplied with glass window panes or an approved substitute which are without open cracks or holes.

(2) *Windows to be tight.* Every window sash shall be in good condition and fit reasonably tight within its frame.

(3) *Windows to be openable.* Every window, other than a fixed window, shall be capable of being easily opened and shall be held in position by window hardware.

(4) *Door hardware.* Every exterior door, door hinge and door latch shall be maintained in good condition.

(5) *Window and door frames to fit in wall.* Every window, door and frame shall be constructed and maintained in such relation to the adjacent wall so as to exclude rain as completely as possible and to substantially exclude wind from entering the dwelling or multi-family dwelling.

(6) *Basement hatchways.* Every basement hatchway shall be constructed and maintained so as to prevent the entrance of rodents, rain and surface drainage water into the dwelling or multi-family dwelling.

(7) *Exit doors.* Every door available as an exit shall be capable of being opened from the inside, easily and without the use of a key.

(D) *Screening.* Guards and screens shall be supplied for protection against rodents and insects in accordance with the following requirements.

(1) *Guards for basement windows.* Every basement or cellar window which is openable shall be supplied with corrosion-resistive rodent proof shields of not less than No. 22 US gage perforated steel sheets, or No. 20 B&S gage aluminum or No. 16 US gage expanded metal or wire mesh screens, with not more than ½-inch mesh openings; or with other material affording equivalent protection against the entry of rodents, including storm windows.

(2) *Insect screens.* From June 1 to October 15 of each year every door opening directly from any dwelling or multi-family dwelling to the outdoors, and every window or other outside opening used for ventilation purposes, shall be supplied with a screen of not less than 16 mesh per inch and every

swinging screen door shall have a self-closing device in good working condition; except that no such screens shall be required for a dwelling unit on a floor above the fifth floor.

(Ord. 151, passed 4-21-69) Penalty, see § 151.999

§ 151.023 INTERIOR STRUCTURE.

No person shall occupy as owner/occupant, or let to another for occupancy, any dwelling, multi-family dwelling, dwelling unit, rooming house, rooming unit, or portion thereof, for the purpose of living therein which does not comply with the following requirements.

(A) *Free from dampness.* In every dwelling, multi-family dwelling, dwelling unit, rooming house, and rooming unit, cellars, basements and crawl spaces shall be maintained reasonably free from dampness to prevent conditions conducive to decay or deterioration of the structure as required by the building code.

(B) *Structural members.* The supporting structural members of every dwelling and multi-family dwelling used for human habitation shall be maintained structurally sound; showing no evidence of deterioration which would render them incapable of carrying the imposed loads in accordance with the provisions of the building code.

(C) *Interior stairs and railings.* Stairs shall be provided in every dwelling, multi-family dwelling, rooming and boarding house as required by the building code:

(1) *Maintained in good repair.* All interior stairs of every structure used for human habitation shall be maintained in sound condition and good repair by replacing treads and risers that evidence excessive wear or are broken, warped or loose. Every inside stair shall be so constructed and maintained as to be safe to use and capable of supporting a load as required by the provisions of the building code.

(2) *Handrails.* Every stairwell and every flight of stairs, which is more than two risers high, shall have handrails or railings located in accordance with the provisions of the building code. Every handrail or railing shall be firmly fastened and must be maintained in good condition. Properly balustraded railings, capable of bearing normally imposed loads as required by the building code, shall be placed on the open portions of the stairs, balconies, landings and stairwells.

(D) *Bathroom floors.* Every toilet and bathroom floor surface shall be constructed and maintained so as to be substantially impervious to water and so as to permit such floor to be easily kept in a clean and sanitary condition.

(E) *Sanitation.* The interior of every dwelling and multi-family dwelling used for human habitation shall be maintained in a clean and sanitary condition free from any accumulation of rubbish or garbage. Rubbish, garbage, and other refuse shall be properly kept inside temporary storage facilities as required under §§ 151.040(D) and (E) of this code.

(F) *Insect and rodent harborage.* Buildings used for human habitation shall be kept free from insect and rodent infestation, and where insects or rodents are found they shall be promptly exterminated by acceptable processes which will not be injurious to human health. After extermination, proper precautions shall be taken to prevent reinfestation.

(1) *Extermination from buildings.* Every owner of a dwelling or multi-family dwelling shall be responsible for the extermination of insects, rodents, vermin or other pests whenever infestation exists in two or more of the dwelling units, or in the shared or public parts of the structure.

(2) *Extermination from single dwelling units.* The occupant of a dwelling unit in a dwelling or multi-family dwelling shall be responsible for such extermination within the unit occupied by him whenever his dwelling unit is the only unit in the building that is infested.

(3) *Responsibility of owner.* Notwithstanding the foregoing provisions, whenever infestation of rodents is caused by failure of the owner to maintain any dwelling or multi-family dwelling in a rodent-proof condition, extermination of such rodents shall be the responsibility of the owner.

(Ord. 151, passed 4-21-69) Penalty, see § 151.999

SPACE AND OCCUPANCY REQUIREMENTS

§ 151.040 BASIC REQUIREMENTS.

No person shall occupy as owner/occupant, or let to another for occupancy, any dwelling unit for the purpose of living, sleeping, cooking, or eating therein which does not comply with the following requirements.

(A) *Sanitary facilities.* The following minimum sanitary facilities shall be supplied and maintained in sanitary, safe working condition.

(1) *Water closet.* Every dwelling unit shall contain within its walls, a room, separate from the habitable rooms, which affords privacy and which is equipped with a water closet.

(2) *Lavatory.* Every dwelling unit shall contain a lavatory, which, when a closet is required, shall be in the same room with said water closet.

(3) *Bathtub or shower.* Every dwelling unit shall contain a room which affords privacy to a person in said room and which is equipped with a bathtub or shower.

(4) *Kitchen sink.* Every dwelling unit shall contain a kitchen sink apart from the lavatory required under division (A)(2) of this section.

(B) (1) *Water and sewer system.* Every kitchen sink, lavatory basin, bathtub or shower and water closet required under the provisions of division (A) of this section shall be properly connected to either a public water and sewer system or to an approved private water and sewer system. All sinks, lavatories, bathtubs and showers shall be supplied with hot and cold running water.

(2) *Water heating facilities.* Every dwelling unit shall be supplied with water heating facilities which are installed in an approved manner, properly maintained and properly connected with hot water lines to the fixtures required to be supplied with hot water under division (B)(1) of this section. Water heating facilities shall be capable of heating water to such a temperature as to permit an adequate amount of water to be drawn at every required kitchen sink, lavatory basin, bathtub, shower and laundry facility or other similar units, at a temperature of not less than 130° F. at any time needed.

(C) (1) *Heating facilities.* Every dwelling and multi-family dwelling shall have heating facilities and the owner of the heating facilities shall be required to see that they are properly installed, safely maintained and in good working condition, and that they are capable of safely and adequately heating all habitable rooms, bathrooms and toilet rooms located therein, to a temperature of at least an average of 70° F. with an outside temperature of 10° below zero. The owner shall maintain a minimum average room temperature of 70° F. in all habitable rooms including bathrooms and toilet rooms when rented, at all times on the basis of 10° below zero outside.

(2) *Operation of heating facilities and incinerators.* Every heating or water heating facility and incinerator shall be installed and shall operate in accordance with the requirements of the building code or air pollution control ordinances of the city.

(D) *Rubbish storage facilities.* Every dwelling, multi-family dwelling and dwelling unit shall be supplied with approved containers and covers for storage of rubbish, and the owner, operator or agent in control of such dwelling or multi-family dwelling shall be responsible for the removal of such rubbish.

(E) *Garbage storage or disposal facilities.* Every dwelling or multi-family dwelling and every dwelling unit shall be supplied with an approved garbage disposal facility; which may be an adequate mechanical garbage disposal unit (mechanical sink grinder) in each dwelling; or an incinerator unit, to be approved by the Building Official, in the structure for the use of the occupants of each dwelling unit; or an approved outside garbage can.

(Ord. 151, passed 4-21-69) Penalty, see § 151.999

§ 151.041 INSTALLATION AND MAINTENANCE.

No person shall occupy as owner/occupant, or let to another for occupancy, any dwelling, multi-family dwelling, dwelling unit, rooming house or rooming unit for the purpose of living, sleeping, cooking, or eating therein which does not comply with the following requirements.

(A) *Facilities and equipment.* All required equipment and all building space and parts in every dwelling and multi-family dwelling shall be constructed and maintained so as to properly and safely perform their intended function in accordance with the provisions of the building code.

(B) *Maintained clean and sanitary.* All housing facilities shall be maintained in a clean and sanitary condition by the occupant so as not to breed insects and rodents or produce dangerous or offensive gases or odors.

(C) *Plumbing fixtures.* In buildings and structures used for human habitation, water lines, plumbing fixtures, vents and drains shall be properly installed, connected and maintained in working order and shall be kept free from obstructions, leaks and defects and capable of performing the function for which they are designed. All repairs and installations shall be made in accordance with the provisions of the building code or plumbing code of the city.

(D) *Plumbing systems.* In buildings and structures used for human habitation every plumbing stack, waste and sewer line shall be so installed and maintained as to function properly and shall be kept free from obstructions, leaks and defects to prevent structural deterioration or health hazards. All repairs and installations shall be made in accordance with the provisions of the building code or plumbing code of the city.

(E) *Heating equipment.* Every space heating, cooking, and water heating device located in a dwelling or multi-family dwelling shall be properly installed, connected and maintained, and shall be capable of performing the function for which it was designed in accordance with the provisions of the building code.

(F) (1) *Electrical outlets and fixtures.* Every electrical outlet and fixture, as required in § 151.043 shall be installed, maintained and connected to the source of electric power in accordance with the provisions of the building code or electrical code of the city.

(2) *Correction of defective system.* Where it is found, in the opinion of the Building Official, that the electrical system in a building constitutes a hazard to the occupants or the building by reason of inadequate service, improper fusing, insufficient outlets, improper wiring or installation, deterioration or damage, or for similar reasons, he shall require the defects to be corrected to eliminate the hazard.

(Ord. 151, passed 4-21-69) Penalty, see § 151.999

§ 151.042 OCCUPANCY REQUIREMENTS.

No person shall occupy or let to another for occupancy, any dwelling unit for the purpose of living therein which does not comply with the following requirements.

(A) *Minimum ceiling heights.* Habitable rooms in existing buildings, except as provided in § 151.007 of this chapter, shall have a clear ceiling height of not less than 7 feet, except that in attics or top half-stories the ceiling height shall be not less than seven feet over not less than one third of the

area when used for sleeping, study or similar activity. In calculating the floor area of such rooms only those portions of the floor area of the room having a clear ceiling height of five feet or more may be included.

(B) *Required space in dwelling units.* Every dwelling unit shall contain a minimum gross floor area of not less than 150 square feet for the first occupant, and 100 square feet for each additional occupant. The floor area shall be calculated on the basis of the total area of all habitable rooms.

(C) *Required space in sleeping rooms.* In every dwelling unit, every room occupied for sleeping purposes by one occupant shall have a minimum gross floor area of at least 70 square feet. Every room occupied for sleeping purposes by more than one occupant shall contain at least 50 square feet of floor area for each occupant thereof.

(D) *Access limitation of dwelling unit to commercial uses.* No habitable room, bathroom or water closet compartment which is accessory to a dwelling unit shall open directly into or shall be used in conjunction with a food store, barber or beauty shop, doctor's or dentist's office examination or treatment room, or similar room used for public purposes.

(E) *Location of bath and second sleeping room.* No residence building or dwelling unit containing two or more sleeping rooms shall have such room arrangement that access to a bathroom or water closet compartment intended for use by occupants of more than one sleeping room can be had only by going through another sleeping room; nor shall the room arrangement be such that access to a sleeping room can be had only by going through another sleeping room or bathroom or water closet compartment. No bathroom shall be so located that access thereto is solely through a kitchen.

(F) *Occupancy of dwelling units below grade.* No dwelling unit partially below grade shall be used for living purposes unless:

(1) Floors and walls are watertight;

(2) Total window area, total openable area and ceiling height are in accordance with this code; and

(3) Required minimum window area of every habitable room is entirely above the grade of the ground adjoining such window area.

(Ord. 151, passed 4-21-69) Penalty, see § 151.999

§ 151.043 LIGHT AND VENTILATION.

No person shall occupy as owner/occupant, or let to another for occupancy, any dwelling, multi-family dwelling, dwelling unit, rooming house or rooming unit for the purpose of living therein which does not comply with the following requirements.

(A) (1) *Natural light in habitable rooms.* Every habitable room shall have at least one window of approved size facing directly to the outdoors or to a court. The minimum total window area, measured between stops, for every habitable room shall be 10% of the floor area of such room, except in kitchens, when artificial light may be provided in accordance with the provisions of the Basic Building Code. Whenever walls or other portions of such a structure face a window of any room and such obstructions are located less than three feet from the window and extend to a level above that of the ceiling of the room, such a window shall not be deemed to face directly to the outdoors nor to a court and shall not be included as contributing to the required minimum total window area for the room.

(2) *Light in a non-habitable work space.* Every laundry, furnace room, and all similar non-habitable work spaces located in a dwelling or multi-family dwelling shall have one supplied electric light fixture available at all times.

(3) *Light in public halls and stairways.* Every public hall and inside stairway in every dwelling or multi-family dwelling shall be adequately lighted at all times with an illumination of at least five lumens per square feet in the darkest portion of the normally traveled stairs and passageways.

(B) *Electric outlets required.* Where there is electric service available to the building or structure, every habitable room of a dwelling or multi-family dwelling shall contain at least two separate and remote outlets, one of which may be a ceiling or wall-type electric light fixture. In kitchens, three separate and remote wall-type electric convenience outlets or two such convenience outlets and one ceiling or wall-type electric light fixture shall be provided. Every public hall, water closet compartment, bathroom, laundry room or furnace room shall contain at least one electric light fixture. In addition to the electric light fixture in every bathroom and laundry room, there shall be provided at least one electric outlet.

(C) (1) *Adequate ventilation.* Every habitable room shall have at least one window which can be easily opened or such other device as to adequately ventilate the room. The total openable window area in every habitable room shall be equal to at least 45% of the minimum window area size required in division (A)(1) of this section, except where mechanical ventilation is provided in accordance with the provisions of the Basic Building Code.

(2) *Ventilation and light in bathroom and water closet.* Every bathroom and water closet compartment shall comply with the light and ventilation requirements for habitable rooms as required by divisions (A)(1) and (B) of this section, except that no window shall be required in bathrooms or water closet compartments equipped with an approved ventilation system.

(Ord. 151, passed 4-21-69) Penalty, see § 151.999

§ 151.044 MINIMUM REQUIREMENTS FOR SAFETY FROM FIRE.

No person shall occupy as owner/occupant, or shall let to another for occupancy, any dwelling, multi-family dwelling, dwelling unit, rooming house, rooming unit, lodging house or lodging unit which does not comply with the applicable provisions of the fire prevention sections of the Basic Building Code, ordinances of the city and the following additional requirements for safety from fire.

(A) *Storage of flammable liquids prohibited.* No dwelling, multi-family dwelling, dwelling unit, or rooming unit shall be located within a building containing any establishment handling, dispensing or storing flammable liquids with a flash point of 110° F. or lower.

(B) *Cooking and heating equipment.* All cooking and heating equipment, components, and accessories in every heating, cooking, and water heating device shall be maintained free from leaks and obstructions, and kept functioning properly so as to be free from fire, health and accident hazards. All installations and repairs shall be made in accordance with the provisions of the building code, or other laws or ordinances of the city applicable thereto. Portable cooking employing flame is prohibited.

(Ord. 151, passed 4-21-69) Penalty, see § 151.999

RESPONSIBILITIES OF PERSONS

§ 151.060 SCOPE.

Occupants of dwellings, multi-family dwellings, and dwelling units, and owners or operators of rooming houses shall be responsible for the maintenance thereof as provided in this subchapter.

(Ord. 151, passed 4-21-69)

§ 151.061 CLEANLINESS.

Every occupant of a dwelling unit shall keep that part of the dwelling unit and premises thereof which he occupies controls, or uses in a clean and sanitary condition.

(Ord. 151, passed 4-21-69) Penalty, see § 151.999

§ 151.062 DISPOSAL OF RUBBISH.

Every occupant of a dwelling unit shall dispose of all rubbish in a clean and sanitary manner by placing it in the rubbish containers required by § 151.040(D) of this code.

(Ord. 151, passed 4-21-69) Penalty, see § 151.999

§ 151.063 DISPOSAL OF GARBAGE.

Every occupant of a dwelling unit shall dispose of his garbage in a clean and sanitary manner by placing it in the garbage disposal facilities, or if such facilities are not available, by removing all non-burnable matter and securely wrapping such garbage and placing it in tight metal garbage storage containers as required by § 151.040(E) of this code; or by such other disposal method as may be required by applicable laws or ordinances of the city.

(Ord. 151, passed 4-21-69) Penalty, see § 151.999

§ 151.064 USE AND OPERATION OF SUPPLIED PLUMBING FIXTURES.

Every occupant of a dwelling unit shall keep the supplied plumbing fixtures therein clean and sanitary and shall be responsible for the exercise of reasonable care in their proper use and operation.

(Ord. 151, passed 4-21-69) Penalty, see § 151.999

§ 151.065 INSTALLATION AND CARE OF PLUMBING FIXTURES FURNISHED BY OCCUPANT.

Every plumbing fixture furnished by the occupant of a dwelling unit shall be properly installed and shall be maintained in good working condition, kept clean and sanitary, and free from defects, leaks or obstructions.

(Ord. 151, passed 4-21-69) Penalty, see § 151.999

§ 151.066 ROOMING HOUSES.

Every person who operates a rooming house, or who occupies or lets to another for occupancy any rooming unit in any rooming house, shall comply with the provisions of every section of this code, except as provided in the following divisions.

(A) *Water closet, hand lavatory and bath facilities.* At least one water closet, lavatory basin and bathtub or shower properly connected to an approved water and sewer system and in good working condition, shall be supplied for each four rooms within a rooming house wherever said facilities are shared. All such facilities shall be located within the residence building served and shall be directly accessible from a common hall or passageway and shall not be more than one story removed from any of the persons sharing such facilities. Every lavatory basin and bathtub or shower shall be supplied with hot and cold water at all times. Such required facilities shall not be located in a cellar.

(B) *Minimum floor area for sleeping purposes.* Every room occupied for sleeping purposes by one occupant shall contain at least 70 square feet of floor area, and every room occupied for sleeping purposes by more than three persons shall contain at least 50 square feet of floor area for each occupant thereof.

(C) *Bed linen and towels.* The operator of every rooming house shall supply bed linen and towels therein at least once each week, and prior to letting of any room to another occupant. The operator

shall be responsible for the maintenance of all supplied bedding in a clean and sanitary manner.

(D) *Shades, drapes, and the like.* Every window of every rooming unit shall be supplied with shades, drawn drapes, or other devices of material which, when properly used, will afford privacy to the occupant of the rooming unit.

(E) *Sanitary conditions.* The operator of every rooming house shall be responsible for the sanitary maintenance of all walls, floors and ceilings, and for the sanitary maintenance of every other part of the rooming house; and he shall further be responsible for the sanitary maintenance of the entire premises where the entire structure or building within which the rooming house is contained is leased or occupied by the operator.

(F) *Sanitary facilities.* Every water closet, flush urinal, lavatory basin and bathtub or shower required by division (A) of this section shall be located within the rooming house and within a room or rooms which:

(1) Afford privacy and are separate from the habitable rooms; and

(2) Are accessible from a common hall and without going outside the rooming house or through any other room therein.

(Ord. 151, passed 4-21-69) Penalty, see § 151.999

§ 151.067 HOUSE NUMBERING.

To provide proper police, fire, health, welfare and emergency services, public or private, to residences and businesses, it is necessary to provide for property identification numbers visible from the public roadways adjacent to residences and businesses in the city.

(A) All property upon which houses, dwellings, buildings, mobile home, businesses and other such structures are constructed or located within the city shall be considered developed property and shall have property identification numbers which shall be posted on the face and/or other appropriate side of the house, dwelling, business or structure in a manner and location so that the identification numbers are clearly and readily readable to a person of normal vision from the adjacent roadway. House trailers shall have an individual space identification number at least three inches in height on the side of the trailer facing the access road. The operator of the trailer park shall be responsible for assigning such numbers. If the house, dwelling, house trailer, business or structure is located on the property so that the posted numbers are not clearly readable from the roadway, due to distance or intervening sight barriers such as, but not limited to, shrubbery, terrain features or structures, the identification number shall also be posted separate from the main structure (i.e. on a yard light post, entrance gate, driveway marketer, mailbox, etc.) in a fashion that is clearly readable from the adjacent roadway. Such additional identification numbers shall be either located centrally between the side boundaries of the property or located immediately adjacent to the driveway providing ingress to the property, and shall be located on the same side of the adjacent roadway as the property it identifies.

(B) The property identification number or address shall use numbers not less than three inches in height. If the dwelling, house trailer, building, business or structure is located more than 90 feet from the centerline of the traveled portion of the adjacent roadway, the identifying numbers shall be not less than six inches in height, but in any case such numbers shall be of a size sufficiently large so that they are readable from the centerline of the adjacent roadway by a person of normal vision.

(C) The color of the numbers shall be in contrast with the immediate background on which they are mounted.

(D) In the case of multiple units, either business or residential, it shall be clearly indicated at each entrance the property identification numbers of those apartments or businesses accessible through such entrance. The purpose of this identification is to facilitate the rapid movement of emergency units to a specific apartment or business unit in apartment buildings or business complexes which

have multiple entrances bearing the same number and series of such units that are not accessible except through a specific entrance.

(E) The occupants of all buildings in the city used for commercial and/or industrial purposes that are connected with or located so close to other buildings as to prevent access between such buildings and which requires a different route of access to the rear than that to the front of the building shall cause the correct business name and street numbers to be placed on the rear entrance door or immediately adjacent thereto. Such names and numbers shall be not less than three nor more than six inches in height, and may consist of standard manufactured letters and/or numerals. If painted on the building or door such names and numbers shall be applied with standard-type numeral and letter stencil. The name and number shall be placed as to be plainly visible and readable from the alley, service drive, easement, parking lot or any other rear access.

(F) A uniform design and construction of property identification numbers, using a green background with reflective numerals, may be approved by the City Administrator, and signs which conform to such approved design and construction shall be considered to comply with the requirements of division (E).

(G) *Address assignment.* The Building Official of the County of Gladwin shall have the authority and be responsible for the assignment of addresses to any building lot or property, on a uniform basis.

(H) *New construction.* All applicants for building permits for new construction or alterations of residences or businesses or other such structures shall be required to attach a property identification number within 30 days of completed construction.

(I) *Responsibility for compliance.* The owner, occupant, lessee or other person in control of any developed property shall each be responsible for identifying such property in compliance with this section.

(Ord. 288, passed 11-21-05; Am. Ord. 344, passed 1-6-20) Penalty, see § 10.99

ADMINISTRATION AND ENFORCEMENT

§ 151.085 ENFORCEMENT OFFICER.

It shall be the duty and responsibility of the Building Official of the city to enforce the provision of the Housing Code as herein provided.

(Ord. 151, passed 4-21-69)

§ 151.086 COORDINATION OF ENFORCEMENT.

Inspection of premises and the issuing of orders in connection therewith under the provisions of this code shall be the exclusive responsibility of the Building Department of the city. Wherever, in the opinion of the Building Official, it is necessary or desirable to have inspections of any condition by any other Department, he may arrange for this to be done in such manner that the owners or occupants of buildings shall not be subjected to visits by numerous inspectors nor to multiple or conflicting orders. No order for correction of any violation under this code shall be issued without the approval of the Building Official, and shall be the responsibility of that Official before issuing any such order to determine that it has the concurrence of any other department or official of the government concerned with any matter involved on the case in question.

(Ord. 151, passed 4-21-69)

§ 151.087 ADMINISTRATIVE LIABILITY.

Except as may otherwise be provided by statute or local law or ordinance, no officer, agent or employee of the city charged with the enforcement of the Housing Code shall render himself personally liable for any damage that may accrue to persons or property as a result of any act

required or permitted in the discharge of his duties under this code. No person who institutes or assists in the prosecution of a criminal proceeding under this code shall be liable to damages hereunder unless he acted with actual malice and without reasonable grounds for believing that the person accused or prosecuted was guilty of an unlawful act or omission. Any suit brought against any officer, agent or employee of the city, as a result of any act required or permitted in the discharge of his duties under this code, shall be defended by the legal representative of the city until the final determination of the proceedings therein.

(Ord. 151, passed 4-21-69)

§ 151.088 INSPECTIONS.

(A) The Building Official shall make or cause to be made inspections to determine the conditions of dwellings, multi-family dwellings, dwelling units, rooming houses, rooming units and premises in order to safeguard the safety, morals and welfare of the public under the provisions of this code. The Building Official is authorized to enter any dwelling, dwelling unit, multi-family dwelling, rooming house or premises at any reasonable time for the purpose of performing his duties under this code. The owner, operator or occupant of every dwelling, multi-family dwelling, dwelling unit, rooming unit, or the person in charge thereof, shall give the Building Official free access thereto and to all parts thereof and to the premises on which it is located at all reasonable times for the purpose of such inspection, examination and survey.

(B) It shall be unlawful for any person to refuse entrance or impede an inspector or officer authorized under this code in the performance of his duties and every such inspector or officer shall have the right to enter, examine and survey all premises, grounds, structures, dwellings and multi-family dwellings and every part thereof at all reasonable times upon display of proper identification.

(C) Every occupant of a dwelling unit or rooming unit shall give the owner or operator thereof, or his agent or employee, access to any part of such dwelling unit, rooming unit or its premises, at reasonable time for the purpose of making such inspections, maintenance, repairs, or alterations as are necessary to comply with the provisions of this code.

(Ord. 151, passed 4-21-69) Penalty, see § 151.999

§ 151.089 APPLICABILITY OF CONDEMNATION PROCEDURES.

Dwellings or multi-family dwellings shall be condemned as dangerous structures or unsafe for human habitation as herein provided.

(Ord. 151, passed 4-21-69)

§ 151.090 DANGEROUS STRUCTURES.

If all or part of any building or structure (including among others a fence, billboard or sign) or the equipment for the operation thereof (including, among others, the heating plant, plumbing, electric wiring, moving stairways, elevators and fire extinguishing apparatus) shall be found, in the opinion of the Building Official, to be in an unsafe condition - dangerous to life, limb or property - he shall proceed to have the same condemned pursuant to the applicable provisions of § 125 of the Basic Building Code or such other code or codes of the city pertaining to unsafe structures.

(Ord. 151, passed 4-21-69)

§ 151.091 STRUCTURES UNFIT FOR HUMAN OCCUPANCY.

(A) Whenever the Building Official finds that any dwelling or multi-family dwelling constitutes a hazard to the safety, health or welfare of the occupants or to the public because it lacks maintenance or is in disrepair, unsanitary, vermin-infested or rodent-infested, or because it lacks the sanitary

facilities or equipment, or otherwise fails to comply with the minimum provisions of this code, but has not yet reached such state of complete disrepair as to be condemned as a dangerous structure as hereinbefore provided, he may declare such dwelling or multi-family dwelling as UNFIT FOR HUMAN HABITATION and order it vacated.

(B) If any dwelling or multi-family dwelling or any part thereof is occupied by more occupants than permitted under this code, or was erected, altered or occupied contrary to law, such dwelling or multi-family dwelling shall be deemed an unlawful structure and the Building Official may cause such dwelling to be vacated. It shall be unlawful to again occupy such dwelling until it, or its occupation, as the case may be, has been made to conform to the law.

(Ord. 151, passed 4-21-69) Penalty, see § 151.999

§ 151.092 NOTICE.

(A) Notice of the declaration of any building under the Housing Code as unfit for human habitation and order to vacate it shall be served as provided in the following divisions. When the condition requires removal or demolition of the building such notice shall be given as provided in § 125 of the Basic Building Code and the Building Official shall have authority for emergency measures as provided in § 126, subject to the provisions of § 127 of the Basic Building Code or such other codes or chapters of the city pertaining to unsafe buildings.

(B) *Posting of notice.* Any dwelling or multi-family dwelling declared as UNFIT FOR HUMAN HABITATION shall be posted with a placard by the Building Official. The placard shall include the following:

- (1) Name of the city;
- (2) The name of the authorized department having jurisdiction;
- (3) The chapter and section of the code under which it is issued;
- (4) An order that the dwelling or multi-family dwelling, when vacated, must remain vacant until the provision of the order are complied with and the order to vacate is withdrawn;
- (5) The date that the placard is posted; and
- (6) A statement of the penalty for defacing or removal of the placard.

(C) *Form of notice.* Whenever the Building Official has declared a dwelling or multi-family dwelling as unfit for human habitation, he shall give notice to the owner of such declaration and placarding of the dwelling or multi-family dwelling as unfit for human habitation. Such notice shall:

- (1) Be in writing;
- (2) Include a description of the real estate sufficient for identification;
- (3) Include a statement of the reason or reasons why it is being issued;
- (4) State the time to correct the conditions; and
- (5) State the time occupants must vacate the dwelling units.

(D) *Service of notice.* Service of notice to vacate shall be as follows:

- (1) By delivery to the owner personally, or by leaving the notice at the usual place of abode of the owner with a person of suitable age and discretion;
- (2) By depositing the notice in the United States Post Office addressed to the owner at his last known address with postage prepaid thereon; or

(3) By posting and keeping posted for 24 hours a copy of the notice in placard form in a conspicuous place on the premises to be vacated.

(E) *Removal of placard or notice.* No person shall deface or remove the placard from any dwelling or multi-family dwelling which has been declared or placarded as unfit for human habitation except by authority in writing from the Building Official.

(Ord. 151, passed 4-21-69) Penalty, see § 151.999

§ 151.093 VACATING OF BUILDING.

Any dwelling or multi-family dwelling which has been declared and placarded as unfit for human habitation by the Building Official shall be vacated within a reasonable time as required by the Building Official, and it shall be unlawful for any owner or operator to let to any person for human habitation said dwelling, multi-family dwelling or dwelling unit; and no person shall occupy any dwelling or multi-family unit which has been declared or placarded by the Building Official as unfit for human habitation after the date set forth in the placard.

(Ord. 151, passed 4-21-69) Penalty, see § 151.999

§ 151.094 OCCUPANCY OF BUILDING.

No dwelling or multi-family dwelling which has been declared or placarded as unfit for human habitation shall again be used for human habitation until written approval is secured from the Building Official. The Building Official shall remove such placard whenever the defect or defects upon which the declaration and placarding action were based have been eliminated.

(Ord. 151, passed 4-21-69) Penalty, see § 151.999

§ 151.095 REPORT OF NOTICE TO VACATE.

The Building Official shall furnish a copy of each notice to vacate a building to the Health Officer and the Chief of the Fire Prevention Bureau, and any other designated official of the city concerned therewith.

(Ord. 151, passed 4-21-69) Penalty, see § 151.999

§ 151.096 VIOLATIONS.

(A) Notice of violation shall be served upon the owner of record; provided that such notice shall be deemed to be properly served upon such owner if a copy thereof is delivered to him personally, or if not found, by leaving a copy thereof at his usual place of abode with a person of suitable age and discretion who shall be informed of the contents thereof, or by sending a copy thereof by mail to his last known address, or, if the letter with the copy is returned showing it has not been delivered to him, by posting a copy thereof in a conspicuous place in or about the dwelling affected by the notice.

(B) *Service of notice.* Whenever the Building Official determines that there has been or is a violation, or that there are reasonable grounds to believe that there has been or is a violation of any provision of this code, he shall give notice of such violation or alleged violation to the person or persons responsible therefor. Such notice shall:

- (1) Be in writing;
- (2) Include a description of the real estate sufficient for identification;
- (3) Specify the violation which exists and the remedial action required; and
- (4) Allow a reasonable time for the performance of any act it requires.

(C) *Prosecution of violation.* In case any violation order is not promptly complied with, the Building Official may request the legal representative to institute an appropriate action or proceeding at law or in equity against the person responsible for the violation, ordering him to:

- (1) Restrain, correct or remove the violation or refrain from any further execution of work;
- (2) Restrain or correct the erection, installation or alteration of such building;
- (3) Require the removal of work in violation of, or not in compliance with the provision of this code, or in violation of a plan or specification under which an approval, permit or certificate was issued; or
- (5) Enforce the penalty provisions of this code.

(Ord. 151, passed 4-21-69) Penalty, see § 151.999

§ 151.097 RIGHT OF APPEAL.

(A) Any owner or person who is aggrieved with the ruling or decision of the enforcing officer, in any matter relative to the interpretation or enforcement of any of the provisions of the Housing Code may appeal the decision or interpretation.

(B) This appeal must be filed with the appropriate authority, in writing, within 30 days of the date of the rendition of the decision or interpretation.

(C) The appeal may be decided by one of the following methods of procedure:

(1) The city may appoint and establish an Appeal Board of five persons, qualified by education and experience in the building profession who shall have the duty, responsibility and authority to decide the matter referred to them.

(2) The matter may be resolved by the normal procedure for appeals by the appropriate courts of the various governmental units.

(D) The decisions of either body shall be subject to the appeal provisions as established by the appropriate courts of the various governmental units.

(Ord. 151, passed 4-21-69)

§ 151.999 PENALTY.

Every person, firm or corporation who shall violate any provision of this code shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine or by imprisonment as provided in the laws of the city for such misdemeanor. Each day that a violation continues after due notice has been service in accordance with the terms and provisions hereof, shall be deemed a separate offense.

(Ord. 151, passed 4-21-69)

Cross-reference:

General penalty, see § 10.99

CHAPTER 152: PLANNING

Section

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§ 152.01 DEFINITIONS.

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

COUNCIL. The chief legislative body of the city.

MAYOR. The chief executive of the city.

STREETS. Includes streets, avenues, boulevards, roads, lanes, alleys, viaducts and other ways.

(Ord. 146, passed 4-1-68)

§ 152.02 CITY PLANNING COMMISSION.

(A) *Creation.* The Commission shall consist of nine members who shall be appointed by the City Council, one person being a member of the Zoning Board of Appeals, one person may be a member of the City Council. All members of the Commission shall serve as such without compensation and hold no other city office except as aforesaid. The terms of the members shall correspond to their tenure as a member of the Zoning Board of Appeals and the City Council respectively. The terms of the remaining members shall be three years from April 1, 1968, or until the successor takes office except that the respective terms of three of the members first appointed shall be for three years, three for two years, and one for one year. Members may, after public hearing, be removed by the Council for inefficiency, neglect of duty, or malfeasance of office. Vacancies occurring otherwise than through the expiration of term shall be filled for the unexpired term by the Council.

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

(C) *Employees; contracts for special services; source and limit on expenditures.* The Commission may appoint the employees as it may deem necessary for its work, whose appointment, promotion, demotion, and removal shall be subject to the same provisions of law as govern other corresponding

civil employees of the city. The Commission may also contract with city planners, engineers, architects, and other consultants for the services as it may require. The expenditures of the Commission, exclusive of gifts, shall be within the amounts appropriated for the purpose by the Council, which shall provide the funds, equipment, and accommodations necessary for the Commission's work.

(Ord. 146, passed 4-1-68)

§ 152.03 MASTER PLAN FOR PHYSICAL DEVELOPMENT OF CITY: ADOPTION, CONTENTS, PUBLICATION, ALTERATION.

It shall be the function and duty of the Commission to make and adopt a community land use plan, known as the "Master Plan," for the physical development of the city, including any areas outside of its boundaries which, in the Commission's judgment, bear relation to the planning of the city. The plan, with the accompanying maps, plats, charts, and descriptive matter shall show the Commission's recommendations for the development of the territory, including among other things, the general location, character, and extent of streets, viaducts, subways, bridges, waterways, water fronts, boulevards, parkways, playgrounds and open spaces, the general location of public buildings and other public property, and the general location and extent of public utilities and terminals, whether publicly or privately owned or operated, for water, light, sanitation, transportation, communication, power, and other purposes; also the removal, relocation, widening, narrowing, vacating, abandonment, change of use or extension of any of the foregoing ways, grounds, open spaces, buildings, property, utilities or terminals; as well as a zoning plan for the control of the height, area, bulk location, and use of buildings and premises. As the work of making the whole master plan progresses, the Commission may from time to time adopt and publish a part or parts thereof, any such part to cover one or more major sections or divisions of the city or one or more of the aforesaid or other functional matters to be included in the plan. The Commission may from time to time amend, extend, or add to the plan.

(Ord. 146, passed 4-1-68)

Editor's note:

The Master Plan is available for public inspection at the office of the City Clerk.

§ 152.04 SURVEYS FOR BASIS, PURPOSE.

In the preparation of the plan the Commission shall make careful and comprehensive surveys and studies of present conditions and future growth of the city and with due regard to its relation to the neighboring territory. The plan shall be made with the general purpose of guiding and accomplishing a coordinated, adjusted, and harmonious development of the city and its environs which will, in accordance with present and future needs, best promote health, safety, morals, order, convenience, prosperity and general welfare, as well as efficiency and economy in the process of development; including, among other things, adequate provision for traffic, the promotion of safety from fire and other dangers, adequate provision for light and air, the promotion of the healthful and convenient distribution of population, the promotion of good civic design and arrangement, wise and efficient expenditure of public funds, and the adequate provision of public utilities and other public requirements.

(Ord. 146, passed 4-1-68)

§ 152.05 ADOPTION OF WHOLE OR PARTS BY RESOLUTION OF PLANNING COMMISSION; HEARING; CERTIFICATION.

(A) The Commission may adopt the plan as a whole by single resolution or may by successive resolutions adopt successive parts of the plan, the parts corresponding with major geographical

sections or divisions of the city or with functional subdivisions of the subject matter of the plan, and may adopt any amendment or extension thereof or addition thereto.

(B) Before the adoption of the plan or any part of the plan, amendment, extension, or addition, the Commission shall hold at least one public hearing thereon, notice of the time and place of which shall be given by one publication in a newspaper of general circulation in the city. The adoption of the plan or of any part, amendment, extension or addition shall be by resolution of the Commission carried by the affirmative votes of not less than six members of the Commission. The resolution shall refer expressly to the maps and descriptive and other matter intended by the Commission to form the whole or part of the plan, and the action taken shall be recorded on the map and plan and descriptive matter by the identifying signature of the Chairperson and/or secretary of the Commission. An attested copy of the plan or part thereof shall be certified to Council and to the County Register of Deeds.

(Ord. 146, passed 4-1-68)

§ 152.06 PUBLIC WORKS; APPROVAL BY COMMISSION AND COUNCIL; RESCISSION OF ACTION.

(A) Whenever the Commission shall have adopted the Master Plan of the city or of one or more major functions or districts thereof, no street, square, park, or other public way, ground, or open space, or public building or structure, shall be constructed or authorized in the city or in the planned section and district until the location, character and extent thereof shall have been submitted to and approved by the Commission. In case of disapproval the Commission shall communicate its reasons to Council, which shall have the power to overrule the disapproval by a record vote of not less than three-fourths of its entire membership. However, if the public way, ground, space, building, structure, or utility be one the authorization of financing of which does not under the law or charter provisions governing same, fall within the province of the City Council, then the submission to the Planning Commission shall be by the board, commission, or body having the jurisdiction, and the Planning Commission's disapproval may be overruled by the board, commission, or body by a vote of not less than three-fourths of its membership. The failure of the Commission to act within 60 days from and after the date of official submission to the Commission shall be deemed approval.

(B) Whenever the Council shall have ordered the opening, widening or extension of any street, avenue or boulevard, or whenever the Council shall have ordered that proceedings be instituted for the acquisition or enlargement of any park, playground, play field or other public open space, the resolution shall not be rescinded until after the matter has been referred back to the City Planning Commission for a report and until after a public hearing shall have been held. The Council shall have power to overrule the recommendation of the City Planning Commission by a vote of not less than three-fourths of its entire membership.

(Ord. 146, passed 4-1-68)

Editor's note:

The Master Plan is available for public inspection at the office of the City Clerk.

§ 152.07 PUBLICITY AND EDUCATION; RECOMMENDATIONS; GIFTS; CO-OPERATION FROM PUBLIC OFFICIALS.

The Commission shall have the power to promote public interest in and understanding of the plan and to that end may publish and distribute copies of the plan or of any report, and may employ the other means of publicity and education as it may determine. Members of the Commission, when duly authorized by the Commission, may attend city planning conferences or meetings of the city planning institutes, or hearings upon pending city planning legislation, and the Commission may, by resolution spread upon its minutes, pay the reasonable traveling expenses incident to the attendance. The Commission shall, from time to time, recommend to the appropriate public officials programs for public structures and improvements and for the financing thereof. It shall be a part of its duties to consult

and advise with public officials and agencies, public utility companies, civic, education, professional, and other organizations, and with citizens with relation to protecting or carrying out the law. The Commission shall have the right to accept and use gifts for the exercise of its functions. All public officials shall, upon request, furnish to the Commission, within a reasonable length of time, such available information as it may require for its work. The Commission, its members, officers, and employees, in the performance of their functions, may enter upon any land and make examinations and surveys and place and maintain necessary monuments, and marks thereon. In general, the Commission shall have the powers as may be necessary to enable it to fulfill its functions, promote city planning, or carry out the purposes of this chapter.

(Ord. 146, passed 4-1-68)

§ 152.08 NECESSITY FOR APPROVAL OF PLATS; STREET SYSTEM.

Whenever the Planning Commission shall have adopted that sort of a Master Plan relating to the major street system of the territory within its subdivision jurisdiction or part thereof, and shall have filed a certified copy of the plan in the office of the county register of deeds of the county in which such territory or part is located, then no plat of a subdivision of land within the territory or part shall be filed or recorded until it shall have been approved by the Planning Commission and the approval entered in writing on the plat by the Chairperson or secretary of the Commission.

(Ord. 146, passed 4-1-68)

§ 152.09 REGULATIONS GOVERNING SUBDIVISION OF LAND; BOND TO SECURE IMPROVEMENTS; PUBLICATION OF REGULATIONS.

(A) Before exercising the powers referred to in § 152.08 of this chapter, the Planning Commission shall adopt regulations governing the subdivision of land within its jurisdiction. The regulations may provide for the proper arrangement of streets in relation to other existing or planned streets and to the Master Plan, for adequate and convenient open spaces for traffic, utilities, access of firefighting apparatus, recreation, light and air, and for the avoidance of congestion of population, including minimum width and area of lots.

(B) The regulations may include provisions as to the extent to which streets and other utility mains, piping, or other facilities shall be installed as a condition precedent to the approval of the plat. The regulations or practice of the Commission may provide for a tentative approval of the plat previous to the installation; but any such tentative approval shall be revocable and shall not be entered on the plat. In lieu of the completion of the improvements and utilities prior to the final approval of the plat, the Commission may accept a bond with surety to secure to the city the actual construction and installation of the improvements or utilities at a time and according to specifications fixed by or in accordance with the regulations of the Commission. The city is hereby granted the power to enforce the bond by all appropriate legal and equitable remedies. All the regulations shall be published as provided by law for the publication of ordinances, and before adoption, a public hearing shall be held thereon. A copy thereof shall be certified by the Commission to the register of deeds of the counties in which the city and territory are located.

(Ord. 146, passed 4-1-68)

Cross-reference:

Subdivision code, see Ch. 153

§ 152.10 APPROVAL OR DISAPPROVAL OF PLATS; PROCEDURE; EFFECT.

The Planning Commission shall approve, modify or disapprove a plat within 60 days after the submission thereof; otherwise the plat shall be deemed to have been approved, and a certificate to that effect shall be issued by the Commission on demand; provided, however, that the applicant for

the Commission's approval may waive this requirement and consent to an extension of the period. The ground of disapproval of any plat shall be stated upon the records of the Commission. Any plat submitted to the Commission shall contain the name and address of a person to whom notice of a hearing shall be sent, and no plat shall be acted on by the Commission without affording a hearing thereon. Notice shall be sent to the address by certified mail, with return receipt requested, of the time and place of the hearing not less than five days before the date fixed therefore. Similar notice shall be mailed to the owners of land immediately adjoining the platted land, as their names appear upon the plats in the county auditor's office and their addresses appear in the directory of the city or on the tax records of the city or county. Every plat approved by the Commission shall, by virtue of the approval, be deemed to be an amendment of or an addition to or a detail of the city plan and a part thereof. Approval of a plat shall not be deemed to constitute or affect an acceptance by the public of any street or other open space shown upon the plat. The Planning Commission may, from time to time, recommend to Council amendments of the zoning ordinance or map or additions thereto to conform to the Commission's recommendations for the zoning regulation of the territory comprised within approval subdivisions. The Commission shall have the power to agree with the applicant upon use, height, area or bulk requirements or restrictions governing buildings and premises with the subdivisions, provided the requirements or restrictions do not authorize the violation of then effective zoning ordinance of the city. The requirements or restrictions shall be stated upon the plat prior to the approval and recording thereof and shall have the same force of law and be enforceable in the same sanctions and penalties and subject to the same power of amendment or repeal as though set out as a part of the zoning ordinance or map of the city.

(Ord. 146, passed 4-1-68)

§ 152.11 SUCCESSION TO ZONING COMMISSION.

The Commission shall have all powers heretofore granted by law to the Zoning Commission of the city, and from and after the creation of a Planning Commission in the city, all powers and records of the Zoning Commission shall be transferred to the Planning Commission; provided, however, that in the event that the existing Zoning Commission shall be nearing the completion of its zoning plan, Council may, by resolution, postpone the transfer of the Zoning Commission's powers until the completion of the zoning plan, but the postponement shall not exceed a period of one year.

(Ord. 146, passed 4-1-68)

CHAPTER 153: SUBDIVISION CODE

Section

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GENERAL PROVISIONS

§ 153.01 SHORT TITLE.

This chapter shall be known and may be cited as the "subdivision ordinance of the city."

(Ord. 153, passed 5-20-69)

§ 153.02 APPLICATION.

This chapter shall not apply to any lot or lots forming a part of a subdivision created and recorded prior to the effective date of this chapter. Nor is it intended by this chapter to repeal, abrogate, annul or in any way impair or interfere with existing provisions of other laws or ordinances, except those upon property by deed, covenant or other private agreement, or with restrictive covenants running with the land to which the city is a party. Where this chapter imposes a greater restriction upon land than is imposed or required by such existing provisions of law, ordinance, contract or deed, the provisions of this chapter shall control.

(Ord. 153, passed 5-20-69)

§ 153.03 DEFINITIONS.

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

ALLEY. A public or private right-of-way shown on a plat which provides secondary access to a lot, block or parcel of land.

BLOCK. A city square, also the length of one side of such a square.

CAPTION. The name by which the plat is legally and commonly known.

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, as amended, being M.S.A. §§ 5.2991 through 5.3005.

COUNTY PLAT BOARD. The register of deeds, who shall act as Chairperson; the County Clerk, who shall act as secretary; and the County Treasurer. If the offices of the County Clerk and register of deeds have been combined, the Chairperson of the Board of Supervisors shall be a member of the Plat Board and shall act as Chairperson. In a county where a Board of Auditors is authorized by law such Board may elect to serve on the County Plat Board by adopting a resolution so ordering. A copy of the recorded resolution shall be sent to the State Treasurer.

CUL-DE-SAC. A minor street with only one open end with the other end being terminated by a vehicular turnaround.

EASEMENT. A nonprofitable interest in land owned by another that entitles its holder to a specific limited public or private use.

ENGINEER. The resident or consulting engineer designated as the official for the city.

FINAL PLAT. An instrument by which the subdivision is recorded.

FLOOD PLAIN. That area of land adjoining the channel of a river, stream, water course, lake or other similar body of water which will be inundated by a flood which can reasonably be expected for that region.

GOVERNING BODY. The City Council of the city.

GOVERNMENT SURVEY. The land surveyed, subdivided and monumented by the United States public land survey.

HEALTH DEPARTMENT. The state, city, county or District Health Department having jurisdiction.

HIGHWAY. A major traffic carrier designated as an interstate, federal and state trafficking by the federal and state government.

IMPROVEMENTS. Street construction and surfacing, curb, and gutter, water mains, storm and sanitary sewers, sidewalks, walkways, graded outlaws and bridges or culverts.

LAND. The solid part of the surface of the earth owned privately or publicly.

LOT. A measured portion of a parcel or tract of land which is described and fixed in a recorded plat.

MICHIGAN COORDINATE SYSTEM. The system defined in Public Act 9 of 1964, being M.S.A. §§ 13.115(1) through 13.115(9).

OUTLOT. When included within the boundary of a recorded plat, a lot set aside for purposes other than a building site, park or other land dedicated to public use or reserved to private use.

PARCEL. A continuous area or acreage of land which can be described as provided for in this chapter.

PLANNER. The Planning Consultant, Planning Director, Building Inspector or any person designated to administer this chapter.

PLAT. A map or a chart of a subdivision of land.

PRELIMINARY PLAT. A map showing salient features of a proposed subdivision submitted to an approving authority for purposes of preliminary consideration.

PROPRIETOR or SUBDIVIDER. A natural person, firm, association, partnership, corporation or combination of any of them which may hold any ownership interest in land, whether recorded or not.

PUBLIC SEWER. A sewerage system as defined in Public Act 98 of 1913, as amended, being M.S.A. §§ 14.411 through 14.424.

PUBLIC UTILITY. All persons, firms, corporations, copartnerships, or the municipality or other public authority providing gas, electricity, water, steam, telephone, sewer or other services of a similar nature.

PUBLIC WATER. A system of pipes and structures through which water is obtained and distributed to the public, including wells and well structures, intakes, and cribs, pumping stations, treatment plants, reservoirs, storage tanks and appurtenances, collectively or severally, actually used or intended for use for the purpose of furnishing water to the public for household or drinking purposes, so as defined in Public Act 98 of 1913, as amended, being M.S.A. § 26.430(102).

REPLAT. The process of changing, or the map or plat which changes, the boundaries of a recorded subdivision plat or part thereof. The legal dividing of an outlot within a recorded subdivision plat, without changing the exterior boundaries of the outlot, is not a replat.

ROAD COMMISSION. The Board of County Road Commissioners of Gladwin County.

SCHOOL BOARD. The Board of Education or legislative body of the local school district.

SCHOOL SUPERINTENDENT. The administrative head for the local school district.

SIDEWALK. A facility constructed of concrete and placed within the right-of-way of an existing street for the purpose of providing safe movement of pedestrians.

STREET. A way for vehicular traffic, whether designated as a street, highway, thoroughfare, parkway, throughway, road, avenue, drive, boulevard, lane, place, court or however otherwise designated.

STREET, ARTERIAL or MAJOR. A street which is used primarily for high volume and high speed traffic and designated as "arterial" in the Comprehensive Plan.

STREET, COLLECTOR. A street which carries traffic from minor streets to the major system of arterial streets and highways, including the principal entrance streets of a residential development and streets for circulation within such a development.

STREET, MINOR. A street which is used primarily for access to the abutting properties.

SUBDIVIDE or SUBDIVISION. The partitioning or dividing of a parcel or tract of land by the proprietor thereof or by his heirs, executors, administrators, legal representatives, successors or assigns for the purpose of sale or lease of more than one year, or of building development, 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.

SUBDIVISION CONTROL ACT. Public Act 288 of 1967, as amended, being M.S.A. §§ 26.430(101) through 26.430(293).

SURVEYOR. Either a land surveyor who is registered in Michigan as a registered land surveyor or a civil engineer who is registered in Michigan as a registered professional engineer.

TOPOGRAPHICAL MAP. A map showing existing physical characteristics with contour lines at sufficient intervals to permit determination of proposed grades and drainage.

WALKWAY. A public or private right-of-way across a block to be used by pedestrians and/or for underground utilities and located so as to connect two or more streets or a street and a public land parcel.

ZONING ORDINANCE. Ordinance 131 being the zoning ordinance of the city, as amended.
(Ord. 153, passed 5-20-69; Am. Ord. 165, passed 4-1-74)

Editor's note:

A copy of the city zoning ordinance is available for public inspection in the office of the City Clerk.

APPROVAL PROCESS

§ 153.15 SUMMARY OF PROCEDURE.

- (A) The Subdivider shall submit five prints of the preliminary plat to the City Clerk.
- (B) The Planning Commission may then tentatively approve the preliminary plat after public hearing. Such approval is valid for one year.
- (C) The City Council may then tentatively approve the preliminary plat, and the approval is valid for one year.
- (D) The Planning Commission and City Council may then give final approval of the preliminary plat, valid for one year. The approval is authorization to prepare the final record plat.
- (E) The final record plat may then be approved by the Planning Commission.
- (F) The final record plat may next be approved by City Council.
- (G) The final record plat may then be approved by the Gladwin County Plat Board.
- (H) The Michigan Department of State Treasurer may then give final approval of the final record plat.

(Ord. 153, passed 5-20-69)

§ 153.16 PRELIMINARY PLAT.

(A) In order to guide and assist the subdivider and, insofar as possible, to avoid later difficulties and delays, the subdivider shall consult with the Planning Department to discuss his plans for development and to be informed of any plans the city may have for the area. Other city departments shall be consulted to assist in determining the feasibility of the plan in regard to water supply, sewage disposal, surface drainage, open space and related matters. The preliminary plat shall be filed with the City Clerk in conformity with the requirements and specifications as set forth in the Subdivision Control Act.

(B) The following shall be shown on the preliminary plat:

- (1) Proposed name of the subdivision and description of the land to be platted;
- (2) Scale, optional, but not more than 200 feet to one inch;
- (3) Date and cardinal point;
- (4) The boundary lines, accurate in scale, of the tract to be subdivided;
- (5) The location, widths, names of any existing streets within or adjacent to the tract and any other features such as the county drains, water courses, railroads, section lines, flood plains, existing building, and the like;

(6) Names, locations and widths of proposed streets, alleys, parks, lots, walkways and easements including those for utilities;

(7) The plat shall be prepared by a surveyor and show the names and addresses of the subdivider and the survey or along with his seal;

(8) All parcels of land proposed to be dedicated to public use and conditions of such dedication;

(9) When only a part of a tract is proposed to be subdivided, the layout of the remaining area shall be shown in sketch form;

(10) Boundary lines of adjacent tracts of unsubdivided and subdivided land showing existing streets and lots and ownership;

(11) Contours when required by the Planning Commission;

(12) The means of servicing the subdivision with utilities;

(C) Before acting on the preliminary plat, the Planning Commission shall hold a public hearing thereon, notifying the subdivider and owners of land immediately adjacent to the proposed subdivision by certified mail.

(D) Written approval of the Planning Commission shall be indicated on the preliminary plat along with any changes or requirements that the Planning Commission may make, constituting acceptance thereof as a basis for the preparation of the final plat.

(E) Approval of the preliminary plat shall be valid for a duration of not more than one year.

(Ord. 153, passed 5-20-69)

§ 153.17 FINAL PLAT.

(A) (1) The final plat shall be filed with the City Clerk in compliance with the requirements of the Subdivision Control Act, being M.S.A. §§ 26.430(101) through 26.430(293), together with a certificate of title by an attorney at law. The ink tracing shall be retained by the city.

(2) Approval of the final plat is contingent upon furnishing to the City Engineer a plan of each street on tracing cloth with the following data: 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 specifications of the city. The street grading plans, storm sewer plans, sanitary sewer plans and water main drawings will be prepared by a registered engineer and have the approval of the appropriate state agency. These plans are subject to the approval by the City Engineer or reviewing engineer.

(B) The final plat shall be prepared and presented in accordance with the provisions of the Subdivision Control Act, being M.S.A. §§ 26.430(101) through 26.430(293).

(C) Approval of the final plat is contingent on evidence that the improvements as required have been made or will be made by the subdivider, as provided herein.

(D) After approval by the Planning Commission, the plat and agreements shall be forwarded to the City Council for approval.

(Ord. 153, passed 5-20-69)

DESIGN STANDARDS

§ 153.30 GENERAL REQUIREMENTS.

(A) Streets shall conform in effect to the community land use plan, also known as the "Master Plan," as adopted.

(B) When held appropriate by the Planning Commission, open spaces suitably located and of adequate size for parks or other public use shall be dedicated to the city.

(C) If a tentative layout for the area has been made by the Planning Department, the street layout shall be in general conformance thereto.

(D) In cases where variations and exceptions for dimensional standards, improvements, requirements and open space requirements are deemed necessary, said variations shall be recommended by the Planning Commission to the City Council.

(E) Every subdivision shall have a dedicated means of ingress and egress.

(F) Every subdivision shall be provided with sidewalks in accordance with § 153.36 of this chapter.
(Ord. 153, passed 5-20-69; Am. Ord. 165, passed 4-1-74)

Editor's note:

The Master Plan is available for public inspection at the office of the City Clerk.

§ 153.31 STREETS.

(A) *Right-of-way minimum widths:*

Type of Street	Minimum Width (feet)
Major streets and parkways	80
Local streets	66
Alleys and service drives	20
Walkways	10
Easements	10

(B) *Cul-de-sacs (Courts).*

(1) The maximum length shall be 500 feet.

(2) The terminal shall be a circular area with a minimum diameter of 100 feet.

(3) The minimum right-of-way shall be 50 feet.

(C) Streets shall intersect one another at right angles or as nearly at right angles as conditions permit.

(D) Street layout shall be in conformity with a plan for the most advantageous development of adjoining unplatted or developed areas and shall provide for access to such areas.

(E) Dead-end streets shall be accepted only when the street will be extended in the future.

(F) Wherever there exists, adjacent to the tract to be subdivided, a dedicated or platted and recorded half width street or alley, the other half width shall be platted.

(G) Alleys shall not be accepted in residence districts unless specifically required by the Planning Commission.

(Ord. 153, passed 5-20-69; Am. Ord. 251, passed 3-20-00)

§ 153.32 BLOCKS.

(A) No block shall be more than 1,000 feet in length, except where, in the opinion of the Planning Commission, conditions justify a departure from this maximum. In blocks over 900 feet in length, the Planning Commission may require at or near the middle of the block a walkway or easement for public utilities.

(B) The number of intersecting streets along the highways and major streets shall be held to a minimum; wherever practicable blocks along such traffic way shall not be less than 1,320 feet in length.

(Ord. 153, passed 5-20-69)

§ 153.33 LOTS.

(A) Lots shall conform in width and area to the zoning district in which the subdivision is located.

(B) Lots of irregular shape and lots abutting a cul-de-sac shall have not less than the required front yard setback of the zone it is located in. If a lot diminishes in width front to rear, it shall be no less than the required lot width at a distance of 60 feet from its front line.

(C) Side lot lines shall be approximately at right angles to the right-of-way line of the street the lot faces.

(D) Every lot shall abut on a dedicated street.

(E) Where a subdivision abuts the right-of-way of a major thoroughfare, railroad or major overhead utility transmission line or an industrial or commercial zoning line, the Commission shall normally require location of a street approximately parallel to one lot depth distance from such right-of-way or zone and require lots with reverse frontage.

(Ord. 153, passed 5-20-69)

(F) *Division of lots.*

(1) The division of a lot in a recorded plat may be permitted upon the application in affidavit form addressed to the City Clerk, stating the reasons for the proposed division and the size of the resulting parcels. Provided that no such lot shall be divided into more than four parts and the resulting lots shall be not less in area than permitted by the city zoning ordinance and in no event shall any resulting lot be less than 65 feet at the front lot line or less than 12,000 square feet in area, unless served by both public sewer and water systems.

(2) No building permit shall be issued, nor any building construction commenced until the division has been approved by the City Council and the suitability of the land for building sites has been approved by the District Health Department.

(3) The division of a lot resulting in smaller area than prescribed herein may be permitted for the purpose of adding to the existing site or sites. Provided further that the remaining parcel shall be conveyed only to the owner or owners of the property immediately adjoining said remaining parcel.

(Ord. 152, passed 5-5-69)

Editor's note:

The city zoning ordinance is available for public inspection at the office of the City Clerk.

§ 153.34 MINIMUM PAVEMENT WIDTHS.

(A) *Minimum pavement widths.*

Type of Street	Width (feet)
Highways, major streets and parkways	36
Local streets	33
Cul-de-sacs (Courts)	28

The pavement of the turning circle shall have a 32-foot radius to the face of the curb.

(B) The subdivider shall pay for the construction of pavement up to 28 feet.

(Ord. 153, passed 5-20-69)

§ 153.35 UTILITIES.

The proprietor shall make arrangements for all distribution lines for telephone, electrical, television and other similar services distributed by wire or cable, except for feeder lines for the services, to be placed entirely underground throughout a residential subdivision area, and such conduits or cables shall be placed within private easements provided to such companies, by the developer or within dedicated public ways, provided that after receiving a written report from the engineer, planner and Commission, overhead lines may be permitted by the governing body at the time of the final plat approval, where it is determined by the governing body that overhead lines will not constitute a detriment to the health, safety, general welfare, plat design and character of the subdivision. All such facilities placed in dedicated public ways shall be planned so as not to conflict with other underground utilities. All such facilities shall be constructed in accordance with the standards of construction approved by the Michigan Public Service Commission. All drainage and underground utility installations which traverse privately owned property shall be protected by easements granted by the proprietor.

(Ord. 153, passed 5-20-69)

§ 153.36 SIDEWALKS.

(A) In all subdivisions hereafter created and recorded, a sidewalk shall be required on both sides of a street.

(B) Based on a recommendation by the City Administrator, the City Engineer or any other city official, the City Council may require that an existing sidewalk which is deemed substandard shall be removed and replaced by an adequate sidewalk. Unless otherwise specified by the City Council, removal and replacement of a sidewalk shall be considered incidental and no special payment or credit will be considered.

(C) All sidewalks shall be located 12 inches from the right-of-way line and shall conform to the following standards:

- (1) *Width.* Sixty inches.
- (2) *Minimum thickness.* Four inches except at driveways where the thickness shall be six inches.
- (3) *Slope.* One-eighth inch per foot transversely down toward the centerline of the street.
- (4) *Expansion joints.* One-half inch thick at an interval of not more than 30 feet; also one inch thick between the sidewalk and abutting curbs, driveways and approaches, buildings or any other rigid structures. Expansion joint strips shall extend the full depth of the sidewalk and shall be trimmed so as to be flush with the surface of the sidewalk.

(5) *Contraction joints.* Cut in concrete after floating, at four foot intervals, to a depth of not less than $\frac{1}{8}$ -inch nor more than $\frac{1}{4}$ -inch, finished smooth and true to line.

(6) *Materials.* Sidewalks shall be constructed of 3500# concrete and expansion joints shall be of pre-molded non-extruding concrete expansion joint material.

(7) *Elevation.* The edge of the sidewalk nearest the street shall be located higher than the established curb grade at the following ratio:

(a) Fifty foot right-of-way street: Four-tenths inch above curb.

(b) Sixty foot right-of-way street: Six-tenths inch above curb.

(c) Sixty-six foot right-of-way street: Seven-tenths inch above curb.

(d) Eighty foot right-of-way street: One inch above curb.

(8) Where a sidewalk abuts another sidewalk or curb or similar structure, the abutting surfaces shall be flush.

(Ord. 165, passed 4-1-74)

IMPROVEMENTS

§ 153.50 INSTALLATION AND FINANCING.

The subdivider shall be responsible for the provision of all required improvements to the subdivision, that is water mains, sanitary and storm sewers, curbs and gutters, pavement, sidewalks, graded outlaws and all interior walkways. Improvements shall be installed in conformity with the Subdivision Control Act.

(Ord. 153, passed 5-20-69)

Statutory reference:

Subdivision Control Act, see Public Act 288 of 1967, being M.S.A. §§ 26.430(101) through 26.430(293)

§ 153.51 SUBMISSION OF FINAL PLAT; FULL COMPLIANCE OR PERFORMANCE GUARANTEE REQUIRED.

(A) The final plat should not be submitted until all of the required improvements with the plat have been completed according to plans and specifications as set forth herein or until satisfactory arrangements have been made to complete them. This may be accomplished by either the full installation of all required improvements by the developer at the time that the final plat is to be forwarded to the City Council with a recommendation of approval from the Planning Commission, or by the provision of a financial guarantee of performance in the way described in division (B) of this section.

(B) **PERFORMANCE GUARANTEE.** A duly executed completion bond by the subdivider, with the corporate surety, to be approved by the City Council, to be filed with the City Clerk, in an amount equal to the estimate of the costs of construction of all improvements, certified by the City Attorney, as good, valid and enforceable by the city, securing the satisfactory completion of all improvements in accordance with the description, plans, profiles and specifications submitted by the subdivider and approved by the City Council.

(Ord. 153, passed 5-20-69)

§ 153.52 COSTS OF INSPECTION; REIMBURSEMENT FROM PERFORMANCE GUARANTEE.

The agreement will be so written that any part of the performance guarantee, as required, may be used to reimburse the city for costs incurred in connection with the examination and inspection of the requirements.

(Ord. 153, passed 5-20-69)

§ 153.53 COMPLETION OF IMPROVEMENTS BY CITY; REIMBURSEMENT FROM PERFORMANCE GUARANTEE.

In the event the subdivider shall in any case fail to complete such work within such period as required by the conditions of the guarantee, the city shall have such work completed, and in order to reimburse itself for the cost expense thereof, the City Council may appropriate from the deposit which the developer deposited in lieu of the required improvements.

(Ord. 153, passed 5-20-69)

§ 153.54 AGREEMENT BETWEEN SUBDIVIDER AND CITY.

The subdivider shall enter into an agreement with the city containing a restriction upon the plat whereby the city's Building Inspector will not be permitted to issue a building permit for any structure upon any lot within the subdivision until the improvements as specified above have been completed, or satisfactory arrangements have been made with the city for the completion of said improvements. These plat restrictions shall be made a part of all deeds or contracts for any lot within the subdivision.

(Ord. 153, passed 5-20-69)

§ 153.55 BORDERLINE STREETS.

When a plat dedicates half the width of a street on a boundary line separating two or more parcels of property, the subdivider shall enter into an agreement with the city whereby the subdivider shall be responsible for the installation of improvements on his half of the street at the time the adjacent tract is developed

(Ord. 153, passed 5-20-69)

CHAPTER 154: ZONING CODE

Section

154.01 Adoption by reference

§ 154.01 ADOPTION BY REFERENCE.

The City of Gladwin Zoning Ordinance passed on November 21, 2016, is hereby adopted by reference and incorporated into the code of ordinances as if fully set forth herein. Subsequent amendments to the Zoning Ordinance shall be considered to be incorporated without specific reference.

(Ord. 333, passed 11-21-16)

CHAPTER 155: UNIFORM CODE FOR ABATEMENT OF DANGEROUS BUILDINGS

Section

- 155.01 Title and scope
- 155.02 Enforcement
- 155.03 Definitions
- 155.04 Notices and orders of Building Official
- 155.05 Appeal
- 155.06 Procedure for conduct of hearing appeals
- 155.07 Enforcement of the order of the Building Official or the Board of Appeals
- 155.08 Performance of work of repair or demolition
- 155.09 Recovery of cost of repair or demolition

- 155.99 Penalty

§ 155.01 TITLE AND SCOPE.

(A) *Title.* This code shall be known as the "Uniform Code for Abatement of Dangerous Buildings", may be cited as such, and will be referred to herein as "this code."

(B) *Scope.* The provisions of this code shall apply to all dangerous buildings, as herein defined, which are now in existence or which may hereafter be located in the City of Gladwin.

(C) *Alterations, additions and repairs.* All buildings or structures which are required to be repaired under the provisions of this code shall be subject to the provisions of BOCA 2006.

(Ord. 295, passed 2-4-08)

§ 155.02 ENFORCEMENT.

(A) *General.*

(1) *Administration.* The City Administrator appointed by the city is hereby authorized to enforce the provisions of this code.

(2) *Inspections.* The City Administrator and his or her designees are hereby authorized to make such inspections and take such actions as may be required to enforce the provisions of this code.

(3) *Right of entry.*

(a) Whenever necessary to make an inspection to enforce any of the provisions of this code, or whenever the Building Official or his or her 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 dangerous as defined in this code, the Building Official or his or her authorized representative may enter such building or premises at all reasonable times to inspect the same or perform any duty imposed upon the Building Official by this code; provided that (i) if such building or premises be occupied, he or she shall first present proper credentials and demand entry; and (ii) 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 Building Official or his or her authorized representative shall have recourse to every remedy provided by law to secure entry.

(b) "Authorized representative" shall include the officers named in division (A)(2) and their authorized inspection personnel.

(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 promptly permit entry therein by the Building Official or his or her authorized representative for the purpose of inspection and examination pursuant to this code. Any person violating this subsection shall be guilty of a misdemeanor.

(4) *Building Official.* City Administrator and any person retained or appointed by the City Administrator for the purpose of inspection, who shall have specific knowledge of building, fire or safety codes and construction.

(5) County Health Department and Central Michigan District Health Department or its successor.

(B) *Abatement of dangerous buildings.* All buildings or portions thereof which are determined after inspection by the Building Official to be dangerous as defined in this code are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition, or removal in accordance with the procedure specified in § 155.04(A) of this code.

(C) *Violations.* No person, firm, or corporation, whether as owner, lessee, sublessee, or occupant, shall erect, construct, enlarge, alter, repair, move, improve, remove, demolish, equip, use, occupy, or maintain any building or premises, or cause or permit the same to be done, contrary to or in violation of any of the provisions of this code or any order issued by the Building Official hereunder. Any person violating the provisions of this section shall be guilty of a misdemeanor for each day such violation continues.

(D) *Inspection of work.* All buildings or structures within the scope of this code and all construction or work for which a permit is required shall be subject to inspection by the Building Official in accordance with and in the manner provided by this code.

(E) *Board of Appeals.* In order to provide for final interpretation of the provisions of this code and to hear appeals provided hereunder there is hereby established a Board of Appeals consisting of the same members and holding the same terms of office as members of the Construction Board of Appeals, established under the applicable building codes. The Board may adopt reasonable rules and regulations for conducting its business and shall render all decisions and findings in writing to the appellant with a copy to the Building Official. Appeals to the Board shall be processed in accordance with the provisions contained in this code. Copies of all rules or regulations adopted by the Board shall be delivered to the Building Official who shall make them freely accessible to the public.

(Ord. 295, passed 2-4-08)

§ 155.03 DEFINITIONS.

(A) *General.* For the purpose of this code, certain words, phrases, and terms, and their derivatives shall be construed as specified in this chapter. Words, phrases, and terms used in this code, but not specifically defined herein, shall have the meanings stated therefore in the BOCA 2006. Where not defined in this code or in the BOCA 2006 such words, phrases, and terms, shall have the meanings stated therefor in Webster's New International Dictionary of the English Languages, Unabridged, Third Edition.

(B) *Dangerous building.* For the purpose of this code, any building or structure which has any or all of the conditions or defects hereinafter described shall be deemed to be in a dangerous building, provided that such conditions or defects exist to the extent that the life, health, property, or safety of the public or its occupants are endangered:

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

panic.

(2) Whenever the stress in any materials, member or portion thereof, due to all dead and live loads, is more than one and one-half times the working stress or stresses allowed in the BOCA 2006 for new buildings of similar structure, purpose or location.

(3) Whenever any portion thereof has been damaged by fire, earthquake, wind, flood or by any other cause, to such an extent that the structural strength or stability thereof is materially less than it was before such catastrophe and is less than the minimum requirements of the BOCA 2006 for new buildings of similar structure, purpose or location.

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

(5) Whenever any portion of a building, or any member, appurtenance or ornamentation on the exterior thereof is not of sufficient strength or stability, or is not so anchored, attached or fastened in place so as to be capable of resisting a wind pressure of one-half of that specified in the BOCA 2006 for new buildings of similar structure, purpose or location without exceeding the working stresses permitted in the BOCA 2006 for such buildings.

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

(7) Whenever the building or structure, or any portion thereof, because of (i) dilapidation, deterioration, or decay; (ii) faulty construction; (iii) the removal, movement or instability of any portion of the ground necessary for the purpose of supporting such building; (iv) the deterioration, decay or inadequacy of its foundation; or (v) any other cause, is likely to partially or completely collapse.

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

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

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

(11) Whenever the building or structure has been so damaged by fire, wind, earthquake or flood, or has become so dilapidated or deteriorated as to become (i) an attractive nuisance to children; (ii) a harbor for vagrants, criminals or immoral persons; or as to (iii) enable persons to resort thereto for the purpose of committing immoral acts.

(12) Whenever any building or structure has been constructed, exists or is maintained in violation of any specific requirement or prohibition applicable to such building or structure provided by the building regulations of this city as specified in the BOCA 2006, or of any law or ordinance of this state or city relating to the condition, location, or structure of buildings.

(13) Whenever any building or structure which, whether or not erected in accordance with all applicable laws and ordinances, has in any nonsupporting part, member or portion, less than 50%, or in any supporting part, member or portion less than 66% of the (i) strength, (ii) fire-resisting qualities or characteristics, or (iii) weather-resisting qualities or characteristics required by law in the case of a newly constructed building of like area, height and occupancy in the same location.

(14) Whenever a building or structure, used or intended to be used for dwelling purposes, because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangement,

inadequate light, air or sanitation facilities, or otherwise, is determined by the County Health Department to be unsanitary, unfit for human habitation or in such a condition that is likely to cause sickness or disease.

(15) Whenever any building or structure, because of obsolescence, dilapidated condition, deterioration, damage, inadequate exits, lack of sufficient fire resistive construction faulty electric wiring, gas connections or heating apparatus, or other cause, is determined by the Fire Chief to be a fire hazard.

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

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

(Ord. 295, passed 2-4-08)

§ 155.04 NOTICES AND ORDERS OF BUILDING OFFICIAL.

(A) General.

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

(2) *Notice and order.* The Building Official shall issue a notice and order directed to the owner of the building as shown by the latest assessment roll for the city. The notice and order shall contain:

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

(b) A statement that the Building Official has found the building to be dangerous with a brief and concise description of the conditions found to render the building dangerous under the provisions of § 155.03(B) of this code.

(c) A statement of the action required to be taken as determined by the Building Official.

1. If the Building Official has determined that the building or structure must be repaired, the order shall require that all required permits be secured therefore and the work physically commenced within such time (not to exceed 60 days from the date of the order) and completed within such time as the Building Official shall determine is reasonable under all of the circumstances.

2. If the Building Official has determined that the building or structure must be vacated, the order shall require that the building or structure shall be vacated within a time certain from the date of the order as determined by the Building Official to be reasonable.

3. If the Building Official has determined that the building or structure must be demolished, the order shall require that the building be vacated within such time as the Building Official shall determine is reasonable (not to exceed 60 days from the date of the order); that all required permits be secured therefore within 60 days from the date of the order, and that the demolition be completed within such time as the Building Official shall determine is reasonable.

(d) Statements advising that if any required repair or demolition work (without vacation also being required) is not commenced within the time specified, the Building Official (i) will order the building vacated and posted to prevent further occupancy until the work is completed, and (ii) may proceed to cause the work to be done and charge the costs thereof against the property or its owner.

(e) Statements advising (i) that any person having any record, title or legal interest in the building may appeal from the notice and order or any action of the Building Official to the Board of Appeals, provided the appeal is made in writing as provided in this code, and filed with the Building Official within 30 days from the date of service of such notice and order; and (ii) that failure to appeal will constitute a waiver of all rights to an administrative hearing and determination of the matter.

(3) *Service of notice and order.* The notice and order, and any amended or supplemental notice and order, shall be served upon the owner, as disclosed by the latest assessment roll for the city and posted on the property; and one copy thereof shall be served on each of the following if known to the Building Official; the holder of any mortgage of record; the owner or holder of any lease of record; and the holder of any other estate or legal interest of record in or to the building or the land on which it is located. The failure of the Building Official to serve any person required herein to be served shall not invalidate any proceedings hereunder as to any other person duly served or relieve any such person from any duty or obligation imposed on him or her by the provisions of this section.

(4) *Method of service.* Service of the notice and order shall be made upon all persons entitled thereto either personally or by mailing a copy of such notice and order by certified mail, postage prepaid, return receipt requested, to each such person at his or her address as it appears on the last assessment roll of the city or as known to the Building Official. If no address of any such person so appears or is known to the Building Official, then a copy of the notice and order shall be so mailed and addressed to such person at the address of the building involved in the proceedings. The failure of any such person to receive such notice shall not affect the validity of any proceedings taken under this section. Service by certified mail in the manner herein provided shall be effective on the date of mailing.

(5) *Proof of service.* Proof of service of the notice and order shall be certified to at the time of service by a written declaration under penalty of perjury executed by the person effecting service, declaring the time, date and manner in which service was made. The declaration, together with any receipt card returned in acknowledgment of receipt by certified mail shall be affixed to the copy of the notice and order retained by the Building Official.

(B) *Repair, vacation and demolition: standards to be followed.* The following standards shall be followed by the Building Official (and by the Board of Appeals if an appeal is taken) in ordering the repair, vacation or demolition of any dangerous building or structure:

(1) Any building declared a dangerous building under this chapter shall either be repaired in accordance with the current Building Code or shall be demolished at the option of the building owner.

(2) If the building or structure is in such condition as to make it immediately dangerous to the life, limb, property or safety of the public or its occupants, it shall be ordered to be vacated.

(C) *Notice to vacate.*

(1) *Posting.* Every notice to vacate shall, in addition to being served as provided in division (A)(3), be posted at or upon each exit of the building, and shall be in substantially the following form:

"DO NOT ENTER UNSAFE TO OCCUPY"

It is a misdemeanor to occupy this building, or to remove or deface this notice.

Building Official

City of Gladwin

(2) *Compliance.* Whenever such notice is posted, the Building Official shall include a notification thereof in the notice and order issued by him or her under division (A)(2), reciting the emergency and specifying the conditions which necessitate the posting. No person shall remain in or enter any building which has been so posted, except that entry may be made to repair, demolish or remove such

building under permit. No person shall remove or deface any such notice after it is posted until the required repairs, demolition, or removal have been completed and a Certificate of occupancy issued pursuant to the provisions of the BOCA 2006. Any person violating this subsection shall be guilty of a misdemeanor.

(Ord. 295, passed 2-4-08)

§ 155.05 APPEAL.

(A) General.

(1) *Form of appeal.* Any person entitled to service under § 155.04(A)(3) may appeal from any notice and order or any action of the Building Official under this code by filing at the office of the Building Official within 30 days from the date of the service of such order, a written appeal containing:

(a) A heading in the words: "Before the Board of Appeals of the City of Gladwin."

(b) A caption reading: "Appeal of _____", giving the names of all appellants participating in the appeal.

(c) A brief statement setting forth the legal interest of each of the appellants in the building or the land involved in the notice and order.

(d) A brief statement in ordinary and concise language of the specific order or action protested, together with any material facts claimed to support the contentions of the appellant.

(e) A brief statement in ordinary and concise language of the relief sought, and the reasons why it is claimed the protested order or action should be reversed, modified, or otherwise set aside.

(f) The signatures of all parties named as appellants, and their official mailing addresses.

(g) The verification (by declaration under penalty of perjury) of at least one appellant as to the truth of the matters stated in the appeal.

(2) *Processing of appeal.* Upon receipt of any appeal filed pursuant to this section, the City Administrator shall present it at the next regular or special meeting of the Construction Board of Appeals.

(3) *Scheduling and noticing appeal for hearing.* As soon as practicable after receiving the written appeal the Construction Board of Appeals shall fix a date, time, and place for the hearing of the appeal by the Board. Such date shall be not less than ten days nor more than 60 days from the date the appeal was filed with the City Administrator. Written notice of the time and place of the hearing shall be given at least ten days prior to the date of the hearing to each appellant by the Secretary of the Board either by causing a copy of such notice to be delivered to the appellant personally or by mailing a copy thereof, postage prepaid, addressed to the appellant at his or her address shown on the appeal.

(B) *Effect of failure to appeal.* Failure of any person to file an appeal in accordance with the provisions of division (A) shall constitute a waiver of his or her right to an administrative hearing and adjudication of the notice and order, or any portion thereof.

(C) *Scope of hearing on appeal.* Only those matters or issues specifically raised by the appellant shall be considered in the hearing of the appeal.

(D) *Staying of order under appeal.* Except for vacation orders made pursuant to § 155.04(C), enforcement of any notice and order of the Building Official issued under this code shall be stayed during the pendency of an appeal therefrom which is properly and timely filed.

(Ord. 295, passed 2-4-08)

§ 155.06 PROCEDURE FOR CONDUCT OF HEARING APPEALS.

(A) *General.*

(1) *Hearing.* The hearing shall be before a minimum of three members of the Board who shall designate one of its members to preside at the hearing.

(2) *Record.* A record of the entire proceedings shall be made by tape recording, or by any other means of permanent recording determined to be appropriate by the Board.

(3) *Continuances.* The Board may grant continuances for good cause shown.

(4) *Reasonable dispatch.* The Board and its representatives shall proceed with reasonable dispatch to conclude any matter before it. Due regard shall be shown for the convenience and necessity of any parties or their representatives.

(B) *Form of hearing.* The notice to appellant shall be substantially in the following form, but may include other information:

"You are hereby notified that a hearing will be held before the Board of Appeals at _____ on the _____ day of _____, 20__, at the hour _____ upon the notice and order served upon you. You may be present at the hearing. You may be, but need not be, represented by counsel. You may present any relevant evidence and will be given full opportunity to cross-examine all witnesses testifying against you. The Board may consider written reports, photographs and testimony."

(C) *Conduct of hearing.*

(1) *Rules.* Hearings need not be conducted according to the technical rules relating to evidence and witnesses.

(2) *Oral evidence.* Oral evidence shall be taken only on oath or affirmation.

(3) *Hearsay evidence.* Hearsay evidence may be used for the purpose of supplementing or explaining any direct evidence, but shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions in courts of competent jurisdiction in this state.

(4) *Admissibility of evidence.* Any relevant evidence shall be admitted if it is the type of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in civil actions in courts of competent jurisdiction in this state.

(5) *Exclusion of evidence.* Irrelevant and unduly repetitious evidence shall be excluded.

(6) *Rights of parties.* Each party shall have these rights, among others:

(a) To call and examine witnesses on any matter relevant to the issues of the hearing;

(b) To introduce documentary and physical evidence;

(c) To cross-examine opposing witnesses on any matter relevant to the issues of the hearing;

(d) To impeach any witness regardless of which party first called him or her to testify;

(e) To rebut the evidence against him or her;

(f) To represent himself or herself or to be represented by anyone of his or her choice who is lawfully permitted to do so.

(7) *Inspection of the premises.* The Board may inspect any building or premises involved in the appeal during the course of the hearing, provided that (i) notice of such inspection shall be given to the parties before the inspection is made, (ii) the parties are given an opportunity to be present during

the inspection, and (iii) the Board shall state for the record upon completion of the inspection the material facts observed and the conclusions drawn therefrom. Each party then shall have a right to rebut or explain the matters so stated by the Board.

(D) *Method and form of decision.*

(1) *Hearing before Board.* No member of the Board of Appeals who did not hear the evidence shall vote on or take part in the decision.

(2) *Form of decision.* The decision shall be in writing and shall contain findings of fact, a determination of the issues presented, and the requirements to be complied with. A copy of the decision shall be delivered to the appellant personally or sent to him or her by certified mail, postage prepaid, return receipt requested.

(3) *Effective date of decision.* The effective date of the decision shall be as stated therein.

(Ord. 295, passed 2-4-08)

§ 155.07 ENFORCEMENT OF THE ORDER OF THE BUILDING OFFICIAL OR THE BOARD OF APPEALS.

(A) *Compliance.*

(1) *General.* After any order of the Building Official or the Board of Appeals made pursuant to this code shall have become final, no person to whom any such order is directed shall fail, neglect, or refuse to obey any such order. Any person who fails to comply with any such order is guilty of a misdemeanor, with a maximum penalty of 90 days in jail and/or \$500 fine plus costs.

(2) *Failure to obey order.* If, after any order of the Building Official or Board of Appeals made pursuant to this code has become final, the person to whom such order is directed shall fail, neglect or refuse to obey such order, the city may (i) cause such person to be prosecuted under division (A)(1) of this section or (ii) institute any appropriate action to abate such building as a public nuisance.

(3) *Failure to commence work.* Whenever the required repair or demolition is not commenced within 30 days after any final notice and order issued under this code becomes effective:

(a) The city shall cause the building described in such notice and order to be vacated by posting at each entrance thereto a notice reading:

"DANGEROUS BUILDING DO NOT OCCUPY"

It is a misdemeanor to occupy this building or to remove or deface this notice.

Building Official

City of Gladwin

(b) No person shall occupy any building which has been posted as specified in this subsection. No person shall remove or deface any such notice so posted until the repairs, demolition, or removal ordered by the Building Official have been completed and a Certificate of Occupancy issued pursuant to the provisions of the BOCA 2006.

(c) The Building Official may, in addition to any other remedy herein provided, cause the building to be repaired to the extent necessary to correct the conditions which render the building dangerous as set forth in the notice and order; or, if the notice and order required demolition, to cause the building to be sold and demolished or demolished and the materials, rubble and debris therefrom removed and the premises cleaned. Any such repair or demolition work shall be accomplished and the cost thereof paid and recovered in the manner hereinafter provided in this code. Any surplus realized from the sale of any such building, or from the demolition thereof, over and above the cost of

demolition and of cleaning the premises, shall be paid over to the person or persons lawfully entitled thereto.

(B) *Extension of time to perform work.* Upon receipt of an application from the person required to conform to the order and an agreement by such person that he or she will comply with the order if allowed additional time, the Building Official may, in his or her discretion, grant an extension of time, not to exceed an additional 120 days, within which to complete said repair, rehabilitation, or demolition, if the Building Official determines that such an extension of time will not create or perpetuate a situation imminently dangerous to life or property. The Building Official's authority to extend time is limited to the physical repair, rehabilitation, or demolition of the premises and will not in any way affect or extend the time to appeal his or her notice and order.

(C) *Interference with repair or demolition work prohibited.* No person shall obstruct, impede or interfere with any officer, employee, contractor or authorized representative of the city or with any person who owns or holds any estate or interest in any building which has been ordered repaired, vacated or demolished under the provisions of this code; or with any person to whom such building has been lawfully sold pursuant to the provisions of this code, whenever such officer, employee, contractor or authorized representative of the city, person having an interest or estate in such building or structure, or purchaser is engaged in the work of repairing, vacating and repairing, or demolishing any such building, pursuant to the provisions of this code, or in performing any necessary act preliminary to or incidental to such work or authorized or directed pursuant to this code.

(Ord. 295, passed 2-4-08) Penalty, see § 155.99

§ 155.08 PERFORMANCE OF WORK OF REPAIR OR DEMOLITION.

(A) General.

(1) *Procedure.* When any work of repair or demolition is to be done pursuant to § 155.07(A)(3)(c) of this code, the Building Official shall issue his or her order therefore to the Director of the City Public Works Department or such other authorized city person as the City Council shall from time to time designate and the work shall be accomplished by city personnel or private contract under the direction of said Director. Plans and specifications therefore may be prepared by said Director, or he or she may employ such architectural and engineering assistance on a contract basis as he or she may deem reasonably necessary.

(2) *Costs.* The cost of such work shall be paid from an appropriate City Fund, and may be made a special assessment against the property involved, and may also be made a personal obligation of the property owner, whichever the City Council shall determine is appropriate.

(B) Repair and demolition fund.

(1) *General.* The City Council shall establish a special fund to be designated as the Repair and Demolition Fund. Payments shall be made out of said fund upon the demand of the City Administrator to defray the costs and expenses which may be incurred by the city in doing or causing to be done the necessary work of repair or demolition of dangerous buildings.

(2) *Maintenance of fund.* The City Council may at any time transfer to the Repair and Demolition Fund, out of any money in the General Fund of the city, such sums as it may deem necessary in order to expedite the performance of the work of repair or demolition, and any sum so transferred shall be deemed a loan to the Repair and Demolition Fund and shall be repaid out of the proceeds of the collections hereinafter provided for. All funds collected under the proceedings hereinafter provided for, shall be paid to the City Treasurer, who shall credit the same to the Repair and Demolition Fund.

(Ord. 295, passed 2-4-08)

§ 155.09 RECOVERY OF COST OF REPAIR OR DEMOLITION.

(A) *Account of expense, filing of report; contents.* The City Administrator shall keep an itemized account of the expense incurred by the city in repair or demolition of any building done pursuant to the provisions of § 155.07(A)(3) of this code. Upon the completion of the work of repair or demolition, said Administrator shall prepare and file with the City Clerk a report specifying the work done, the itemized and total cost of the work, a description of the real property upon which the building or structure is or was located, and the names and addresses of the persons entitled to notice pursuant to § 155.04(C).

(B) *Report transmitted to Council - set for hearing.* Upon receipt of said report, the City Clerk shall present it to the City Council for consideration. The City Council shall fix a time, date and place for hearing said report, and any protests or objections thereof. The City Clerk shall cause notice of said hearing to be posted upon the property involved, published once in a newspaper of general circulation in the city, and served by certified mail, postage prepaid, addressed to the owner of the property as his or her name and address appear on the last assessment roll of the city, if such so appear, or as known to the Clerk. Such notice shall be given at least ten days prior to the date set for hearing and shall specify the day, hour, and place when the City Council will hear and pass upon the Administrator's report, together with any objections or protests which may be filed as hereinafter provided by any person interested in or affected by the proposed charge.

(C) *Protests and objections - how made.* Any person interested in or affected by the proposed charge may file written protests or objections with the City Clerk at any time prior to the time set for the hearing on the report of the Administrator. Each such protest or objection must contain a description of the property in which the signer thereof is interested and the grounds of such protest or objection. The City Clerk shall endorse on every such protest or objection the date it was received by him or her. He or she shall present such protests or objections to the City Council at the time set for the hearing, and no other protests or objections shall be considered.

(D) *Hearing of protests.* Upon the day and hour fixed for the hearing the City Council shall hear and pass upon the report of the Administrator together with any such objections or protests. The City Council may make such revision, correction or modification in the report or the charge as it may deem just, and when the City Council is satisfied with the corrections of the charge, the report (as submitted or as revised, corrected or modified) together with the charge, shall be confirmed or rejected. The decision of the City Council on the report and the charge, and on all protests or objections, shall be final and conclusive.

(E) *Personal obligation or special assessment.*

(1) *General.* The City Council may thereupon order that said charge shall be made a personal obligation of the property owner or assess said charge against the property involved.

(2) *Personal obligation.* If the City Council orders that the charge shall be a personal obligation of the property owner, it shall direct the City Attorney to collect the same on behalf of the city by use of all appropriate legal remedies.

(3) *Special assessment.* If the City Council orders that the charge shall be assessed against the property it shall confirm the assessment, cause the same to be recorded on the assessment roll, and thereafter said assessment shall constitute a special assessment against and a lien upon the property.

(4) *Consensual assessment.* Notwithstanding other provisions, the city and property owner may enter into an agreement which provides for payment and assessment, and may modify the provisions of this section to effect such agreement.

(F) *Contest.* The validity of any assessment made under the provisions of this chapter shall not be contested in any action or proceeding unless the same is commenced within 30 days after the assessment is placed upon the assessment roll as provided herein. Any appeal from a final judgment in such action or proceeding must be perfected within 30 days after the entry of such judgment.

(G) *Authority for installment payment of assessments with interest.* The City Council, in its discretion, may determine that assessments in amounts of \$500 or more shall be payable in not to exceed ten equal annual installments. The City Council's determination to allow payment of such assessments in installments, the number of installments, whether they shall bear interest, and the rate thereof shall be by a resolution adopted prior to the confirmation of the assessment.

(H) *Lien of assessment.*

(1) *Priority.* Immediately upon its being placed on the assessment roll the assessment shall be deemed to be complete, the several amounts assessed shall be payable, and the assessments shall be liens against the lots or parcels of land assessed, respectively. The lien shall be subordinate to all existing special assessment liens previously imposed upon the same property, and shall be paramount to all other liens except for state, county, school and city taxes with which it shall be upon a parity. The lien shall continue until the assessment and all interest due and payable thereon are paid.

(2) *Interest and assessment.* In the event the costs of demolition, repairs or cleanup as hereinbefore provided remains uncollected or unpaid after 30 days following the demolition, repairs or cleanup, then paid amount shall be returned by the city to the City Assessor, and the same, together with the interest at the rate of 6% per annum, shall be placed upon the tax roll next in course of preparation as a charge against the property upon which such order was carried out, and the same shall become a lien upon the land and shall be assessed and collected in the same manner as a special assessment of the city, and as assessed and collected shall be paid into the general fund to reimburse the outlay therefrom aforesaid.

(I) *Report to assessor and tax collector; addition of assessment to tax bill.* After confirmation of the report, certified copies of the assessment shall be given to the City Administrator and the City Treasurer who shall add the amount of the assessment to the next regular tax bill levied against the parcel.

(J) *Collection of assessment; penalties for foreclosure.*

(1) The amount of the assessment shall be collected at the same time and in the same manner as ordinary township taxes are collected; and shall be subject to the same penalties and procedure and sale in case of delinquency as provided for city taxes. All laws applicable to the levy, collection and enforcement of city taxes shall be applicable to such assessment.

(2) If the City Council has determined that the assessment shall be paid in installments, each installment and any interest thereon shall be collected in the same manner as ordinary city taxes in successive years. If any installment is delinquent, the amount thereof is subject to the same penalties and procedure for sale as provided for ordinary city taxes.

(K) *Repayment of repair and demolition fund.* All money recovered by payment of the charge or assessment or from the sale of the property at foreclosure sale shall be paid to the City Treasurer who shall credit the same to the Repair and Demolition Fund.

(Ord. 295, passed 2-4-08)

§ 155.99 PENALTY.

Any person, firm or corporation who violates any of the provisions of this chapter shall, in addition to the other obligations imposed herein, be deemed guilty of a misdemeanor and, upon conviction, be punished by a fine of not to exceed \$500 or by imprisonment in the County Jail of not to exceed 90 days or by both such fine and imprisonment in the discretion of the District Judge. Each day that a violation continues to exist shall constitute a separate offense.

(Ord. 295, passed 2-4-08)

CHAPTER 156: FLOODPLAIN MANAGEMENT

Section

156.01 Floodplain management

§ 156.01 FLOODPLAIN MANAGEMENT.

(A) *Agency designated.* Pursuant to the provisions of the State Construction Code, in accordance with § 8b(6) of Act 230 of the Public Acts of 1972, as amended, the Building Official of the County of Gladwin is hereby designated as the enforcing agency to discharge the responsibility of the city under the Act. The County assumes responsibility for the administration and enforcement of said Act throughout the corporate limits of the city.

(B) *Code appendix enforced.* Pursuant to the provisions of the State Construction Code, in accordance with § 8b(6) of Act 230 of the Public Acts of 1972, as amended, Appendix G of the Michigan Building Code shall be enforced by the enforcing agency within the city.

(C) *Designation of regulated flood prone hazard areas.* The Federal Emergency Management Agency (FEMA) Flood Insurance Study for Gladwin County, all jurisdictions, dated August 2, 2018, and the Flood Insurance Rate Maps (FIRMs) panel numbers 26051CIND0A, 26051C0225B, and 26051C0250B dated August 2, 2018, 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. 337, passed 10-29-18)

TABLE OF SPECIAL ORDINANCES

Table

- I. DOWNTOWN DEVELOPMENT AUTHORITY DISTRICT BOUNDARIES
- II. FRANCHISES
- III. ZONING MAP CHANGES

TABLE I: DOWNTOWN DEVELOPMENT AUTHORITY DISTRICT BOUNDARIES

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
186	5-4-92	Adopting and confirming the Downtown Development Authority District boundaries beginning at the intersection of the south line of Knob Hills Subdivision No. 1 with the west line of Section 1 Town 18 North, Range 2 West (also being the centerline of State Trunkline M-18).

201	6-7-93	Amending the Downtown Development Authority District boundaries adopted in Ord. 186 to include the new areas shown on Attachment "A" to Ord. 201.
206	10-18-93	Amending the Downtown Development Authority District boundaries adopted in Ord. 186 to include the new areas shown on Attachment "A" to Ord. 206.
208	12-20-93	Amending the Downtown Development Authority District boundaries adopted in Ord. 186 to include the new areas shown on Attachment "A" to Ord. 208.
211	3-6-95	Amending the Downtown Development Authority District boundaries adopted in Ord. 186 to include the new areas shown on Attachment "A" to Ord. 211.
216	5-20-96	Amending the Downtown Development Authority District boundaries adopted in Ord. 186 to include the new areas shown on Attachment "B" to Ord. 216.

TABLE II: FRANCHISES

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
202	9-7-93	Granting a gas and/or electric franchise to Consumers Power Company for a period of 30 years.
207	12-6-93	Granting the cable television franchise to C-TEC Cable Systems.
213	5-4-95	Adopting 1995 cable television franchise with Premier Cable, Inc.
235	10-19-98	Granting consent to the transfer of control of a cable television system and franchise to Avalon Cable of Michigan, Inc.
238	12-21-98	Accepting terms and conditions to transfer of control of cable television control to Avalon Cable of Michigan, Inc.
239	2-15-99	Granting consent to a reorganization of ownership of a cable television system and franchise to Avalon Cable of Michigan, Inc.
249	11-1-99	Granting consent to the transfer and control of a cable system and franchise from Avalon Cable to Charter Communications Holding Company, L.L.C.

253	9-18-00	Granting a non-exclusive, revocable electric franchise to DTE Energy for a period of five years.
284	12-6-04	Granting a non-exclusive cable television franchise to CC Michigan, LLC, doing business as Charter Communications.

TABLE III: ZONING MAP CHANGES

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
204	9-20-93	Amending the City Zoning Map as follows:
		(A) Rezoning from A-1 to C-2:
		(1) S ½ of SE ¼ of SW ¼
		(2) SE ¼ of NE ½
		(3) Lots 2-29 inc. of Markle Subdivision
		(4) N 630 ft. of N ½ of SE ¼ all in Section 6, T18N, R1W
		(B) Zoning as A-1: S ½ of NE ½ and SE ½ of said Section 6, except as described in A. above.
		(C) From A-1 to C-2: A parcel commencing S 89°53'45" E along E/W ¼ line 1515 feet from the W ¼ corner of said Section 6.
218	-- --	Designation of Lots 1 through 7 inclusive of Block 76, Grout, Fouch and Johnson's Addition to the city as within the R-O (Residential Office) District.
222	6-2-97	Section 1, 18 North, Range 2 West, the East 400 feet of the E ½ of the N ½ of the SE ¼ of the SW ¼ excepting the South 350 feet thereof shall be designated as within the R-O (Residential Office) District.
223	8-4-97	Amending the City Zoning Map as follows:
		(A) Whenever any area is annexed or otherwise becomes subject to the jurisdiction of the city, the land shall be zoned in conformity with the zoning district applicable to the adjacent lands in the city. For purposes of this provision, the zoning district lines shall be extended as nearly East/West or North/South as are applicable.

		(B) In any action to annex or assume jurisdiction, the City Council may establish the zoning district to be initially applicable pursuant to (A) above; of no district is established by the City Council, then lands shall be considered as R-1A.
224	8-4-97	Section 5, T 18N, R 1W, a parcel commencing at the Southwest corner of the West fractional one-half of the Northwest fractional one-quarter, thence East 16 rods, thence North 10 rods, thence West 16 rods, thence South 10 rods of the point beginning shall be designated as within the C-2 (Service Commercial) District.
227	4-6-98	All dwellings, not located in a licensed manufactured housing park/facility licensed by the State of Michigan shall be firmly attached to a permanent perimeter foundation construed on the site in accord with the building codes.
230	6-1-98	Section 6, 18 North, Range 1 West, the East 88 feet of the West 297 feet lying South of Lots 13 and 14, Block 12 of the Plat of Townsend and Clark's Addition- South, and Lots 13 and 14, Block 12 of the Plat of Townsend and Clark's Addition-South shall be designated as within R-1B (One Family) District.
231	6-29-98	Hoskin's Addition Lots 2-3-4-49-50-51 be designated as within the R-1B (One Family) District.
242	5-3-99	Section 1, T 18N, R 2W, commencing at the west one-quarter corner of said section, to be designated as a C-2 (Service Commercial) District.
244	6-30-99	Section 6, T 18N, R 1W, part of the northeast one-quarter, to be designated as a C-2 (Service Commercial) District.
256	9-4-01	Townsend and Clark Addition - North, Blocks 2 and 3, to be contained within the R-1B (Single-Family Residential) District.
257	6-18-01	Buckeye Township, part of the south one- half of Section 6, T 18N, R 1W, to be contained within the R-1A (Single-Family Residential) District.
259	11-5-01	Townsend and Clark Addition - North, Block 7, to be contained within the R-1B (Single-Family Residential) District.
268	11-4-02	Section 31, 19-1 W, west one-half of southeast one-quarter of southwest one- quarter to be contained within the C-2 (Service Commercial) District.
271	5-19-03	Hanna's Addition, Block 19, Lots 1, 2, 3, 6, 7, and 8, including portions of vacated Bruce Street and Quarter Street, and any parts of Block 22, Lots 3 and 4 lying north of the Cedar River, to be contained within the C-2 (Service Commercial) District.

323	2-18-13	Foster's Addition, Block 16, Lot 6, to be changed from R-1B (Single-Family Residential) to C-2 (Service Commercial), and the Northwest one-quarter of Section 6, T 18N-R1W to be changed from MT (Manufacturing-Technology) to C-2 (Service Commercial).
330	8-15-16	Section 1, T 18N, R 2W, commencing east 947.70 feet from west corner to be changed from R-1A to C-2.
331	8-15-16	Section 1, T 18N, R 2W, commencing east 947.70 feet from west corner to be changed from Single-Family Residential to Service Commercial.
334	12-19-16	213 Buckeye Street to be changed from Service Commercial (C-2) to Single-Family Residential (R-1A).
335	12-19-16	213 Buckeye Street to be changed from Commercial to Single-Family Residential.

PARALLEL REFERENCES

References to Michigan Compiled Laws Annotated

References to Michigan Statutes Annotated

References to Ordinances

REFERENCES TO MICHIGAN COMPILED LAWS ANNOTATED

<i>M.C.L.A. Cite</i>	<i>Code Section</i>
<i>M.C.L.A. Cite</i>	<i>Code Section</i>
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