CODE OF ORDINANCES
CITY OF
ADRIAN, MICHIGAN

Published in 2005 by Order of the City Commission

Adopted: December 5, 2005

Effective: December 20, 2005

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OFFICIALS

of the

CITY OF

ADRIAN, MICHIGAN

AT THE TIME OF THIS RECODIFICATION

Sam Rye

Mayor

Charles Chase

Mike Clegg

Greg DuMars

Gary McDowell

Rhea Mills

Barbara Mitzel

City Commission

_____

George Brown

City Administrator

_____

Dane Nelson

City Attorney

_____

Marsha Rowley

City Clerk

PREFACE

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

Source materials used in the preparation of the Code were the 1972 Code, as supplemented through December 2, 2001, and ordinances subsequently adopted by the city commission. The source of each section is included in the history note appearing in parentheses at the end thereof. The absence of such a note indicates that the section is new and was adopted for the first time with the adoption of the Code. By use of the comparative tables appearing in the back of this Code, the reader can locate any section of the 1972 Code, as supplemented, and any subsequent ordinance included herein.

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

Chapter and Section Numbering System

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

Page Numbering System

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

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

CHARTER	CHT:1
CHARTER COMPARATIVE TABLE	CHTCT:1
CODE	CD1:1
CODE APPENDIX	CDA:1
CODE COMPARATIVE TABLES	CCT:1
STATE LAW REFERENCE TABLE	SLT:1
CHARTER INDEX	CHTi:1
CODE INDEX	CDi:1

Indexes

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

Looseleaf Supplements

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

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

Acknowledgments

This publication was under the direct supervision of Roger D. Merriam, Senior Code Attorney, and Kyle S. Meyer, Jr., Editor, of the Municipal Code Corporation, Tallahassee, Florida. Credit is gratefully given to the other members of the publisher's staff for their sincere interest and able assistance throughout the project.

The publisher is most grateful to Mr. Dane Nelson, City Attorney, Mr. George Brown, City Administrator, and Ms. Marsha Rowley, City Clerk, for their cooperation and assistance during the progress of the work on this publication. It is hoped that their efforts and those of the publisher have resulted in a Code of Ordinances which will make the active law of the city readily accessible to all citizens and which will be a valuable tool in the day-to-day administration of the city's affairs.

Copyright

ORDINANCE NO. 05-19

AN ORDINANCE ADOPTING AND ENACTING A NEW CODE FOR THE CITY OF ADRIAN, MICHIGAN: PROVIDING FOR THE REPEAL OF CERTAIN ORDINANCES NOT INCLUDED THEREIN; PROVIDING A PENALTY FOR THE VIOLATION THEREOF; PROVIDING FOR THE MANNER OF AMENDING SUCH CODE; AND PROVIDING WHEN SUCH CODE AND THIS ORDINANCE SHALL BECOME EFFECTIVE.

THE CITY OF ADRIAN ORDAINS:

Section 1. The Code entitled "Code of Ordinances, City of Adrian, Michigan", published by Municipal Code Corporation, consisting of chapters 1 through 106, each inclusive, is adopted.

Section 2. All ordinances of a general and permanent nature enacted on or before March 7, 2005, and not included in the Code or recognized and continued in force by reference therein, are repealed.

Section 3. The repeal provided for in section 2 hereof shall not be construed to revive any ordinance or part thereof that has been repealed by a subsequent ordinance that is repealed by this ordinance.

Section 4. Unless another penalty is expressly provided, every person convicted of a violation of any provision of the Code or any ordinance, rule or regulation adopted or issued in pursuance thereof shall be punished by a fine not to exceed $500.00, imprisonment for a period of not more than 90 days, or both; however, unless otherwise provided by law, a person convicted of a violation of any provision of this Code that substantially corresponds to a violation of state law that is a misdemeanor for which the maximum period of imprisonment is 93 days shall be punished by a fine of not more than $500.00, imprisonment for a term of not more than 93 days, or both. A person conviction of a violation of this Code shall be responsible for costs. (Except as otherwise provided by law or ordinance, with respect to violations of this Code that are continuous with respect to time, each day that the violation continues is a separate offense and as to other violations, each act constitutes a separate offense. The penalty provided by this section, unless another penalty is expressly provided, shall apply to the amendment of any Code section, whether or not such penalty is reenacted in the amendatory ordinance. In addition to the penalty prescribed above, the city may pursue other remedies such as abatement of nuisances, injunctive relief and revocation of licenses or permits.

Section 5. Additions or amendments to the Code when passed in such form as to indicate the intention of the city commission to make the same a part of the Code shall be deemed to be incorporated in the Code, so that reference to the Code includes the additions and amendments.

Section 6. Ordinances adopted after March 7, 2005, that amend or refer to ordinances that have been codified in the Code shall be construed as if they amend or refer to like provisions of the Code.

Section 7. This ordinance shall become effective as provided by law.

INTRODUCTION November 21, 2005

SUMMARY PUBLISHED November 26, 2005

ADOPTION December 5, 2005

COMPLETE PUBLICATION December 16, 2005

EFFECTIVE DATE December 20, 2005

On motion by Commissioner Steele, seconded by Commissioner DuMars, this Ordinance was adopted by a unanimous vote.

Gary E. McDowell	Marsha K. Rowley
Mayor	City Clerk

SUPPLEMENT HISTORY TABLE

The table below allows users of this Code to quickly and accurately determine what ordinances have been considered for codification in each supplement. Ordinances that are of a general and permanent nature are codified in the Code and are considered "Included." Ordinances that are not of a general and permanent nature are not codified in the Code and are considered "Omitted."

Ord. No.	Included/Omitted	Supp. No.
Supp. No. 14		
10-016	Included	14
10-017	Included	14
10-018	Included	14
10-019	Included	14
10-020	Included	14
Supp. No. 15		
11-003	Included	15
11-004	Included	15
Supp. No. 16		
12-001	Included	16
12-002	Included	16
12-005	Included	16
12-006	Included	16
12-007	Included	16
13-001	Included	16
13-002	Included	16
Supp. No. 17		
13-016	Included	17
13-017	Included	17
13-019	Included	17
13-020	Included	17
Supp. No. 18		
14-001	Included	18
14-004	Included	18
14-005	Included	18
14-006	Included	18
14-008	Included	18
Supp. No. 19		

15-004	Included	19
15-006	Included	19
Supp. No. 20		
16-001	Included	20
16-002	Included	20
16-003	Included	20
16-004	Included	20
Supp. No. 21		
16-007	Included	21
16-008	Included	21
16-010	Included	21
16-012	Included	21
Supp. No. 22		
16-014	Included	22
17-001	Included	22
17-12	Included	22
17-13	Included	22
Supp. No. 23		
17-023	Included	23
17-024	Included	23
17-025	Included	23
17-026	Included	23
Supp. No. 24		
17-035	Included	24
Supp. No. 25		
18-009	Included	25
Supp. No. 26		
18-009	Included	26
18-010	Included	26
Supp. No. 27		
13-017	Included	27
17-023	Included	27
Supp. No. 28		
14-001	Included	28
19-001	Included	28
19-002	Included	28
Supp. No. 29		
19-008	Included	29
19-009	Included	29
Supp. No. 30		
19-012	Included	30
19-013	Included	30
Supp. No. 31		
19-020	Included	31
19-021	Included	31

Supp. No. 32		
20-002	Included	32
20-003	Included	32
Supp. No. 33		
Res. of 7-17-2017	Included	33
Supp. No. 34		
Res. No. R20-046	Included	34
20-005	Included	34
20-006	Included	34
Supp. No. 35		
20-010	Included	35
Supp. No. 36		
21-005	Included	36
Supp. No. 37		
21-006	Included	37

PART I
CHARTER[1]

PREAMBLE

The people of the City of Adrian, acting in accordance with the Home Rule Act of the State of Michigan, do adopt the following revised Charter:

CHAPTER 1. NAME AND BOUNDARIES

Section 1.1. Name.

The municipal corporation now existing and known as the "City of Adrian" shall continue to be a body politic and corporate under the name "City of Adrian," and include the territory hereinafter described with power and authority to change its boundaries in the manner authorized by law.

State law reference(s)—City a body corporate, MCL 117.1; annexation, MCL 117.6.

[1]Editor's note(s)—Printed in this part is the Charter of the City of Adrian, Michigan, as adopted by voters on January 29, 1957. The Charter was approved by Michigan Governor G. Menne Williams on January 8, 1957. The election was canvassed on January 31, 1957. Amendments are indicated by parenthetical history notes following amended provisions. The absence of a history note indicates that the provision remains unchanged from the original. Obvious misspellings have been corrected without notation. For stylistic purposes, a uniform system of headings, catchlines and citations to state statutes has been used. Additions for clarity are indicated by brackets.

Section 1.2. Boundaries.

The City of Adrian shall include all the territory of the former Townships of Adrian and Madison, in the County of Lenawee and State of Michigan and described as follows, to wit:

The south half of section thirty-four, the northeast quarter of section thirty-four, all of section thirty-five and the west half of section thirty-six in said Township of Adrian, and also the west half of section one, all of sections two and three, the north half of the northwest quarter of section twelve, the north half of the north half of section eleven, a trip of land thirty-three feet in width off the west side of the southwest quarter of the northeast quarter and a strip of land nine hundred and thirty feet in width off the east side of the southeast quarter of the northwest quarter of section eleven, and the north half of the northeast quarter of section ten, in said Township of Madison.

All that part of the east half, southeast quarter, section twenty-seven, town six south, range three east, described as commencing in the south line of section twenty-seven, aforesaid, at a point located 192 feet east of the southwest corner of said east half, southeast quarter section twenty-seven, and running thence south 89° 18′ east along the south line of said section twenty-seven, 922.70 feet; thence north 1° 49′ west 1,648.9 feet to an iron stake; thence continuing north 1° 49′ west to the water's edge of Wolf Creek; thence southwesterly along the water's edge of Wolf Creek to the intersection of said water's edge with the west line of the east half, southeast quarter of said section twenty-seven; thence south 1° 01′ east along said west line to an iron stake in the said west line of the east half; southeast quarter of said section twenty-seven at a point located 699.52 feet north 1° 01′ west of the southwest corner, east half, southeast quarter of said section twenty-seven; thence south 1° 01′ east along said west line of said east half, southeast quarter section twenty-seven, 534.52 feet; thence south 89° 18′ east 132 feet; thence south 1° 01′ east 150 feet to the place of beginning, in the Township of Adrian.

All that part of the east half of the southeast quarter of section twenty-seven town six south, range three east, described as commencing at the southeast corner of section twenty-seven, town six south, range three east, and running thence along the east line of said section twenty-seven, north 1° 59′ west 184.0 feet; thence parallel with the south line of said section twenty-seven, north 89° 18′ west 257.11 feet; thence south 1° 49′ east 184.0 feet to the south line of said section twenty-seven; thence along said south line of section twenty-seven south 89° 18′ east 257.65 feet to the place of beginning in the Township of Adrian.

All that part of the west half of the southwest quarter of section 26, town six south, range three east, described as commencing at the southwest corner of section 26; town six south, range three east and running thence along the south line of said section 26 south 89° 40′ 30″ east 113.75 feet; thence north 1° 05′ west 100.0 feet; thence south 89° 40′ 30″ east 150.22 feet; thence north 0° 57′ 30″ west 125.0 feet; thence north 89° 40′ 30″ west 267.9 feet to the west line of said section 26; thence along said west line of section 26 south 1° 59′ east 225.0 feet to the place of beginning in the Township of Adrian.

Commencing at the southwest corner of the west half of the southeast quarter of section 26, town six south, range 3 east; thence south 88° 31′ east 489.3 feet; thence north 10° 50′ east 378.72 feet; thence south 85° 30′ east 8.1 feet; thence north 10° 50′ east 561.27 feet; thence north 88° 46′ west 696.3 feet, more or less, to the north-south quarter line of said section 26; thence south 1° 27′ east 924.65 feet to the place of beginning in the Township of Adrian.

All that part of the east half of the southeast quarter of section 33, town 6 south, range 3 east, described as commencing at the southeast corner of section 33 aforesaid, and running thence north 1° 38′ west along the easterly line of said section 33, 2,170.44 feet to the centerline of said Highway U.S. 223; thence north 57° 53′ west along the centerline of said Highway U.S. 223, 352.95 feet to a point of curvature; thence northwesterly on a 1,910.08-foot radius curve left 456.66 feet (long chord bearing north 64° 24′ west, 455.25 feet) to a point of tangency; thence south 18° 30′ west 200 feet; thence north 72° 54′ west 94.60 feet; thence north 75° 56′ west 95.39 feet; thence north 81° 01′ west 207.10 feet; thence north 87° 39′ west 191.6

feet to the westerly line of said east half of the southeast quarter of section 33; thence south 0° 40′ east along said westerly line of the east half of the southeast quarter of section 33, 1,456.65 feet to the northeasterly line of Highway U.S. 223 Bypass right-of-way; thence south 31° 20′ east along said northeasterly line of Highway U.S. 223 right-of-way, 1,173.99 feet to the southern line of said section 33; thence north 89° 45′ east along said southerly line of section 33, 785.88 feet to the place of beginning in the Township of Adrian.

All that part of the west half, northeast quarter, section 36, town six south, range three east, described as commencing in the east line of the west half, northeast quarter, section 36 aforesaid, at a point located 961.95 feet south from the northeast corner of the said west half, northeast quarter, section 36, and running thence west parallel with the north line of said section 36, 585.42 feet; thence north 325.71 feet; thence west 811.8 feet to the west line of the said west half, northeast quarter, section 36; thence south along said line to the center post of said section 36; thence east along the east and west quarter line of said section 36 to the southeast corner of the said west half, northeast quarter, section 36; thence north along the east line of the said west half, northeast quarter section 36 to the place of beginning in the Township of Adrian.

All that part of the northwest quarter, section 34, town six south, range three east, described as commencing in the west line of section 34 aforesaid, at a point located 998.01 feet north of the west quarter post of said section 34 and running thence south 89° 40′ east 197.6 feet; thence north 68° 26′ east 416.5 feet; thence south 89° 40′ east 1,135 feet; thence south 0° 20′ west 25.07 feet; thence south 31° 24′ east 349.02 feet; thence south 58° 36′ west 51.6 feet; thence south 31° 24′ east 60 feet; thence south 64° 03′ east 203.1 feet; thence north 89° 46′ east 660.6 feet to the centerline of North Scott Street at a point located 671.54 feet north of the center of said section 34; thence north 0° 57′ west along the centerline of said North Scott Street 891.75 feet; thence north 89° 40′ west 2,567.42 feet; thence north 89° 40′ west 155.82 feet to the west line of said section 34; thence south 0° 51′ east 565.59 feet to the place of beginning, containing 36.58 acres, more or less, in the Township of Adrian.

Part of the east half of the southeast quarter of section 27 in town six south, range three east, described as commencing at a point 8 rods east of the southwest corner of the east half of the southeast quarter of said section, running thence north 150 feet; thence east parallel with the south line of said section 60 feet; thence south 150 feet; thence west on the south line of said section 60 feet to the place of beginning in the Township of Adrian.

Commencing at the center post of section 11, town seven south, range three east, and running thence north 88° 21′ east along the east and west quarter line of said section 11, 1,333 feet; thence south 2° 03′ east 944.46 feet; thence south 88° 21′ west 1,113.5 feet; thence north 1° 43′ west 120 feet; thence south 88° 21′ west 225 feet to the north and south quarter line of said section 11; thence south 1° 43′ east along the north and south quarter line of said section 11, 1,813.37 feet to the centerline of Highway U.S. 223; thence south 88° 19′ west along the centerline of Highway U.S. 223 to its intersection with the centerline of Highway M-52; thence north 1° 47′ west along the centerline of M-52 to a point located 1,039.4 feet south from the west quarter post of said section 11; thence north 88° 17′ east 258 feet; thence north 1° 47′ west 121.7 feet; thence north 88° 17′ east 1,089.65 feet; thence north 2° 07′ west 913.8 feet to the east and west quarter line of said section 11; thence north 88° 26′ east along the said east and west quarter line of section 11, 1,329.65 feet to the place of beginning.

Also, the west 408.48 feet of the south 66 feet of lot 9 in block 7 on the plat of L.G. Berry's Addition to the City of Adrian, as per the plat thereof recorded in liber 41 of plats, page 802 in the office of the register of deeds for Lenawee County, State of Michigan, Township of Madison.

Commencing at the southwest corner of the west half of the northeast quarter of section eleven, town seven south, range three east, and in the center of Division Street; thence north in the center of said street, 8 rods; thence east parallel with the quarter line of said section 20 rods; thence south parallel with Division Street, 8 rods to the south line of said west half of the northeast quarter of section 11; thence west on that line 20 rods to the place of beginning, containing one acre of land, more or less, in the Township of Madison.

Commencing at the southwest corner of the east half of the southeast quarter of section 27 in town six south, range three east; thence north 10 rods; thence east 4 rods; thence south 10 rods to the south line of said section; thence west along the south line of said section 4 rods to the place of beginning, containing one-quarter of an acre, more or less, in the Township of Adrian.

Lots 7, the east 40 feet of 8, 10, 11, 12, 13, 14, 15, 16, 17, 23, 24, 25, 26, 27, 28, 29 on the Plat of Woodlawn as per the plat thereof recorded in liber 7 of plats at folio 48 of Lenawee County records in the Township of Adrian.

Lots 6, the west 25 feet of 5, all that part of lot 7 described as commencing in the southwest corner of lot 6 and running thence westerly on the south line of said lot 7, 10 feet; thence northerly in a direct line to the northwesterly corner of said lot 6; thence southerly on the westerly line of said lot 6 to the place of beginning, lots 8, 10, 11, 12, 13, 14, 15, 16, 18, 19, 20, 21, 22, 23 on the Plat of Woodlawn Farm as per the plat recorded in liber 9 of plats at folio 44 of Lenawee County records, being in the Township of Adrian.

Such boundaries shall be subject to change in such manner as may be provided by law.

Editor's note(s)—The boundaries in Charter § 1.2 are superseded by subsequent annexations.

State law reference(s)—Annexation, MCL 117.6.

CHAPTER 2. MUNICIPAL POWERS

Section 2.1. [Continuation of powers of former Charter.]

All powers, privileges, and immunities, not inconsistent with the provisions of this Charter, possessed by the City of Adrian by virtue of its incorporation as such and enumerated in the former Charter of the city which is hereby superseded, are hereby expressly retained by the city and shall constitute a part of the powers of the city even though not expressly enumerated herein.

Section 2.2. General powers.

Unless otherwise provided or limited in this Charter, the city and its officers shall possess and be vested with any and all powers, privileges and immunities, expressed or implied, which cities and their officers are, or hereafter may be, permitted to exercise or to provide for in their charters under the constitution and statutes of the State of Michigan, including all powers, privileges and immunities which cities are, or may be, permitted to provide in their charters by Public Act No. 279 of 1909 (MCL 117.1 et seq.), as fully and completely as though these powers, privileges and immunities were specifically enumerated in, and provided for in, this Charter, and in no case shall any enumeration of particular powers, privileges or immunities herein be held to be exclusive.

The city and its officers shall have power to exercise all municipal powers in the management and control of municipal property and in the administration of the municipal government, whether such powers be expressly enumerated herein or not; to do any act to advance the interests of the city, the good government and prosperity of the municipality and its inhabitants, and through its regularly constituted authority, to pass and enforce all laws, ordinances and resolutions relating to its municipal concerns, subject to the constitution and statute and the provisions of this Charter.

Section 2.3. Further definition of powers.

In addition to the powers possessed by the city under the constitution and statutes, and those set forth throughout this Charter, the city shall have power with respect to and may, by ordinance and other lawful acts of its officers, provide for the following, subject to any specific limitations placed thereon by this Charter:

(a) The acquisition, by purchase, gift, condemnation, lease, construction or in any manner permitted by statute, of private property of every type and nature for public use, which property may be located within or without the County of Lenawee and which may be required for or incidental to the present or future exercise of the purposes, powers and duties of the city, either proprietary or otherwise;

State law reference(s)—Charter may so provide, MCL 117.4e(1).

(b) The maintenance, development, operation, leasing and disposal of city property, subject to any restrictions placed thereon by the state or this Charter;

State law reference(s)—Charter may so provide, MCL 117.4e(3).

(c) The refunding of money advanced or paid on special assessments for water main extensions;

State law reference(s)—Bonds issued to refund money advanced or paid on special assessments for water main extensions not to be counted as indebtedness for debt limits, MCL 117.4a(4)(c).

(d) The installation and connection of conduits for the service of municipally owned and operated electric lighting plants;

State law reference(s)—Charter may so provide, MCL 117.40b(3).

(e) The purchase or condemnation of the franchises and of the property used in the operation of companies of individuals engaged in the cemetery, hospital, almshouse, electric light, gas, heat, water and power business;

State law reference(s)—Charter may so provide, MCL 117.4f(a).

(f) The establishment and vacation of streets, alleys, public ways and other public places, and the use, regulation, improvement and control of the surface of such streets, alleys, public ways and other public places and of the space above and beneath them;

(g) The use, by others than the owner, of property located in streets, alleys, and public places, in the operation of a public utility, upon the payment of a reasonable compensation to the owners thereof;

State law reference(s)—Charter may so provide, MCL 117.4h(2).

(h) A plan of streets and alleys within and for a distance of not more than three miles beyond the municipal limits;

Editor's note(s)—The provisions of Charter § 2.3(h) appear obsolete in light of MCL 125.43.

State law reference(s)—Charter may so provide, MCL 117.4h(3).

(i) The use, control and regulation of streams, waters and watercourses within its boundaries, subject to any limitation imposed by statute;

State law reference(s)—Charter may so provide, MCL 117.4h(4).

(j) The securing, by condemnation, by agreement or purchase, or by any other means, of an easement in property abutting or adjacent to any navigable body of water for the purpose of securing the privilege and right to construct, own and maintain along or adjacent to any navigable body of water an elevated structure of one or more levels for use as a vehicular or pedestrian passageway, or for any other municipal purpose;

State law reference(s)—Charter may so provide, MCL 117.4h(5).

(k) The acquiring, establishment, operation, extension and maintenance of facilities for the storage and parking of vehicles within its corporate limits, including the fixing and collection of charges for services and use thereof on a public utility basis, and for such purpose to acquire by gift, purchase, condemnation or otherwise, the land necessary therefor;

State law reference(s)—Charter may so provide, MCL 117.4h(6).

(l) The acquiring, constructing, establishment, operation, extension and maintenance of facilities for the docking of watercraft, hydroplanes and seaplanes, within its corporate limits, including the fixing, the collection of charges for use thereof, and for such purpose or purposes, to acquire, by gift, purchase, condemnation or otherwise, the land necessary therefor;

State law reference(s)—Charter may so provide, MCL 117.4h(7).

(m) Regulating, restricting and limiting the number and locations of oil and gasoline stations;

Editor's note(s)—The provisions of Charter § 2.3(m) are obsolete in light of the zoning powers found in MCL 125.581 et seq.

State law reference(s)—Charter may so provide, MCL 117.4i(b).

(n) The establishing of districts or zones within which the use of land and structures, the height, the area, the size and location of buildings and required open spaces for light and ventilation of such buildings, and the density of population may be regulated by ordinance in accordance with statutory provisions governing zoning;

Editor's note(s)—The provisions of Charter § 2.3(n) are obsolete in light of the zoning powers found in MCL 125.581 et seq.

State law reference(s)—Charter may so provide, MCL 117.4i(c).

(o) The regulating of trades, occupations and amusements within the city, not inconsistent with state and federal laws and for the prohibiting of such trades, occupations, and amusements as are detrimental to the health, morals or welfare of its inhabitants;

State law reference(s)—Charter may so provide, MCL 117.4i(d).

(p) Licensing, regulating, restricting and limiting the number and locations of advertising signs or displays and billboards within the city;

State law reference(s)—Charter may so provide for licensing, regulating, restricting and limiting the number and locations of billboards within the city, MCL 117.4i(f).

(q) The preventing of injury or annoyance to the inhabitants of the city from anything which is dangerous, offensive or unhealthful, and for preventing and abating nuisances and punishing those occasioning them or neglecting or refusing to abate, discontinue or remove the same;

State law reference(s)—Charter may provide for the public peace and health and for the safety of persons and property, MCL 117.3(j).

(r) The prescribing of the terms and conditions upon which licenses may be granted, suspended or revoked; requiring payment of reasonable sums for licenses; and requiring the furnishing of a bond to the city for the faithful observance of the conditions under which licenses are granted, and otherwise conditioning such licenses as the commission may prescribe;

(s) The regulating of all airports located within its boundaries, and for the purpose of promoting and preserving the public peace, safety and welfare, controlling and regulating the use of the air above the city by aircraft of all types;

(t) The prohibiting or regulating of the use, occupancy, sanitation and parking of house trailers within the city, and the right of the city to so regulate any house trailer shall not be abrogated because of any detachment thereof from its wheels or because of placing it on, or attaching it to, the ground by means of any temporary or permanent foundation, or in any manner whatsoever;

Editor's note(s)—The provisions of Charter § 2.3(t) is superseded somewhat by MCL 125.2307(3), which statutory provision prohibits ordinances that are exclusionary of mobile homes.

(u) The requiring of an owner of real property within the city to construct and maintain sidewalks abutting upon such property, and if the owner fails to comply with such requirements or if the owner is unknown, to construct and maintain such sidewalks and assess the cost thereof against the abutting property;

(v) The requiring of an owner of real property within the city to abate public hazards and nuisances which are dangerous to the health or safety of inhabitants of the city within a reasonable time after the commission notifies him that such hazard or nuisance exists, and if the owner fails to comply with such requirements, or if the owner is unknown, to abate such hazard or nuisance and assess the cost thereof against such property;

(w) The compelling of owners of real property within the city to keep sidewalks abutting upon their property clear from snow, ice or other obstructions, and if the owner fails to comply with such requirements, to remove such snow, ice or other obstructions and assess the cost thereof against abutting property;

(x) The control over all trees, shrubs and plants in the public streets, highways, parks or other public places in the city, all dead and diseased trees on private property and trees on private property overhanging the street, sidewalk, or public places, including the removal thereof and assessing the cost thereof against the abutting property.

Editor's note(s)—Modern charters for home rule cities in Michigan do not contain enumerations of powers similar to those found in this section. Reliance is placed upon grants of power such as found in Charter § 2.2 and the provisions of Mich. Const. (1963) art. VII, § 22 et seq.

Section 2.4. Exercise of power.

Where no procedure is set forth in this Charter for the exercise of any power granted to or possessed by the city or its officers, the procedure set forth for the exercise of such power in any statute of the State of Michigan, including statutes passed for the government of any public body, shall govern. If alternative procedures are to be found in different statutes, the commission shall select the procedure which it deems to be most expedient and to the best advantage of the city and its inhabitants. Where no procedure for the exercise of any power of the city or its officers is set forth, either in this Charter or in any statute of the State of Michigan, the commission shall prescribe a reasonable procedure for the exercise thereof by ordinance.

Section 2.5. Intergovernmental contracts.

The city shall have power to join with any governmental unit or agency, or with any number or combination thereof by contract or otherwise as may be permitted by law, to perform jointly, or by one or more of them, for or on behalf of the other or others any power or duty which is permitted to be so performed by law or which is possessed or imposed upon each such governmental unit or agency.

Editor's note(s)—The provisions of Charter § 2.5 are not needed in light of MCL 124.501 et seq.

CHAPTER 3. ELECTIONS[2]

[2]State law reference(s)—Mandatory that Charter provided for the time, manner and means of holding elections, MCL 117.3(c); Michigan Election Law, MCL 168.1 et seq.

Section 3.1. Qualification of electors.

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

Editor's note(s)—The provisions of Charter § 3.1 are superseded by MCL 168.492.

Section 3.2. Election procedure.

The election of all city officers shall be on a nonpartisan basis. The general election statutes shall apply to and control, as near as may be, all procedures relating to registration and city elections except as such statutes relate to political parties or partisan procedure and except as otherwise provided in this Charter.

The clerk shall give public notice of the time and place of holding each city election and of the officers to be elected and the questions to be voted upon in the same manner as is required by statute for the giving of public notice of general elections in the state.

The polls at all elections shall be opened and closed at the time prescribed by law for the opening and closing of polls at state elections, subject to the statutory right of the commission to adjust these hours to local time.

Editor's note(s)—The provisions of the third paragraph of Charter § 3.2 are superseded by MCL 158.720. See MCL 168.721.

State law reference(s)—Election notices, MCL 168.647 et seq.

Section 3.3. Wards and precincts.

The City of Adrian shall consist of one ward. The precincts into which the city is divided on the effective date of this Charter shall remain the precincts of the city until changed pursuant to this Charter. The commission shall from time to time establish convenient election precincts.

State law reference(s)—Mandatory that Charter provide for wards, MCL 117.3(e); precincts, MCL 168.656 et seq.

Section 3.4. Regular city elections.

A regular city election shall be held on the first Monday in April of 1957 and in each odd-numbered year thereafter, but if some other date in the months of March, April or May is fixed by law for the holding of the state biennial spring election, then the regular city election shall be held on the date so fixed.

Editor's note(s)—Unless the city has acted by resolution pursuant to MCL 168.644j, elections are held on the Tuesday following the first Monday in November of each odd-numbered year. See MCL 168.644a, 168.644c.

Section 3.5. Special elections.

Special city elections shall be held when called by resolution of the commission at least forty days in advance of such election, or when required by this Charter or by statute. Any resolution calling a special election shall set forth the purpose of such election. No more special elections shall be called in any one year than permitted by statute.

State law reference(s)—Approval of special elections, MCL 168.639.

Section 3.6. Elective officers and terms of office.

The elective officers of the city shall be a mayor, six commissioners and a municipal judge, all of whom shall be nominated and elected from the city at large.

At the regular city election in 1957, there shall be elected a mayor for a term of office of two years, and six commissioners. The three candidates for the commission who receive the three highest number of votes shall be declared elected for a term of office of four years; and the three candidates for the commission who receive the fourth, fifth and sixth highest number of votes shall be declared elected for a term of office of two years.

At each subsequent regular city election, there shall be elected a mayor for a term of office of two years, three commissioners for a term of office of four years, and such additional number of commissioners as may be required to fill vacancies pursuant to the provisions of section 5.6. The terms of mayor and commissioners shall commence at 8:00 p.m. at the then prevailing time on the Monday next following the regular city election at which they are elected.

At the regular city election in 1959 and every sixth year thereafter there shall be elected one municipal judge for a term of office of six years. The term of the municipal judge shall commence at the time provided by statute.

Editor's note(s)—References in Charter § 3.6 to a municipal judge are obsolete, as the municipal court was abolished by MCL 600.9921.

State law reference(s)—Mandatory that Charter provide for the election of a mayor and a legislative body, MCL 117.3(a).

Section 3.7. Primary elections.

Nonpartisan primary elections shall be held on the first Wednesday in March preceding a regular city election and the third Wednesday preceding a special election, but if some other date is fixed by law for the holding of the primary for the state biennial spring election, then the regular city primary election shall be held on the date so fixed.

If, upon the expiration of the time for filing nomination petitions for any elective city office, valid petitions have been filed for no more than twice the number of candidates for the respective offices to be elected at the following regular city elections, then no primary shall be held with respect to such offices. If no primary is to be held for one or more offices, the clerk shall publish notice of the fact and the reason therefor as part of, or at the time provided for, the publication of notices for such primary election.

Candidates equal in number to twice the number of persons to be elected to each city office at the next subsequent regular city election, who receive the highest number of votes at any such primary election shall be declared the nominees for election to the respective offices for which they are candidates. The names of such candidates, together with the names of candidates who filed valid nomination petitions for any office for which no primary election was held, shall be certified by the clerk to the election commission as nominees for the next subsequent regular city election.

Editor's note(s)—Unless the city has acted by resolution pursuant to MCL 168.644j, primary elections are held on the Tuesday following the first Monday in August of each odd-numbered year. See MCL 168.644b, 168.644c.

Section 3.8. Nominations.

The method of nomination of all candidates for the city elections shall be by petition. Such petitions for each candidate shall be signed by not less than fifty nor more than one hundred registered electors of the city. No person shall sign his name to a greater number of petitions for any one office than there are persons to be elected to said office at the following regular city election. Where the signature of any individual appears on more

petitions than he is so permitted to sign, such signatures shall be counted only to the extent he is permitted to sign in the order of the respective dates and hour of filing the petitions containing such signatures.

Nomination petitions shall be filed with the clerk between the thirty-fifth day preceding such primary election and 5:00 p.m. on the thirtieth day preceding the regular city primary election or any special election for the filling of vacancies in office.

The clerk shall, prior to every city election, publish notice of the last day permitted for filing nomination petitions and of the number of persons to be nominated or elected to each office at least one week and not more than three weeks before such day.

Section 3.9. Form of petition.

The form of petition shall be substantially as that designated by the secretary of state for the nomination of nonpartisan judicial officers. A supply of official petition forms shall be provided and maintained by the clerk.

State law reference(s)—Nominating petitions, MCL 168.544a et seq.

Section 3.10. Approval of petition.

The clerk shall accept only nomination petitions which conform with the forms provided and maintained by him, and which contain the required number of valid signatures for candidates required for elective city offices by this Charter. All petitions shall be accompanied by the affidavit of qualifications provided for in section 5.1. When a petition is filed by persons other than the person whose name appears thereon as a candidate, it may be accepted only when accompanied by the written consent of the candidate.

The clerk shall, forthwith after the filing of a petition, notify in writing any candidate whose petition is then known not to meet the requirements of this section, but the failure to so notify any candidate shall not prevent a final determination that the petition does not meet such requirements. Within three days after the last date for filing petitions, the clerk shall make his final determination as to the validity and sufficiency of each nomination petition and write his determination thereof on the fact of the petition. No petition shall be determined to be valid unless the affidavit of qualifications provided for in section 5.1 shall be filed with such petition.

The clerk shall immediately notify in writing the candidate whose name appears thereon of his determinations. Such notice to any candidate whose petition is found invalid or insufficient shall be delivered by personal messenger, if possible. Any candidate whose petition is so found invalid or insufficient shall be allowed to file supplementary or replacement petitions before 5:00 p.m. at the then prevailing local time on the fifth day after the last date for filing original petitions; thereafter, no further petitions may be filed.

State law reference(s)—Nominating petitions, MCL 168.544a et seq.

Section 3.11. Public inspection of petitions.

All nomination petitions shall be open to public inspection in the office of the clerk.

State law reference(s)—Nominating petitions, MCL 168.544a et seq.

Section 3.12. Election commission.

An election commission is hereby created consisting of three qualified electors appointed for a period of one year by the city commission not less than 30 days before such election. The members shall serve without compensation and the chairman shall be designated by the city commission at the time of appointment. No member of the election commission shall be a city officer or a nominee or candidate for elective office.

The election commission shall appoint the board of election inspectors for each precinct and have charge of all activities and duties required of it by statute and this Charter relating to the conduct of elections in the city. The compensation of election personnel shall be determined in advance by the city commission. In any case where election procedure is in doubt, the election commission shall prescribe the procedure to be followed, subject to state election laws.

State law reference(s)—City election commissions, MCL 168.719.

Section 3.13. Form of ballot.

The form, printing and numbering of ballots or the preparation of the voting machines used in any city election shall conform as nearly as may be to the provisions of statute, except that no party designation or emblem shall appear. In all city elections, the names of qualified candidates or nominees for each office shall be listed under a separate heading and shall be rotated systematically in the manner prescribed by statute for rotation of names.

If two or more candidates or nominees for the same office have the same or similar surnames, the election commission shall print the occupation and residence address under the respective names of each of such candidates or nominees on the ballots (or on labels or slips to be placed on voting machines when used), provided, that for any of such candidates who is an incumbent of such office, the occupation shall be designated as "Incumbent."

Except as provided in this section, there shall be no supplementary identification of candidates or nominees on the ballot.

State law reference(s)—Form of ballots, MCL 168.323, 168.559 et seq.

Section 3.14. Canvass of votes.

The members of the election commission shall be the board of canvassers to canvass the votes at all city elections. The board of canvassers shall convene not later than the second business day following each city election and determine the results of the city election upon each question and proposition voted upon and what persons are duly nominated or elected to the several offices respectively at said election, and shall notify in writing the successful candidates or nominees of their nomination or election. The clerk shall make, under the corporate seal of the city, duplicate certificates of the determinations of the board and shall file one certificate with the county clerk and the other in his own office, and shall report the same to the city commission.

Editor's note(s)—If the city contains five or more precincts, the provisions of Charter § 3.14 would be superseded by MCL 168.30a et seq.

Section 3.15. Tie vote.

If, at any city election, there shall be no choice between candidates by reason of two or more persons having received an equal number of votes, then the city commission shall name a date for the appearance of such persons for the purpose of determining the election of such candidates by lot as provided by statute.

State law reference(s)—Determination of election by lot, MCL 168.852.

Section 3.16. Recount.

A recount of the votes cast at any city election for any office or upon any proposition may be had in accordance with election statutes. Unless otherwise required by statute:

(a) The petition for a recount of the votes cast at any city election shall be filed with the clerk by 5:00 p.m. on the second full day on which the clerk's office is open for business after the board of canvassers has made its official report of the result of the election at which such votes were cast;

(b) Any counter petition shall be filed by 5:00 p.m. of the next full day thereafter on which the clerk's office is open for business; and

(c) No officer shall be qualified to take office until final determination of any recount of the votes cast for such office.

Editor's note(s)—The provisions of Charter § 3.16 are superseded by MCL 168.862 et seq.

Section 3.17. Recall.

Any elected official may be recalled from office by the electors of the city in the manner provided by statute. A vacancy created by such recall shall be filled in the manner prescribed by this Charter and by statute.

State law reference(s)—Recall, MCL 168.951 et seq.

CHAPTER 4. ORGANIZATION OF GOVERNMENT

Section 4.1. The mayor and city commission.

The electors of the city shall elect a mayor and a city commission of six members. The commission shall constitute the legislative and governing body of the city and shall have power and authority, except as in this Charter or by statute otherwise provided, to exercise all powers conferred upon or possessed by the city, and shall have the power and authority to adopt such laws, ordinances and resolutions as it shall deem proper in the exercise thereof. In all cases where the word "commission" is used in this Charter, the name shall be synonymous with the word "council" or any other term used in any state or federal law in referring to municipal legislative or governing bodies.

State law reference(s)—Mandatory that Charter provide for the election of a mayor and a legislative body, MCL 117.3(a).

Section 4.2. Qualifications of commissioners.

Members of the commission shall meet the eligibility requirements contained in section 5.1. of this Charter. The commission shall be sole judge of the election and qualifications of its own members, subject only to review by the court.

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

Section 4.3. Compensation of mayor and commissioners.

The mayor shall receive as compensation the sum or six hundred dollars ($600.00) per year, and commissioners shall receive as compensation the sum of ten dollars ($10.00) per meeting for each regular or special meeting which they attend, but not to exceed two hundred fifty dollars ($250.00) in any one fiscal year.

Such compensation shall be paid quarterly and, except as otherwise provided in this Charter, shall constitute the only compensation which may be paid the mayor and commissioners for the discharge of any official duty for or on behalf of the city during their tenure of office. However, the mayor and commissioners may, upon order of the commission, be paid such bona fide expenses incurred in service in behalf of the city as are authorized, itemized, and approved by the commission.

Editor's note(s)—The provisions of Charter § 4.3 are superseded by the local officers compensation established in Code ch. 2, art. VII, div 2. See MCL 117.5c.

Section 4.4. Election of mayor pro tem.

The commission shall, at its first meeting following each regular city election, and after the newly elected members take office, elect one of its members to serve as mayor pro tem, for a term expiring at the first commission meeting following the next regular city election. Such election shall be by written ballot and by majority vote of the members of the commission in office at the time.

In the event of absence or disability of both the mayor and mayor pro tem, the commission may designate another of its members to serve as acting mayor during such absence or disability.

Section 4.5. Duties of mayor.

(a) Insofar as required by statute, and for all ceremonial purposes, the mayor shall be the executive head of the city. He shall have a voice and vote in all proceedings of the commission equal with that of other members of the commission, but shall have no veto power. He shall be the presiding officer of the commission.

(b) The mayor shall be a conservator of the peace, and in emergencies may exercise within the city the powers conferred upon sheriffs to suppress riot and disorder, and shall have authority to command the assistance of all ablebodied citizens to aid in the enforcement of the ordinances of the city and to suppress riot and disorder.

(c) The mayor shall execute or authenticate by his signature such instruments as the commission, this Charter or any statutes of the State of Michigan or laws of the United States shall require.

(d) Except as may be required by statute, the mayor shall exercise only such power as this Charter or the commission shall specifically confer upon him.

(e) In the absence or disability of the mayor, the mayor pro tem shall perform the duties of mayor. In the absence or disability of both, the designated acting mayor shall perform such duties.

Section 4.6. Administrative service.

The administrative officers of the city shall be the city administrator, attorney, clerk, treasurer, assessor, and such additional administrative officers as may be created by ordinance. The commission may by ordinance create additional administrative offices and may by ordinance combine any administrative offices in any manner it deems necessary or advisable for the proper and efficient operation of the city. The city administrator, city clerk, and attorney shall be appointed by the commission for an indefinite period, shall be responsible to and serve at the pleasure of the commission and shall have their compensation fixed by the commission. The city clerk shall be subordinate to the city administrator in the performance of the duties of his office, except insofar as his duties as clerk of the commission are concerned. The treasurer and assessor shall be appointed for an indefinite period by the city commission upon recommendation by the city administrator.

All other administrative officers of the city shall be appointed by the city administrator for an indefinite period, subject to confirmation by the commission. The treasurer and assessor, and such additional administrative officers as may be created, shall be responsible to the city administrator and shall have their compensation fixed by him in accordance with budget appropriations and subject to approval by the commission. Such officers may be discharged by the city administrator at his pleasure without confirmation by the commission.

Except as may be otherwise required by statute or this Charter, the commission shall establish by ordinance such departments of the city as it deems necessary or advisable and shall prescribe therein the functions of each department and the duties, authorities and responsibilities of the officers of each department. The city

administrator may prescribe such duties and responsibilities of the officers of those departments responsible to him which are not inconsistent with this Charter or with any ordinance or resolution.

All personnel employed by the city who are not elected officers of the city or administrative officers by, or under the authority of, this Charter shall be deemed to be employees of the city. The head of each department shall have the power to hire, suspend or discharge the employees of his department with confirmation by the city administrator.

Any administrative officer or employee who has been discharged may, within ten days thereafter, petition the commission to hear the facts regarding such discharge, and in such case the commission may, in its sole discretion, hold a hearing and inquire into such facts and may make such decision in the matter as it considers proper.

The commission may require any administrative officer or employee, if he is not resident at the time of his appointment or employment, to become a resident of the city within the time set by the commission and so remain throughout his tenure of office or employment.

Editor's note(s)—The power in the sixth paragraph (currently the last paragraph) of Charter § 4.6 to require that administrative officers or employees be residents of the city is superseded in part by MCL 15.601 et seq.

State law reference(s)—Mandatory that Charter provide for election or appointment of a clerk, a treasurer, an assessor or board of assessors, a board of review, and other officers considered necessary, MCL 117.3(a).

Section 4.7. Relationship of commission to administrative service.

Except as defined in section 4.6, neither the commission nor any of its members or committees shall dictate the appointment of any person to office by the city administrator or in any way interfere with the city administrator or other city officer to prevent him from exercising his judgment in the appointment or employment of officers and employees in the administrative service. Except for the purpose of inquiry, the commission and its members shall deal with the administrative service solely through the city administrator and neither the commission nor any member thereof shall give orders to any of the subordinates of the city administrator.

Section 4.8. City administrator's appointment and qualifications.

The commission shall appoint a city administrator within ninety days after any vacancy exists in such position. The city administrator shall hold office at the pleasure of a majority of the commission, but he shall not be removed from office during a period of ninety days following any regular city election, except by the affirmative vote of five members of the commission. He shall be selected on the basis of his executive and administrative qualifications with special reference to his training and experience.

Section 4.9. Acting city administrator.

The commission may appoint or designate an acting city administrator during the period of a vacancy in the office or during the absence of the city administrator from the city. Such acting city administrator shall, while he is in such office, have all the responsibilities, duties, functions and authority of the city administrator.

Section 4.10. City administrator's functions and duties.

The city administrator shall be the chief administrative officer of the city government. His functions and duties shall be:

(a) To be responsible to the commission for the efficient administration of all administrative departments of the city government, except the department under the direction of the attorney;

(b) To see that all laws and ordinances are enforced;

(c) To appoint, with the consent of the commission, the heads of the several city departments whose appointment is not otherwise specified in this Charter, and to direct and supervise such department heads;

(d) To give to the proper department or officials ample notice of the expiration or termination of any franchises, contracts or agreements;

(e) To see that all terms and conditions imposed in favor of the city or its inhabitants in any public utility franchise, or in any contract, are faithfully kept and performed;

(f) To recommend an annual budget to the commission and to administer the budget as finally adopted under policies formulated by the commission and to keep the commission fully advised at all times as to the financial condition and needs of the city;

(g) To recommend to the commission for adoption such measures as he may deem necessary or expedient; and to attend commission meetings with the right to take part in discussion, but not to vote;

(h) To exercise and perform all administrative functions of the city that are not imposed by this Charter or ordinance upon some other official;

(i) To be responsible for the maintenance of a system of accounts of the city which shall conform to any uniform system required by law and by the commission and to generally accepted principles and procedure of government accounting. He shall submit financial statements to the commission quarterly, or more often as the commission directs;

(j) To act as purchasing agent for the city and in such capacity shall purchase all supplies and equipment and dispose of the same in accordance with procedures established by the commission;

(k) To perform such other duties as may be prescribed by this Charter or required of him by ordinance or by direction of the commission.

Section 4.11. Clerk's functions and duties.

(a) The clerk shall be the clerk of the commission and shall attend all meetings of the commission and shall keep a permanent journal of its proceedings in the English language.

(b) The clerk shall be custodian of the city seal, and shall affix it to all documents and instruments requiring the seal, and shall attest the same. He shall also be custodian of all papers, documents, bonds, and records pertaining to the city the custody of which is not otherwise provided for.

(c) The clerk shall certify by his signature all ordinances and resolutions enacted or passed by the commission.

(d) The clerk shall provide and maintain in his office a supply of forms for all petitions required to be filed for any purpose by the provisions of this Charter.

(e) The clerk shall have power to administer oaths of office.

(f) The clerk shall perform such other duties as may be prescribed for him by this Charter, by the commission or by the city administrator.

State law reference(s)—Mandatory that Charter provide for keeping in the English language a written or printed journal of each session of the legislative body, MCL 117.3(m).

Section 4.12. Treasurer's functions and duties.

(a) The treasurer shall have the custody of all moneys of the city, and bond pertaining solely to the clerk, and all evidences of indebtedness belonging to the city or held in trust by the city.

(b) The treasurer shall collect all moneys of the city, the collection of which is not provided for elsewhere by Charter or ordinance. He shall receive from other officers and employees of the city all money belonging to and receivable by the city that may be collected by such officers and employees, including fines, license fees, taxes, assessments and all other charges. All money shall be turned over to the treasurer after collection or receipt, and he shall in all cases give a receipt therefor.

(c) The treasurer shall keep and deposit all moneys or funds in such manner and only in such places as the commission may determine and shall report the same in detail to the city administrator.

(d) The treasurer shall disburse all city funds in accordance with the provisions of statute, this Charter and procedures to be established by the commission.

(e) The treasurer shall have such powers, duties and prerogatives in regard to the collection and custody of state, county, school district and city taxes as are conferred by statute upon township treasurers in connection with state, county, township and school district taxes upon real and personal property.

(f) The treasurer shall perform such other duties as may be prescribed for him this Charter, by the commission or by the city administrator.

Section 4.13. Assessor's functions and duties.

The assessor shall possess all the powers vested in, and shall be charged with all the duties imposed upon, assessing officers by statute. He shall prepare all regular and special assessment rolls in the manner prescribed by this Charter, by ordinance and by statute. He shall perform such other duties as may be prescribed for him in this Charter, by the commission or by the city administrator.

State law reference(s)—Assessors generally, MCL 211.10 et seq.

Section 4.14. Attorney's functions and duties.

(a) The attorney shall act as legal advisor to, and be attorney and counsel for, the commission and shall be responsible solely to the commission. He shall advise any officer or department head of the city in matters relating to his official duties when so requested and shall file with the clerk a copy of all written opinions given by him.

(b) The attorney shall prosecute such ordinance violations and he shall conduct for the city such cases in court and before other legally constituted tribunals as the commission may request. He shall file with the clerk copies of such records and files relating thereto as the commission may direct.

(c) The attorney shall prepare or review all ordinances, contracts, bonds and other written instruments which are submitted to him by the commission and shall promptly give his opinion as to the legality thereof.

(d) The attorney shall call to the attention of the commission all matters of law, and changes or developments therein, affecting the city.

(e) The attorney shall perform such other duties as may be prescribed for him by this Charter or by the commission.

(f) Upon the recommendation of the attorney, or upon its own initiative, the commission may retain special legal counsel to handle any matter in which the city has an interest, or to assist and counsel with the attorney therein.

Section 4.15. Compensation of attorney and special counsel.

The compensation of the attorney shall be set by the commission. No compensation to special legal counsel shall be paid, except in accordance with an agreement between the commission and the attorney or special counsel made before the service for which such compensation is to be paid has been rendered.

Section 4.16. Deputy administrative officers.

The clerk, treasurer and assessor may appoint their own deputies subject to the written confirmation of the city administrator and may terminate the status of their deputies at their pleasure, upon written notice to the city administrator. Such deputies shall, in each case, possess all the powers and authorities of their superior officers, except as the same may be from time to time limited by their superiors or by the city administrator.

Section 4.17. Planning and zoning.

The city commission shall maintain a city planning commission in accordance with and having all the powers and duties granted by the provisions of statute relating to such commissions.

The commission shall maintain a zoning ordinance in accordance with the provisions of statute relating to such ordinances. Insofar as may be, such ordinance shall provide that zoning be coordinated with the work of the city planning commission.

Section 4.18. Independent boards and commissions.

(a) *Hospital commission.*

1. The hospital commission is heretofore created and existing under this Charter as originally enacted is abolished effective as of 8:00 o'clock p.m., December 6, 1976.
2. There is hereby created and established a hospital commission to be appointed by the city commission and which shall consist of seven members who shall have the qualifications herein set forth and who shall perform the duties and have the responsibilities herein set forth. In the event any member thereof shall fail to maintain the qualifications herein set forth, his term of office shall terminate forthwith and his office shall thereupon be declared vacant.
3. The term of office of each member shall be three years, except that in the first instance two members shall be appointed for a term of one year, two members shall be appointed for a term of two years, and three members shall be appointed for a term of three years. Thereafter, as the respective terms expire, new appointments shall be made for terms of three years each. Appointments to the hospital commission shall be made on the first Monday in December of each year. Members of the hospital commission shall serve without compensation.
4. The hospital commission shall meet at least once in each calendar month at a date and time to be fixed by the hospital commission. in the event any member of the hospital commission shall for any reason fail to attend eighty percent of the combined total of the regular and special meetings of the hospital commission in any calendar year his term of office shall thereupon terminate forthwith and his office shall be declared vacant. The hospital commission shall maintain appropriate attendance records which shall be certified to the city commission of the City of Adrian at quarterly intervals.

5. The hospital commission shall have the care, custody, control, and management of the Emma L. Bixby Hospital, including all buildings and grounds which are a part thereof, and shall have the power to employ and discharge all personnel required to carry out the objects of the said hospital.

6. On or before one hundred twenty days after the end of the fiscal year of the hospital, the hospital commission shall make an annual report to the city commission which report shall include a complete balance sheet and statement of expenses and revenues in such form and in such detail as may be required from time to time by the city commission. In addition to the annual report, the hospital commission shall make such further and additional reports and recommendations relating to the conduct and management of the hospital as may be required from time to time by the city commission.

7. Each person appointed as a member of the hospital commission shall file a written acceptance of his appointment with the city clerk within ten days after his appointment. If such acceptance is not filed within the time limited herein, the appointment shall be void, and it shall be the duty of the city commission to appoint a new member to the hospital commission.

8. In the event of a vacancy in the membership of the hospital commission, the city commission shall appoint a new member thereof to complete the unexpired term of the member whose office became vacant. Any new member must possess the qualifications herein set forth.

9. The members of the hospital commission shall also serve as the board of trustees of the Emma L. Bixby Hospital, a Michigan nonprofit corporation.

10. No person shall be eligible to serve on the hospital commission unless he has been a resident of the City of Adrian or has maintained his principal residence within one and one-half miles of the corporate limits of the City of Adrian, or a combination of the two, for a continuous period of at least three years immediately prior to his appointment and maintains such residence throughout his tenure of office.

11. This amendment shall take effect December 6, 1976.

(b) Except for the hospital commission, the city commission may not create any board or commission, other than those provided for in this Charter, to administer any activity, department or agency of the city government, except any activity which by statute is required to be so administered. The commission may, however, establish (a) quasi-judicial appeal boards and (b) boards or commissions to serve solely in an advisory capacity.

(Amended eff. 12-4-1976)

CHAPTER 5. GENERAL PROVISIONS REGARDING OFFICERS AND PERSONNEL OF THE CITY

Section 5.1. Eligibility for office and employment in city.

No person shall hold any elective office of the city unless he has been a resident of the city for at least three years immediately prior to the last day for filing original petitions for such office or prior to the time of his appointment to fill a vacancy. No person shall hold any elective office unless he is a qualified and registered elector of the city on such last day for filing or at such time of appointment and throughout his tenure of office.

No person shall be eligible for any elective or appointive city office who is in default to the city. The holding of office by any person who is in such default shall create a vacancy unless such default shall be eliminated within thirty days after written notice thereof by the commission or unless such person shall in good faith be contesting the liability for such default.

Each candidate for elective office shall file with his petition his affidavit that he possesses the qualifications for such office provided in this section. Failure to file such affidavit shall invalidate his petition.

Each member of a city board or commission shall have been a resident of the city for at least three years prior to the date of his appointment and shall be a qualified and registered elector of the city on such day and throughout his tenure of office, except that not more than two members of the hospital commission may be appointed who maintain their principal residence within one and one-half miles of the corporate limits of the City of Adrian.

(Amended 4-25-1980)

Editor's note(s)—A three-year residency requirement in the Charter of a Michigan municipality was ruled unconstitutional in *Bolanowski v. Raich,* 330 F. Supp. 724 (E.D. MI 1971). A two-year residency requirement in the Charter of a Michigan municipality was ruled unconstitutional in *Green v. McKeon,* 668 F.2d 883 (6th Cir. 1972). A one-year residency requirement in the Charter of a Michigan municipality was ruled constitutional in *Joseph v. City of Birmingham,* 510 F. Supp. 1317 (E.D. MI 1981).

State law reference(s)—Mandatory that Charter provide for the qualifications of the city's officers, MCL 117.3(d); city not authorized to give an official position to one who is in default to the city, MCL 117.5(f).

Section 5.2. Vacancies in elective offices.

Any elective city office shall be declared vacant by the commission before the expiration of the term of such office:

(a) For any reason specified by statute or by this Charter as creating a vacancy in office;

(b) If no person is elected to, or qualifies for, the office at the election at which such office is to be filled;

(c) If the officer shall be found guilty by a competent court of any act constituting misconduct in office under the provisions of this Charter;

(d) In the case of any member of the commission, if such officer shall miss four consecutive regular meetings of the commission or twenty-five percent of such meetings in any fiscal year of the city, unless such absence shall be excused by the commission and the reason therefor entered in its proceedings at the time of each absence;

(e) If the officer is removed from office by the commission in accordance with the provisions of section 5.4.

Section 5.3. Vacancies in boards and commissions.

The office of any member of any board or commission created by, or pursuant to, this Charter shall be declared vacant by the commission before the expiration of the term of such office:

(a) For any reason specified by statute or by this Charter as creating a vacancy in office;

(b) If the officer shall be found guilty by a competent court of any act constituting misconduct in office under the provisions of this Charter;

(c) If such officer shall miss four consecutive regular meetings of such board or commission or twenty-five percent of such meetings in any fiscal year of the city, unless such absence shall be excused by such board or commission and the reason therefor entered in the proceedings at the time of each absence;

(d) If the officer is removed from office by the commission in accordance with the provisions of section 5.4.

Section 5.4. Removals from office.

Removals by the commission of elective officers or of members of boards or commissions shall be made for either of the following reasons:

(a) For any reason specified by statute for removal of city officers by the governor.

(b) For any act declared by this Charter to constitute misconduct in office.

Such removals by the commission shall be made only after hearing, of which such officer has been given notice by the clerk at least ten days in advance, either personally or by delivering the same at his last known place of residence. Such notice shall include a copy of the charges against such officer. The hearing shall afford an opportunity to the officer, in person or by attorney, to be heard in his defense, to cross examine witnesses and to present testimony. If such officer shall neglect to appear at such hearing and answer such charges, his failure to do so may be deemed cause for his removal. A majority vote of the members of the commission in office at the time, exclusive of any member whose removal is being considered, shall be required for any such removal.

Section 5.5. Resignations.

Resignations of elective officers shall be made in writing and [be] filed with the clerk and shall be acted upon by the commission at its next regular meeting following receipt thereof by the clerk. Resignations of officers appointed by the commission shall be made in writing to the commission. All resignations shall be immediately acted upon.

Section 5.6. Filling vacancies in elective offices.

(a) For current and future vacancies in the elective offices of mayor or commissioner, the commission -by a majority vote of its remaining members- shall either: 1) call a special election to fill the vacancy for the balance of the unexpired term, or 2) appoint an eligible person to hold office until the Monday following the next regular city election, at which election such position shall be filled as provided in section 3.6 for the balance, if any, of the unexpired term.

(b) If a vacancy in an elective office of mayor or commissioner occurs, as determined by the commission, the commission shall at its next regularly scheduled meeting determine, by majority vote of its remaining members, whether the vacancy shall be filled by special election or appointment.

(c) If any vacancy in the elective office of mayor or commissioner which the commission is authorized to fill by appointment is not so filled within sixty days after such vacancy occurs, or if four or more vacancies exist simultaneously in the office of commissioner, such vacancies shall be filled for the respective unexpired terms at a special election. In connection with any special election to fill a vacancy or vacancies in any elective office, no primary election shall be held; candidates shall be nominated by petitions in a manner identical to that provided in section 3.8 to 3.11 inclusive; the names of all qualified candidates who timely file valid nomination petitions pursuant to state law for special elections shall be certified to the election commission and placed on the ballot; and all other provisions of this Charter, not inconsistent with this section 5.6, shall govern.

(d) The provisions of this section 5.6 shall not apply to the filling of vacancies resulting from recall.

(Res. No. R20-046, § I, 3-2-2020)

Section 5.7. Filling vacancies in appointive offices.

Vacancies in appointive offices shall be filled in the manner provided for making the original appointment.

Section 5.8. Filling vacancies in the office of municipal judge.

(a) Vacancies in the office of municipal judge, occurring one hundred twenty days or more before any regular city election, shall be filled by appointment by a majority vote of the members of the commission then in office for a term expiring on the Monday following the next regular city election. At such election such vacancy shall be filled for the unexpired term of office through the regular elective procedure as provided in chapter 3, and the municipal judge so elected shall take office on the Monday following such election.

(b) Vacancies in the office of municipal judge occurring less than one hundred twenty days before any regular city election shall be filled by appointment by a majority vote of the members of the commission then in office for a term expiring on the Monday following the next succeeding regular city election. At such election such vacancy shall be filled for the unexpired term of office through the regular election procedure as provided in chapter 3, and the municipal judge so elected shall take office on the Monday following such election.

(c) The provisions of this section 5.8 shall not apply to the filling of vacancies resulting from recall.

Editor's note(s)—The provisions of Charter § 5.8 are obsolete, as the municipal court was abolished by MCL 600.9921.

Section 5.9. Change in term of office or compensation.

Except by procedures provided in this Charter, the terms of office of the elective officers and of members of boards and commissions appointed for a definite term shall not be shortened. The terms of elective officers shall not be extended beyond the period for which any such officer was elected, except that an elective officer shall, after his term has expired, continue to hold office until his successor is elected or appointed and has qualified.

The commission shall not grant or authorize extra compensation to any officer or employee after his service has been rendered. The salary of any elective officer shall not be increased or decreased from the day he is elected until the end of the term of office for which he was elected.

Section 5.10. Oath of office and bond.

Every officer, elective or appointive, before entering upon the duties of his office, shall take the oath of office prescribed for public officers by the constitution and shall file the oath with the clerk, together with any bond required by statute, this Charter or by the commission. In case of failure to comply with the provisions of this section within ten days from the date he is notified in writing of his election or appointment, such officer shall be deemed to have declined the office and such office shall thereupon become vacant unless the commission shall by resolution extend the time in which such officer may qualify.

State law reference(s)—Official oath, Mich. Const. (1963) art. XI, § 1.

Section 5.11. Surety bonds.

Except as otherwise provided in this Charter, all officers of the city whose duties involve the custody of public property or the handling of public funds, either by way of receipt or disbursement or both, and all other officers and employees so required by the commission shall, before they enter upon the duties of their respective offices, file with the city an official bond, in such form and amount as the commission shall direct and approve. Such official bond of every officer and employee shall be conditioned that he will faithfully perform the duties of his office, and will, on demand, deliver over to his successor in office, or other proper officer or an agent of the city, all books, papers, moneys, effects and property belonging thereto, or appertaining to his office, which may be in his custody as an officer or employee; and such bonds may be further conditioned as the commission shall prescribe.

The official bond of every officer whose duty it may be to receive or pay out money, besides being conditioned as above required, shall be further conditioned that he will, on demand, pay over or account for to the city, or any proper officer or agent thereof, all moneys received by him as such officer or employee. The requirements of this paragraph may be met by the purchase of one or more appropriate blanket surety bonds covering all, or a group of, city employees and officers.

All official bonds shall be corporate surety bonds and the premiums thereon shall be paid by the city. The clerk shall be custodian of all the bonds of all officers or employees, except that the treasurer shall be custodian of any bonds pertaining solely to the clerk.

Section 5.12. Delivery of office.

Whenever any officer or employee shall cease to hold such office or employment for any reason whatsoever, he shall within five days, or sooner on demand, deliver to his successor in office or to his superior all the books, papers, moneys and effects in his custody as such officer or employee. Any officer violating this provision may be proceeded against in the same manner as public officers generally for a like offense under statute. Any employee found guilty of violating this provision by a competent tribunal may be punished by a fine of not to exceed five hundred dollars or imprisonment for not to exceed ninety days, or both, in the discretion of the court.

Section 5.13. Pecuniary interest prohibited.

(a) Except as permitted by this section, no contract or purchasing involving an amount in excess of one hundred dollars shall be made by the city in which any elective or appointive officers or any member of his family has any pecuniary interest, direct or indirect. A "contract" shall, for the purpose of this section, include any arrangement or agreement pursuant to which any material, service or other thing of value is to be furnished to the city for a valuable consideration to be paid by the city or sold or transferred by the city, except the furnishing of personal services as an officer or employee of the city; and the term "member of his family" shall include spouse, children, and the spouse of any of them.

(b) Without limiting the generality of paragraph [subsection] (a) of this section, an officer shall be deemed to have a pecuniary interest in a contract if he or any member of his family is an employee, partner, officer, director or sales representative of the person, firm or corporation with which such contract is made or of a sales representative of such person, firm or corporation. Ownership, individually or in a fiduciary capacity, by an officer or member of his family of securities, or of any beneficial interest in securities, of any corporation with which a contract is made or which is a sales representative of any person, firm or corporation with which such contract is made, shall not be deemed to create a pecuniary interest in such contract unless the aggregate amount of such securities, or interest in such securities, so owned by such officer and the member of his family, shall amount to ten percent of any class of the securities of such corporation then outstanding.

(c) A contract in which an officer or member of his family has a pecuniary interest may be made by the city if the members of the commission in office at the time having no such interest shall by unanimous vote determine that the best interests of the city will be served by the making of such contract and if such contract is made after comparative prices are obtained.

(d) Any officer who knowingly permits the city to enter into any contract in which he has a pecuniary interest without disclosing such interest to the commission prior to the action of the commission in authorizing such contract shall be guilty of misconduct in office. Except in the instances specified in paragraph [subsection] (c) of this section, the unanimous determination (by vote or written instrument filed with the clerk) of the commission that in a particular case an officer or member of his family will not have a pecuniary interest in any contract or purchase to be entered into by the city shall be final and conclusive in the absence of fraud or misrepresentation.

(e) No officer shall stand as surety on any bond to the city or give any bail for any other person which may be required by the Charter or any ordinance of the city. Any officer of the city who violates the provisions of this paragraph [subsection] shall be guilty of misconduct in office.

Editor's note(s)—The provisions of Charter § 5.13 are preempted by MCL 15.321 et seq. See MCL 15.328.

Section 5.14. Anti-nepotism.

Unless the commission shall by unanimous vote, which vote shall be recorded as part of its official proceedings, determine that the best interests of the city shall be served, the following relatives of any elective or appointive officer are disqualified from holding any appointive office or employment during the term for which said elective or appointive officer was elected or appointed: spouse, child, parent, grandchild, grandparent, brother, sister, half-brother, half-sister or the spouses of any of them. All relationships shall include those arising from adoption. This section shall in no way disqualify such relatives or their spouses who are bona fide appointive officers or employees for the city at the time of the election or appointment of said official.

Section 5.15. [Compensation of city employees and officers.]

(a) The compensation of all employees and officers of the city whose compensation is not provided for herein shall be fixed by the appointing officer or body within the limits of budget appropriations and in accordance with any pay plan adopted by the commission.

(b) The respective salaries and compensation of officers and employees as fixed by, or pursuant to, this Charter shall be in full for all official services of such officers or employees and shall be in lieu of all fees, commissions and other compensation receivable by such officers or employees for their services.

Such fees, commissions and compensation shall belong to the city and shall be collected and accounted for by such officers or employees, and be paid into the city treasury and a statement thereof filed periodically with the city administrator. The provisions of paragraph [subsection] (b) of this section shall not apply to fees, commissions or other compensation paid by the County of Lenawee to any officer or employee serving as a city representative on the board of supervisors.

Editor's note(s)—The provisions in Charter § 5.15(b) relative to city representatives on the board of supervisors are superseded by MCL 46.401 et seq.

(c) Nothing contained in this section shall prohibit the payment of necessary bona fide expenses incurred in service in behalf of the city.

Section 5.16. Employee welfare benefits.

The commission shall have the power to make available to the administrative officers and employees of the city and its departments and boards any recognized standard plan of group life, hospital, health, or accident insurance either independently of, or as a supplement to, any retirement plan provided for said officers and employees.

Section 5.17. Merit system.

The commission may provide for a merit system for city employees.

CHAPTER 6. THE COMMISSION: PROCEDURE AND MISCELLANEOUS POWERS AND DUTIES

Section 6.1. Regular meetings.

The commission shall hold at least two regular meetings each month. The regular meetings shall be held at such time on such day and at such place as shall be established by the commission from time to time by resolution. A regular meeting shall be held at a time fixed by the commission by resolution on the Monday next following each regular city election.

(Amended 11-7-1977)

Section 6.2. Special meetings.

Special meetings shall be called by the clerk on the written request of the mayor or any two members of the commission on at least twenty-four hours' written notice to each member of the commission, served personally or left at his usual place of residence, but a special meeting may be held on shorter notice if all members of the commission are present or have waived notice thereof in writing.

State law reference(s)—Notice of special meetings, MCL 15.265.

Section 6.3. Business at special meetings.

No business shall be transacted at any special meeting of the commission unless the same has been stated in the notice of such meeting. However, any business which may lawfully come before a regular meeting may be transacted at a special meeting if all the members of the commission present consent thereto and all the members absent file their written consent.

Section 6.4. Meetings to be public.

All regular and special meetings of the commission shall be open to the public and citizens shall have a reasonable opportunity to be heard under such rules and regulations as the commission may prescribe.

Editor's note(s)—The provisions of Charter § 6.4 are inconsistent with the mandatory requirements for municipal charters in MCL 117.3(l).

Section 6.5. Quorum; adjournment of meeting.

A majority of the members of the commission in office at this time shall be a quorum for the transaction of business at all commission meetings, but in the absence of a quorum a lesser number may adjourn any meeting to a later time or date, and in the absence of all members the clerk may adjourn any meeting for not longer than one week.

Section 6.6. Compulsory attendance and conduct at meetings.

Any two or more members of the commission may by vote either request or compel the attendance of its members and other officers of the city at any meeting. Any member of the commission or other officer who, when notified of such request for his attendance, fails to attend such meeting for reason other than those approved by the commission shall be deemed guilty of misconduct in office unless excused by the commission. The presiding officer shall enforce orderly conduct at meetings and any member of the commission or other officer who shall fail to conduct himself in an orderly manner at any meeting shall be deemed guilty of misconduct in office.

Any police officer designated by the presiding officer of the meeting shall serve as the sergeant-at-arms of the commission in the enforcement of the provisions of this section.

Section 6.7. Organization and rules of the commission.

The commission shall determine its own organization, rules and order of business, subject to the following provisions:

(a) A journal of the proceedings of each meeting shall be kept in the English language by the clerk and shall be signed by the presiding officer and clerk of the meeting.

State law reference(s)—Mandatory that Charter provide for keeping in the English language a written or printed journal of each session of the legislative body, MCL 117.3(m).

(b) A vote upon all ordinances and resolutions shall be taken by a roll call vote and entered upon the records, except that where the vote is unanimous, it shall only be necessary to so state.

(c) No member of the commission shall vote on any question in which he has a financial interest, or on any question concerning his own conduct, but on all other questions each member who is present shall vote when his name is called unless excused by the unanimous consent of the remaining members present. Any member refusing to vote, except when not so required by this paragraph [subsection], shall be guilty of misconduct in office.

(d) The proceedings of the commission, or a brief summary thereof, shall be published within fifteen days following each meeting. Any such summary shall be prepared by the clerk and approved by the mayor and shall show the substance of each separate proceeding of the commission.

(e) There shall be no standing committees of the commission.

Section 6.8. Investigations.

The commission, or any person or committee authorized by it for the purpose, shall have power to inquire into the conduct of any department, office or officer and to make investigations as to matters in which the municipality has an interest. The commission, for the purposes stated herein, may summon witnesses, administer oaths and compel the attendance of witnesses and the production of books, papers and other evidence.

Failure on the part of any officer to obey such summons or to produce books, papers and other evidence as ordered under the provisions of this section shall constitute misconduct in office. Failure on the part of any employee or other person to obey such summons or to produce books, papers or other evidence as ordered under the provisions of this section shall constitute a violation of this Charter and such person, when found guilty of such violation by a competent tribunal, may be punished by a fine of not to exceed five hundred dollars or imprisonment not to exceed ninety days, or both, in the discretion of the court.

It is provided further that, in case of failure on the part of any person to obey such summons or to produce such books, papers and other evidence as so ordered, the commission may invoke the aid of the proper judicial tribunal in requiring obeyance of such summons or production of such books, papers and other evidence.

Section 6.9. Providing for public health and safety.

The commission shall see that provision is made for the public peace and health, and for the safety of persons and property. Unless and until a board of health is established for the city by ordinance, the commission shall constitute the board of health of the city, and it and its officers shall possess all powers, privileges and immunities granted to boards of health by statute.

Editor's note(s)—References in Charter § 6.9 to a board of health are obsolete. See MCL 333.1105, 333.2413 et seq., 333.2421.

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

CHAPTER 7. LEGISLATION[3]

Section 7.1. Prior city legislation.

All valid bylaws, ordinances, resolutions, rules and regulations of the city which are not inconsistent with this Charter and which are in force and effect at the time of the effective date of this Charter shall continue in full force and effect until repealed or amended. If any such ordinance, resolution, rule or regulation provides for the appointment of any officers or any members of any board or commission by the mayor, such officers or members of any board or commission shall, after the effective date of this Charter, be appointed by the commission.

Those provisions of any effective valid bylaw, ordinance, resolution, rule or regulation which are inconsistent with this Charter, are hereby repealed.

Section 7.2. Form of ordinances.

All legislation of the City of Adrian shall be by ordinance or by resolution. The word "resolution;," as used in this Charter, shall be the official action of the commission in the form of a motion, and such action shall be limited to matters required or permitted to be done by resolution by this Charter or by state or federal law and to matters pertaining to the internal affairs or concerns of the city government. All other acts of the commission, and all acts carrying a penalty for the violation thereof, shall be by ordinance. Each ordinance shall be identified by a number and a short title, or by a code section number when a codification or compilation of ordinances is completed. Each proposed ordinance shall be introduced in written or printed form. The style of all ordinances passed by the commission shall be, "The City of Adrian ordains."

Section 7.3. Enactment, amendment, and repeal of ordinances.

Ordinances may be enacted, amended, or repealed by the affirmative vote of not less than four commissioners, except that when an ordinance is given immediate effect, section 7.4 shall govern. Unless by the affirmative vote of five commissioners, no office shall be created or abolished, no tax or assessment be imposed, no street, alley, or public ground be vacated, no real estate or any interest therein be sold or disposed of, no private property be taken for public use, nor any vote of the commission be reconsidered or rescinded at a special meeting, nor any money appropriated, except as otherwise provided by this Charter.

Except in the case of ordinances which are declared to be emergency ordinances, no ordinance shall be finally passed by the commission until two weeks after the meeting at which it is introduced. A brief description of the subject and contents of the ordinance as introduced shall be published in a newspaper of general circulation in the city at least one week before final passage, either separately or as part of the published proceedings of the commission.

No ordinance shall be revised, altered, or amended by reference to the title only, but the section or sections of the ordinance revised, altered, or amended shall be reenacted and published at length in a newspaper of local circulation in the city. However, an ordinance may be repealed by reference to its number and title only.

[3]State law reference(s)—Mandatory that Charter provide for adopting, continuing, amending and repealing city ordinances for the publication of ordinances before becoming operative, MCL 117.3(k).

Section 7.4. Publication and recording of ordinances.

Each ordinance shall be published within ten days after its enactment by publishing the full text thereof in a newspaper as defined in section 17.9, either separately or as a part of the published commission proceedings.

All ordinances shall be recorded by the clerk in a book to be called "The Ordinance Book," and it shall be the duty of the mayor and clerk to authenticate such records by their official signatures thereon, but the failure to so record and authenticate such ordinance shall not invalidate it or suspend its operation.

Section 7.5. Effective date of ordinances.

The effective date of all ordinances shall be prescribed therein, but the effective date, except in the case of emergency ordinances, shall not be less than fifteen days after enactment, nor before publication thereof.

Section 7.6. Penalties for violations of ordinances.

The commission may provide in any ordinance for the punishment of those who violate its provisions. The punishment for the violation of any city ordinance shall not exceed a fine of five hundred dollars or imprisonment for ninety days, or both, in the discretion of the court.

Editor's note(s)—The provisions of Charter § 7.6 are superseded by the provisions of MCL 117.3(k) to the extent that Charter § 7.6 does not authorize imposition of terms of imprisonment of 93 days in certain situations. See also MCL 117.4i(k). Pursuant to MCL 117.4l, 117.4m, the city may provide that ordinance violations are municipal civil infractions.

Section 7.7. Enactment of technical codes by reference.

The commission may adopt in whole or in part any provision of state law or any detailed technical regulations as a city ordinance or code by citation of such provision of state law or by reference to any recognized standard code, official or unofficial, provided that any such provision of state law or recognized official or unofficial standard code shall be clearly identified in the ordinance adopting the same as an ordinance of the city. Where any code, or amendment thereto, is so adopted, all requirements for its publication may be met, other provision of this Charter notwithstanding, by (1) publishing the ordinance citing such code in the manner provided for the publication of other ordinances and (2) by making available to the public copies of the code cited therein in booklet form, at a reasonable charge.

Editor's note(s)—The provisions of Charter § 7.7 are superseded by the provisions of MCL 117.3(k).

Section 7.8. Severability of ordinances.

Unless an ordinance shall expressly provide to the contrary, if any portion of an ordinance or the application thereof to any person or circumstances shall be found to be invalid by a court, such invalidity shall not affect the remaining portions or applications of the ordinance which can be given effect without the invalid portion or application, provided, such remaining portions or applications are not determined by the court to be inoperative, and to this end, ordinances are declared to be severable.

Section 7.9. Compilation or codification of ordinances.

Within five years after the effective date of this Charter, the commission shall direct the compilation or codification and printing in looseleaf or pamphlet form of all ordinances of the city then in force. Such compilation or codification shall be completed within one year thereafter. If a codification is completed, it shall be maintained

thereafter in current form; if a compilation is completed, a recompilation shall be completed at least once in every five years thereafter. Any codification may include provisions not previously contained in ordinances of the city.

All requirements for publication of such compilation or codification, and of the ordinances contained therein, other provisions of this Charter notwithstanding, may be met by making copies thereof available for inspection by, and distribution to, the public at a reasonable charge and by publishing notice of the printing and availability thereof before the effective date thereof.

The copies of the ordinances and of any compilation, code or codes referred to in the Charter may be certified by the clerk and when so certified shall be competent evidence in all courts and legally established tribunals as to the matter contained therein.

Editor's note(s)—The last sentence of Charter § 7.9 is beyond the competence of the city to provide.

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

Section 7.10. Initiative and referendum.

An ordinance may be initiated by petition, or a referendum on an ordinance enacted by the commission may be had by petition, as hereinafter provided.

Section 7.11. Initiatory and referendary petitions.

An initiatory or a referendary petition shall be signed by not less than ten percent of the registered electors of the city, as of the date of the last regular city election, and all signatures on said petition shall be obtained within twenty-one days before the date of filing the petition with the clerk. Any such petition shall be addressed to the commission, and may be the aggregate of two or more petition papers identical as to contents. An initiatory petition shall set forth in full the ordinance it proposes to initiate, and no petition shall propose to initiate more than one ordinance. A referendary petition shall identify the ordinance or code sections it proposes to have repealed.

Each signer of a petition shall sign his name, and shall place thereon, after his name, the date and his place of residence by street and number, or by other customary designation. To each petition paper there shall be attached a sworn affidavit by the circulator thereof, stating the number of signers thereof and that each signature thereon is the genuine signature of the person whose name it purports to be, and that it was made in the presence of the affiant. Such petition shall be filed with the clerk who shall, within fifteen days, canvass the signatures thereon. If the petition does not contain a sufficient number of signatures of registered electors of the city, the clerk shall notify forthwith the person filing such petition and fifteen days from such notification shall be allowed for the filing of supplemental petition papers. When a petition with sufficient signatures is filed within the time allowed by this section, the clerk shall present the petition to the commission at its next regular meeting.

Section 7.12. Commission procedure on initiatory and referendary petitions.

Upon receiving an initiatory or referendary petition from the clerk, the commission shall either, within thirty days, unless otherwise provided by statute:

(a) Adopt the ordinance as submitted by an initiatory petition;

(b) Repeal the ordinance referred to by a referendary petition; or

(c) Determine to submit the proposal provided for in the petition to the electors.

Section 7.13. Submission of initiatory and referendary ordinances to electors.

Should the commission decide to submit the proposal to the electors, it shall be submitted at the next election held in the city for any other purpose, or, in the discretion of the commission, at a special election called for that specific purpose. In the case of an initiatory petition, if no election is to be held in the city for any other purpose within one hundred and fifty days from the time the petition is presented to the commission and the commission does not adopt the ordinance, then the commission shall call a special election within sixty days from such time for the submission of the initiative proposal. The result shall be determined by a majority vote of the electors voting thereon, except in cases where otherwise required by statute or the constitution.

Section 7.14. Ordinance suspended; miscellaneous provisions on initiatory and referendary ordinance.

The presentation to the commission by the clerk of a valid and sufficient referendary petition containing a number of signatures equal to twenty-five percent of the registered electors of the city as of the date of the last regular city election shall automatically suspend the operation of the ordinance in question, pending repeal by the commission or final determination by the electors.

An ordinance adopted by the electorate through initiatory proceedings may not be amended or repealed for a period of six months after the date of the election at which it was adopted, and an ordinance repealed by the electorate may not be reenacted for a period of six months after the date of the election at which it was repealed. It is provided, however, that any ordinance may be adopted, amended or repealed at any time by appropriate referendum or initiatory procedure in accordance with the provisions of this chapter or, if submitted to the electorate by the commission, on its own motion.

If two or more ordinances adopted at the same election shall have conflicting provisions, the provisions in the ordinance receiving the highest number of affirmative votes shall govern.

CHAPTER 8. GENERAL FINANCE—BUDGET, AUDIT[4]

Section 8.1. Fiscal year.

The fiscal year of the city and of all its agencies shall begin on the first day of July of each year and end on the thirtieth day of June for the following year.

Section 8.2. Budget procedure.

The city administrator shall prepare and submit to the commission at its first meeting following the regular city election in April of each year a recommended budget covering the next fiscal year, and shall include therein at least the following information:

(a) Detailed estimate with supporting explanations of all proposed expenditures for each department, office and agency of the city, and for the court, showing the expenditures for corresponding items for the last preceding fiscal year in full, and for the current fiscal year to March first and estimated expenditures for the balance of the current fiscal year;

[4]State law reference(s)—Uniform Budgeting and Accounting Act, MCL 141.421 et seq.; Revised Municipal Finance Act, MCL 141.2101 et seq.

(b) Statements of the bonded and other indebtedness of the city, if any, showing the debt redemption and interest requirements, the debt authorized and unissued, and the condition of sinking funds, if any;

(c) Detailed estimates of all revenue of the city from sources other than taxes, with a comparative statement of the amounts received by the city from each of the same or similar sources for the last preceding fiscal year in full, and for the current fiscal year to March first, and estimated revenues for the balance of the current fiscal year;

(d) A statement of the estimated balance or deficit for the end of the current fiscal year;

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

(f) Such other supporting information as the commission may request.

Section 8.3. Budget hearing.

A public hearing on the proposed budget shall be held before its final adoption at such time and place as the commission shall direct. Notice of such public hearing, a summary of the proposed budget and notice that the proposed budget is on file in the office of the clerk shall be published at least one week in advance of the hearing. The complete proposed budget shall be on file for public inspection during office hours at such office for a period of not less than one week prior to such hearing.

Section 8.4. Adoption of budget.

Not later than the second week in May of each year, the commission shall by resolution adopt a budget for the next fiscal year, shall appropriate the money needed for municipal purposes during the next fiscal year of the city and shall provide for a levy of the amount necessary to be raised by taxes upon real and personal property for municipal purposes subject to the limitations contained in section 9.1.

Section 8.5. Budget control.

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

The commission may make additional appropriations during the fiscal year for unanticipated expenditures required of the city, but such additional appropriations shall not exceed the amount by which actual and anticipated revenues of the year are exceeding the revenues as estimated in the budget [un]less the appropriations are necessary to relieve an emergency endangering the public health, peace or safety.

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

At the beginning of each quarterly period during the fiscal year, and more often if required by the commission, the city administrator shall submit to the commission data showing the relation between the estimated and actual revenues and expenditures to date; and if it shall appear that the revenues are less than

anticipated, the commission may reduce appropriations, except amounts required for debt and interest charges, to such a degree as may be necessary to keep expenditures within the revenues.

The balance in any budget appropriation which has not been encumbered at the end of the fiscal year shall, subject to statutory restrictions, revert to the general fund.

Section 8.6. Depository.

The commission shall designate depositories for city funds and shall provide for the regular deposit of all city moneys. The commission shall provide for such security for city deposits as is authorized or permitted by statute, except that personal surety bonds shall not be deemed proper security.

State law reference(s)—Depositories, MCL 129.11 et seq.

Section 8.7. Independent audit; annual report.

An independent audit shall be made of all city accounts at least annually, and more frequently if deemed necessary by the commission. Such audit shall be made by certified public accountants experienced in municipal accounting, selected by the commission.

The city administrator shall prepare an annual report of the affairs of the city, including a financial report. Copies of such audit and annual report shall be made available for public inspection at the office of the city administrator within thirty days after receipt of the audit.

Editor's note(s)—The provisions of Charter § 8.7 relative to the city administrator's annual financial report are superseded by MCL 141.424.

CHAPTER 9. TAXATION[5]

Section 9.1. Power to tax; tax limit.

The city shall have the power to assess taxes and levy and collect rents, tolls and excises. Exclusive of any levies authorized by statute to be made beyond Charter tax rate limitations, an annual ad valorem tax levy shall not exceed one and one-half percent of the assessed value of all real and personal property subject to taxation in the city; provided, however, the annual ad valorem tax levy shall be increased by one-tenth of one percent (0.001%) of the assessed value of all real and personal property subject to taxation in the city for a period of ten years from 1996 through 2005 to pay the costs of capital improvements, including local street improvements.

(Election of 3-19-1996)

State law reference(s)—Charter may provide for laying and collecting rents, tolls and excises, MCL 117.4i(a); tax limitations required in charter, MCL 117.3(g).

[5]State law reference(s)—Property taxes generally, MCL 211.1 et seq.; applicability of such statute to cities generally, MCL 211.107.

Section 9.2. Subject of taxation.

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

State law reference(s)—Mandatory provisions, MCL 117.3(g), (i).

Section 9.3. Exemptions.

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

State law reference(s)—Tax exemptions, MCL 211.7 et seq., 211.9 et seq.

Section 9.4. Tax day.

Subject to the exceptions provided or permitted by statute, the taxable status of persons and property shall be determined as of the first day of January, which shall be deemed the tax day.

Editor's note(s)—Tax day is now December 31. See MCL 211.2.

Section 9.5. Preparation of the assessment roll.

On or before the first Monday in March in each year, the assessor shall prepare and certify an assessment roll of all property in the city subject to taxation and shall file the same in the office of the city clerk for public examination. It shall be the duty of the city clerk to give notice by publication in one or more of the daily newspapers printed and circulated in the city, by not less than three insertions, the last of which shall be published not less than five days preceding said last mentioned date, that said assessment rolls will be on file in his office, subject to public examination, from the first Monday in March until the meeting of the board of review, when they shall be delivered to said board. Such rolls shall be prepared in accordance with statute and this Charter. Values shall be estimated according to recognized methods of systematic assessment. The records of the assessor shall show separate figures for the value of the land, of the building improvements and of personal property; and the method of estimating all such values shall be as nearly uniform as possible.

On or before the first Monday in March, the assessor shall give by first class mail a notice of any increase over the previous year in the assessed value of any property where such increase does not involve additional construction to the owner as shown by such assessment roll. The failure to give any such notice or of the owner to receive it shall not invalidate any assessment roll or assessment thereon.

State law reference(s)—Charter may provide times for preparation of assessment roll, MCL 117.3(i); assessment rolls, MCL 211.24 et seq.

Section 9.6. Board of review.

The board of review shall be composed of three freeholders of the city, who shall meet the eligibility requirements for elective officers contained in section 5.1, and who, during their term of office, shall not be city officers or employees or be nominees or candidates for elective city office. The filing by a member of the board of review of his nomination petition for an elective city office or the filing of a consent thereto shall constitute a resignation from the board of review. The appointment of members of such board shall be based upon their knowledge and experience in property valuation. One member of the board shall be appointed by the commission in January, 1958, and in each January thereafter for a term of three years, to replace the member whose term expires that year. The commission shall fix the compensation of the members of the board. The board of review

shall annually in February select its own chairman of the ensuing year, and the assessor shall be clerk of the board and shall be entitled to be heard at its sessions, but shall have no vote.

State law reference(s)—Board of review, MCL 211.28 et seq., MCL 211.107(3).

Section 9.7. Meetings of the board of review.

The board of review shall meet for the purpose of reviewing and correcting the assessment roll at the city assessor's office in the city hall on the second Monday in March. The board of review shall be in session during the hours of 9:30 to 11:30 in the forenoon and 1:30 to 4:30 in the afternoon, and shall remain in session at least four days successively and as much longer as may be necessary to complete the review, not exceeding six days in all.

State law reference(s)—Meetings of board of review, MCL 211.29 et seq., MCL 211.107(3).

Section 9.8. Notice of meetings.

Notice of the time and place of the sessions of the board of review shall be published by the clerk at the same time and in the same manner as notice of the completion of the assessment roll.

Editor's note(s)—Notice of board of review meetings would appear to be controlled by MCL 211.107(3), MCL 211.29.

Section 9.9. Duties and functions of board of review.

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

State law reference(s)—Functions of board of review, MCL 211.107(3), MCL 211.29 et seq.

Section 9.10. Endorsement of roll.

After the board of review has completed its review of the assessment roll, and not later than the first Monday in April, the majority of its members shall endorse thereon and sign a statement to the effect that the same is the assessment roll of the city for the year in which it has been prepared. The omission of such endorsement shall not affect the validity of such roll.

State law reference(s)—Completion and endorsement of assessment roll, MCL 211.107(3), MCL 211.30(3), MCL 211.30a.

Section 9.11. Clerk to certify tax levy.

Within three days after the commission has adopted the budget for the ensuing year, the clerk shall certify to the assessor the total amount which the commission determines shall be raised by general ad valorem tax. He shall also certify all amounts of current or delinquent special assessments and all other amounts which the commission requires to be assessed, reassessed or charged upon any property or against any person.

Section 9.12. City tax roll.

After the board of review has completed its review of the assessment roll, the assessor shall prepare a copy of the assessment roll to be known as the "city tax roll," and upon receiving the certification of the several amounts to be raised, as provided in section 9.11, the assessor shall spread upon said tax roll the several amounts determined by the commission to be charged, assessed or reassessed against persons or property. He shall also spread the amount of the general ad valorem city tax, county tax and school tax according to, and in proportion to, the several valuations set forth in said assessment roll. To avoid fractions in computation on any tax roll, the assessor may add to the amount of the several taxes to be raised not more than the amount prescribed by statute. Any excess created thereby on any tax roll shall belong to the city.

Section 9.13. Tax roll certified for collection.

After spreading the taxes, the assessor shall certify the tax roll, and the mayor shall annex his warrant thereto, directing and requiring the treasurer to collect, prior to March first of the following year, from the several persons named in said roll the several sums mentioned therein opposite their respective names as a tax or assessment and granting to him, for the purpose of collecting the taxes, assessments and charges on such roll, all the statutory powers and immunities possessed by township treasurers for the collection of taxes. On or before June first, the roll shall be delivered to the treasurer for collection.

Section 9.14. Tax lien on property.

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

Section 9.15. Taxes due, notification thereof.

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

(a) Publish, between June fifteenth and July first, notice of the time when said taxes will be due for collection and the penalties and fees for late payment of same; and

(b) Mail a bill to each person named in said roll, but in cases of multiple ownership of property only one bill need be mailed.

Failure on the part of the treasurer to publish said notice or mail such bills shall not invalidate the taxes on said tax roll, nor release the person or property assessed from the penalties and fees provided in this chapter in case of late payment or nonpayment of the same.

Section 9.16. Interest on late payment of taxes.

All taxes paid on or before the thirty-first day of August shall be collected by the treasurer without additional charge. On the first of September the treasurer shall add to all taxes paid thereafter four percent of the amount of said taxes and on the first day of October and of each succeeding month he shall add an additional one-half of one percent of said taxes that remain unpaid. Such interest shall not exceed six percent and shall belong to the city and constitute a charge and shall be a lien against the property to which the taxes apply, collectible in the same

manner as the taxes to which they are added. It is provided, however, that if delivery of the tax roll to the treasurer, as provided in section 9.15, is delayed for any reason by more than thirty days after June first, the application of the interest charge provided herein shall be postponed thirty days for the first thirty days of such delay and shall be postponed an additional thirty days for each additional thirty days, or major fraction thereof, of such delay.

Section 9.17. Failure or refusal to pay personal property tax.

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

Section 9.18. Delinquent tax roll to county treasurer.

All city taxes on real property remaining uncollected by the treasurer on the first day of March following the date when said roll was received by him shall be returned to the county treasurer in the manner and with like effect as provided by statute for returns by township treasurers of township, school and county taxes. Such returns shall include all the additional assessments, charges and fees hereinbefore provided, which shall be added to the amount assessed in said tax roll against each property or person. The taxes returned shall be collected in the same manner as other taxes returned to the county treasurer are collected, in accordance with statute, and shall be and remain a lien upon the property against which they are assessed until paid. If by change in statute or otherwise, the treasurer of the County of Lenawee is no longer charged with the collection of delinquent real property taxes, such delinquent taxes shall be collected in the manner then provided by statute for the collection of delinquent township, school and county taxes.

Section 9.19. State, county and school taxes.

For the purpose of assessing and collecting taxes for state, county and school purposes, the city shall be considered the same as a township, and all provisions of statute relative to the collection of, and accounting for, such taxes shall apply. For these purposes, the treasurer shall perform the same duties and have the same powers as township treasurers under statute.

CHAPTER 10. BORROWING POWER[6]

Section 10.1. Grant of authority to borrow.

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

[6]Editor's note(s)—Charter may provide for the borrowing of money on the credit of the city and issuing bonds for the borrowing of money, MCL 117.4a.

(a) General obligations which pledge the full faith, credit and resources of the city for the payment of such obligations, including bonds for the city's portion of public improvements;

(b) Notes issued in anticipation of the collection of taxes, but the proceeds of such notes may be spent only in accordance with appropriations as provided by section 8.5;

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

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

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

(f) Bonds issued at a rate of interest not to exceed six percent per annum to refund money advanced or paid on special assessments imposed for water main extensions;

(g) Bonds for the refunding of the funded indebtedness of the city;

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

State law reference(s)—Revenue Bond Law of 1933, MCL 141.101 et seq.

Section 10.2. Authorization of electors required.

(a) Except as provided in section 10.2(b), no bonds pledging the full faith and credit of the city shall be issued without the approval of three-fifths of the electors voting thereon at any general or special election.

(b) The restriction of section 10.2(a) shall not apply to general obligation bonds issued to pay for the city's portion of public improvements the remainder of which are to be financed by special assessments, tax anticipation notes issued under section 10.1(b), emergency bonds issued under section 10.1(c), special assessment bonds issued under section 10.1(d), refunding bonds issued under section 10.1(g) or to bonds the issuance of which cannot, by statute, be so restricted by this Charter.

(c) Only those persons who have property assessed for taxes in the city and their husbands and wives shall be entitled to vote on the approval of any issue of bonds which constitute a general obligation of the city, but no person may so vote unless he is a registered elector.

Section 10.3. Applicability of other statutory restrictions.

The issuance of any bonds not requiring the approval of the electors shall be subject to applicable requirements of statute with regard to public notice in advance of the authorization of such issues, filing of

petitions for a referendum on such issuance, holding of such referendum and other applicable procedural requirements.

Section 10.4. Limits of borrowing powers.

The net bonded indebtedness incurred for all public purposes shall not at any time exceed ten percent of the assessed value of all the real and personal property in the city, provided that in computing such net bonded indebtedness, there shall be excluded money borrowed under the following sections of this chapter: 10.1(b) (tax anticipation notes), 10.1(c) (emergency loans), 10.1(d) (special assessment bonds even though they are also a general obligation of the city) 10.1(e) (mortgage bonds), 10.1(f) (special assessment refunding bonds), 10.1(h) (revenue bonds), and other bonds which do not constitute a general obligation of the city.

The amount of emergency loans which the commission may make under the provisions of section 10.1(c) of this Charter may not exceed ⅜of one percent of the assessed value of all the real and personal property in the city.

The total amount of special assessment bonds pledging the full faith and credit of the city shall at no time exceed five percent of the assessed value of all the real and personal property in the city, nor shall such bonds be issued in any consecutive period of twelve months in excess of one percent of such assessed value unless authorized by a ⅗vote of the electors voting thereon at any general or special election.

Editor's note(s)—The provisions of Charter § 10.4 are superseded by MCL 117.4a(2), 117.4c.

Section 10.5. Preparation and record of bonds.

Each bond or other evidence of indebtedness shall contain on its face a statement specifying the purpose for which the same is issued, and it shall be unlawful for any officer of the city to use the proceeds thereof for any other purpose. Any officer who shall violate this provision shall be deemed guilty of misconduct in office. All bonds and other evidences of indebtedness issued by the city shall be signed by the mayor and countersigned by the clerk, under the seal of the city. Interest coupons may be executed with the facsimile signatures of the mayor and clerk. A complete and detailed record of all bonds and other evidences of indebtedness issued by the city shall be kept by the treasurer. Upon the payment of any bond or other evidence of indebtedness, the same shall be marked "Cancelled."

Section 10.6. Unissued bonds.

No unissued bonds of the city shall be issued or sold to secure funds for any purpose other than that for which they were specifically authorized, and if any such bonds are not sold within three years after authorization, such authorization shall, as to such bonds, be null and void, and such bonds shall be cancelled.

Section 10.7. Deferred payment contracts.

The city may enter into installment contracts for the purchase of property or capital equipment. Each of such contracts shall not extend over a period greater than five years, nor shall the total amounts of principal payable under all such contracts exceed a sum of one-sixth of one percent of the total assessed valuation of the city in any one fiscal year.

All such deferred payments shall be included in the budget for the year in which the installment is payable.

CHAPTER 11. SPECIAL ASSESSMENTS[7]

Section 11.1. Commission resolution.

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

Section 11.2. Procedure fixed by ordinance.

The commission shall prescribe by general ordinance complete special assessment procedure concerning plans and specifications, estimate of costs, notice of hearing, the making of the assessment roll and correction of errors, the collection of special assessments, and any other matters concerning the making of improvements by the special assessment method.

CHAPTER 12. PURCHASES—CONTRACTS—LEASES

Section 12.1. Purchase and sale of property.

The city administrator shall be responsible for the purchase and sale of all city property, subject to the restrictions of statutes and ordinances.

The commission shall set a dollar limit on the amount of materials, supplies and public improvements that may be purchased without obtaining comparative prices. This dollar limit shall be established at any time by resolution of the commission by the affirmative vote of five or more members. Comparative prices shall not be required for:

(a) The employment of professional services; or

(b) When the city administrator shall determine that no advantage to the city would result.

In all sales or purchases in excess of the dollar limit set in accordance with the preceding paragraph, (a) the sale or purchase shall be approved by the commission, (b) sealed bids shall be obtained, and (c) the requirements of section 12.2 shall be complied with. No sale or purchase shall be divided for the purpose of circumventing the dollar value limitation contained in this section. The commission may authorize the making of public improvements or the performance of any other city work by any city agency without competitive bidding.

Purchases shall be made from the lowest competent bidder meeting specifications unless the commission shall determine that the public interest will be better served by accepting a higher bid. Sales shall be made to the bidder whose bid is most advantageous to the city.

[7]State law reference(s)—Charter may provide for assessing and reassessing the costs, or a portion of the costs, of a public improvement to a special district, MCL 117.4d(1)(a).

All purchases and sales shall be evidenced by written contract or purchase order.

The city may not sell any park, cemetery or any part thereof, except in accordance with restrictions placed thereon by statute.

The city may not purchase, sell or lease any real estate or any interest therein, except by the affirmative vote of four or more members of the commission.

The purchase and sale of all city property shall be subject to the provisions of section 5.13.

Detailed purchasing, sale and contract procedures shall be established by ordinance.

Anything in this Charter contained to the contrary notwithstanding, the city commission may sell or lease land now or hereafter owned by the city and now or hereafter zoned exclusive industrial by the affirmative vote of five or more members of the commission on such terms and conditions as the commission may determine to be most advantageous to the city without submitting the proposed sale or lease to the vote of the people and without advertising for or requiring sealed bids or comparative prices therefor and without holding a public hearing thereon.

(Amended 4-3-1961; amended eff. 11-9-1987)

Section 12.2. Contracts.

The authority to contract on behalf of the city is vested in the commission and shall be exercised in accordance with the provisions of statute and of this Charter, provided that purchases and sales may be made by the city administrator subject to the provisions of section 12.1.

Any contract or agreement in an amount of five hundred dollars or more made with form or terms other than the standard city purchase order form shall, before execution, be submitted to the attorney and his opinion obtained with respect to its form and legality. A copy of all contracts or agreements requiring such opinion shall be filed in the office of the clerk, together with a copy of the opinion.

Before any contract, agreement or purchase order obligating the city to pay an amount of five hundred dollars or more is executed, the accounting officer of the city shall first have certified that an appropriation has been made for the payment thereof, or that sufficient funds will be available if it be for a purpose being financed by the issuance of bonds or by special assessments or for some other purpose not chargeable to a budget appropriation. In the case of a contract or agreement obligating the city for periodic payments in future fiscal years for the furnishing of a continuing service or the leasing of property, such certification need not cover those payments which will be due in future fiscal years, but this exception shall not apply to a contract for the purchase or construction of a public improvement unless such purchase or construction is being financed by an installment contract under authority of section 10.7. Certification by the accounting officer of the city shall be endorsed on each contract, agreement or purchase order requiring same or shall be filed as an attachment thereto.

No contract or purchase order shall be subdivided for the purpose of circumventing the dollar value limitations contained in this section.

No contract shall be amended after the same has been made, except upon the authority of the commission, provided that the city administrator may amend or rescind contracts for those purchases and sales made by him under the authority of section 12.1.

No compensation shall be paid to any contractor, except in accordance with the terms of the contract.

No contract shall be made with any person, firm or corporation in default of the city.

An individual agreement of employment shall not be deemed a contract requiring opinion by the attorney or certification by the accounting officer of the city.

Section 12.3. Restriction on powers to lease property.

The commission may not rent or let public property for a period longer than three years unless such rental or lease agreement shall have been referred to the people at a regular or special election and shall have received the approval of a majority of the electors voting thereon at such election. No such lease shall be approved by the commission for presentation to the electorate before thirty days after application therefor has been filed with the commission, nor until a public hearing has been held thereon. No such lease shall be submitted to the electors unless the party leasing or renting the property has filed with the clerk his unconditional acceptance of all terms of such lease or rental agreement.

CHAPTER 13. MUNICIPALLY OWNED UTILITIES

Section 13.1. General powers respecting utilities.

Subject to the provisions of the constitution and statute, the city shall have the power to acquire, own, establish, construct, operate, improve, enlarge, extend, repair and maintain, either within or without its corporate limits, a public utility for supplying water to the municipality and its inhabitants for domestic, commercial and municipal purposes, and may sell and deliver water without its corporate limits in an amount not to exceed the limitations set by the constitution and statute. Subject to statutory provisions, the city shall also have the power to acquire, own, establish, construct, operate, improve, enlarge, extend, repair and maintain, either within or without its corporate limits, including, but not by way of limitation, public utilities for supplying light, heat, power, gas, sewage treatment and garbage facilities, and facilities for the storage and parking of vehicles within its corporate limits.

State law reference(s)—Charter may provide for acquisition and operation of utilities, MCL 117.4f(c).

Section 13.2. Management of municipal utilities.

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

Section 13.3. Rates.

The commission shall have the power to fix from time to time such just and reasonable rates and other charges as may be deemed advisable for supplying the inhabitants of the city and others with such public utility services as the city may provide. There shall be no discrimination in such rates within any classification of users thereof, nor shall free service be permitted. Higher rates may be charged for service outside the corporate limits of the city.

Section 13.4. Utility rates and charges, collection.

The commission shall provide by ordinance for the collection of all public utility rates and charges of the city. Such ordinance shall provide at least:

(a) That the city shall have as security for the collection of such utility rates and charges a lien upon the real property supplied by such utility, which lien shall become effective immediately upon the supplying by such utility service and shall be enforced in the manner provided in such ordinance.

(b) The terms and conditions under which utility services may be discontinued in case of delinquency in paying such rates or charges.

(c) That suit may be instituted by the city before a competent tribunal for the collection of such rates or charges.

With respect to the collection of rates charged for water, the city shall have all the powers granted to cities by Public Act No. 178 of 1939 (MCL 123.161 et seq.), as amended.

Section 13.5. Disposal of utility plants and property.

Unless approved by the affirmative vote of three-fifths of the electors voting thereon at a regular or special election, the city shall not sell, exchange, lease or in any way dispose of any property, easements, equipment, privilege or asset belonging to and appertaining to any municipally owned public utility which is needed to continue operating such utility. All contracts, negotiations, licenses, grants, leases or other forms of transfer in violation of this section shall be void and of no effect as against the city. The restrictions of this section shall not apply to the sale or exchange of any articles of machinery or equipment of any city owned public utility which are worn out or useless or which have been, or could with advantage to the service be, replaced by new and improved machinery or equipment, to the leasing of property not necessary for the operation of the utility, or to the exchange of property or easements for other needed property or easements. It is provided, however, that the provisions of this section shall not extend to vacation or abandonment of streets, as provided by statute.

State law reference(s)—Charter may provide for disposal of property, MCL 117.4e(3); referendum to sell municipal utility, Mich. Const. (1963) art. VII, § 25.

Section 13.6. Utility finances.

The rates and charges for any municipal public utility for the furnishing of water, light, heat, power, gas or sewage treatment and garbage disposal shall be so fixed as to at least meet all the costs of such utility, including depreciation.

Transactions pertaining to the ownership and operation by the city of each public utility shall be recorded in a separate group of accounts under an appropriate fund caption, which accounts shall be classified in accordance with generally accepted utility accounting practice. Charges for all service furnished to, or rendered by, other city departments or agencies shall be recorded. An annual report shall be prepared to show fairly the financial position of each utility and the results of its operation, which report shall be available for inspection at the office of the clerk.

CHAPTER 14. PUBLIC UTILITY FRANCHISES

Section 14.1. Franchises remain in effect.

All franchises to which the City of Adrian is a party when this Charter becomes effective shall remain in full force and effect in accordance with their respective terms and conditions.

Section 14.2. Granting of public utility franchises.

Public utility franchises and all renewals and extensions thereof and amendments thereto shall be granted by ordinance only. No exclusive franchise shall ever be granted. No franchise shall be granted for a longer period than thirty years.

No franchise ordinance which is not subject to revocation at the will of the commission shall be enacted, nor become operative until the same shall have first been referred to the people at a regular or special election and received the affirmative vote of three-fifths of the electors voting thereon. No such franchise ordinance shall be

approved by the commission for referral to the electorate before thirty days after application therefor has been filed with the commission, nor until a public hearing has been held thereon, nor until the grantee named therein has filed with the clerk his unconditional acceptance of all terms of such franchise. No special election for such purpose shall be ordered unless the expense of holding such election, as determined by the commission, shall have first been paid to the treasurer by the grantee.

A franchise ordinance or renewal or extension thereof or amendment thereto which is subject to revocation at the will of the commission may be enacted by the commission without referral to the voters, but shall not be enacted unless it shall have been complete in the form in which it is finally enacted and shall have so been on file in the office of the clerk for public inspection for at least four weeks after publication of a notice that such ordinance is on file.

State law reference(s)—City may not submit franchise to electors at special election unless expense of holding election paid in advance to the city treasurer by prospective franchisee, MCL 117.5(i); maximum term of franchise, Mich. Const. (1963) art. VII, § 30.

Section 14.3. Conditions of public utility franchises.

All public utility franchises granted after the adoption of this Charter, whether it be so provided in the granting ordinance or not, shall be subject to the following rights of the city, but this enumeration shall not be exclusive or impair the right of the commission to insert in such franchise any provision within the powers of the city to impose or require:

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

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

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

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

(e) To use, control and regulate the use of its streets, alleys, bridges and other public places and the space above and beneath them;

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

Section 14.4. Regulation of rates.

All public utility franchises shall make provision therein for fixing rates, fares and charges, and may provide for readjustments thereof at periodic intervals. The value of the property of the utility used as a basis for fixing such rates, fares and charges shall in no event include a value predicated upon the franchise, goodwill or prospective profits.

Section 14.5. Use of public places by utilities.

Every public utility, whether it has a franchise or not, shall pay such part of the cost of improvement or maintenance of streets, alleys, bridges and other public places as shall arise from its use thereof and shall protect and save the city harmless from all damages arising from said use. Every such public utility may be required by the city to permit joint use of its property and appurtenances located in the streets, alleys and other public places of the city by the city and by other utilities insofar as such joint use may be reasonably practicable and upon payment

of reasonable rental therefor. In the absence of agreement and upon application by any public utility, the commission shall provide for arbitration of the terms and conditions of such joint use and the compensation to be paid therefor, and the arbitration award shall be final.

CHAPTER 15. SUPERVISORS[8]

CHAPTER 16. MUNICIPAL COURT[9]

CHAPTER 17. MISCELLANEOUS

Section 17.1. City liability.

The city shall not be liable for damages sustained by any person either to his person or property by reason of negligence of the city, its officers or employees, nor by reason of any defective highway, street, bridge, sidewalk, crosswalk or culvert, or by reason of any obstruction, ice, snow or other encumbrance upon such highway, street, bridge, sidewalk, crosswalk or culvert, situated in the city, unless such person shall serve, or cause to be served, upon the clerk within sixty days after such damages shall have occurred a notice in writing and a statement that the person sustaining such damages intends to hold the city liable for such damages as may have been sustained by him. Such notice shall set forth substantially the time and place of the damages, the manner in which they occurred, the extent of such damages as far as the same has become known, and the names and addresses of the witnesses known at the time by the claimant. No person shall bring any action against the city for any damages to person or property arising out of any of the reasons or circumstances aforesaid unless he shall have first presented to the clerk his claim in writing and under oath setting forth particularly the nature and extent of such injury and the amount of damages claimed by reason thereof, which claim shall be presented to the commission by the clerk and the commission given opportunity to act thereon either by allowing or refusing to allow such claim.

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

Editor's note(s)—The provisions of Charter § 17.1 are superseded by MCL 691.1401 et seq.

Section 17.2. No estoppel.

No estoppel may be created against the city.

Section 17.3. Processes against city.

All processes against the city shall run against the city in the corporate name thereof and may be served by leaving a true copy with the mayor, clerk or attorney.

[8]Editor's note(s)—The provisions of Charter ch. 15 have been deleted as superseded by MCL 46.401 et seq.

[9]Editor's note(s)—The provisions of Charter ch. 16 have been deleted as the municipal court was abolished by MCL 600.9921.

Section 17.4. Vested rights continued.

After the effective date of this Charter, the city shall be vested with all property, moneys, contracts, rights, credits, effects and the records, files, books and papers belonging to the city under its previous Charter.

No right or liability, either in favor of or against the city, existing at the time this Charter becomes effective, and no suit or prosecution of any character shall in any manner be affected by any change resulting from the adoption of this Charter, but the same shall stand or proceed as if no change had been made. All debts and liabilities of the city shall be the debts and liabilities of the city and all fines and penalties imposed at the time of such change shall be collected.

Section 17.5. Trusts.

All trusts established for any municipal purpose shall be used and continued in accordance with the terms of such trust, subject to the cy pres doctrine. The Commission may in its discretion receive and hold any property in trust for any municipal purpose and shall apply the same to the execution of such trust and for no other purpose except in cases where the cy pres doctrine shall apply.

Any trust established by the City Commission for the purpose of investing any money derived from the rights to explore for oil, gas and/or minerals on any property owned by the City of Adrian, including production money or royalties, shall include the following provisions:

1. That the City shall receive no more than 5% of the trust on an annual basis, based on a 16-quarter rolling average.
2. That each budget year, the City Commission shall determine the percentage of distribution it requires, not to exceed 5% of the trust.
3. That the funds distributed from the trust shall be used for capital improvements, environmental projects, and other special uses that benefit the citizens of the City of Adrian.
4. That the funds distributed from the trust shall not be used for operational expenses.

These constraints regarding oil, gas and mineral trusts established by the City Commission apply to all existing trusts to the extent permitted by law and to all such trusts hereinafter established by the City Commission.

(Amended 7-17-2017)

Section 17.6. Vacancies in appointive boards and commissions.

Except as otherwise provided in this Charter, if a vacancy occurs in the membership of any appointive board or commission, the authority responsible for the appointment of the person whose position has become vacant shall fill such vacancy by appointment of a qualified person for the unexpired term of such person.

Section 17.7. Quorum.

Except as provided otherwise in this Charter, a quorum of any board or commission created by or pursuant to this Charter shall be a majority of the members of such board or commission in office at the time, but not less than two members.

Section 17.8. Records to be public.

All records of the city shall be public, shall be kept in city offices, except when required for official reasons or for purposes of safekeeping to be elsewhere, and shall be available for inspection at all reasonable times.

Editor's note(s)—Public records are required to be made available to the general public in compliance with MCL 15.231 et seq.

Section 17.9. Definition of publication, mailing of notices.

The requirement contained in this Charter for the publishing or publication of notices, ordinances or proceedings shall be met by publishing an appropriate insertion in a newspaper published in the English language for the dissemination of news of a general character, which newspaper shall have had a general circulation at regular intervals in the city for at least two years immediately preceding the time it is used for such publication purposes. The affidavit of the printer or publisher of such newspaper, or of his foreman or principal clerk, annexed to a printed copy of such notice, ordinance or proceeding taken from the paper in which it was published and specifying the times of publication shall be prima facie evidence of such publication.

In any case in which this Charter requires the mailing of notices, the affidavit of the officer or employee responsible for such mailing that such notice was mailed shall be prima facie evidence of such mailing.

Section 17.10. Sundays and holidays.

Whenever the date fixed by this Charter for the doing or completion of any act falls on a Sunday or legal holiday, such act shall be done or completed on the next succeeding day which is not a Sunday or legal holiday.

Section 17.11. Chapter and section headings.

The chapter, section and subsection headings used in this Charter are for convenience only and shall not be considered as part of the Charter.

Section 17.12. Interpretations.

Except as otherwise specifically provided or indicated by the context:

(a) All words used in this Charter indicating the present tense shall not be limited to the time of the adoption of this Charter, but shall extend to and include the time of the happening of any event or requirement for which provision is made herein.

(b) The singular number shall include the plural, the plural number shall include the singular and the masculine gender shall extend to and include the feminine gender and the neuter.

(c) The word "person" may extend and be applied to bodies politic and corporate and to partnerships, as well as to individuals.

(d) The words "printed" and "printing" shall include reproductions by printing, engraving, stencil duplicating, lithographing or any similar method.

(e) Except in reference to signatures, the words "written" and "in writing" shall include printing and typewriting.

(f) The word "officer" shall include the mayor and other members of the commission, the administrative officers, members of city boards and commissions created by or pursuant to this Charter, and the [sic].

(g) The word "freeholder" shall be defined to include any person and his spouse who is purchasing property on land contract among its meanings.

(h) The word "default" shall be defined to include being delinquent in taxes among its meanings.

(i) The word "statute" shall denote the Public Acts of the State of Michigan in effect at the time the provision of the Charter containing the word "statute" is to be applied.

(j) All references to specific Public Acts of the State of Michigan shall be to such acts as are in effect at the time the reference to such act is to be applied.

(k) The words "law" or "general laws of the state" shall denote the Constitution and the Public Acts of the State of Michigan in effect at the time the provision of the Charter containing the words "law" or "general laws of the state" is to be applied, and applicable common law.

(l) All references to section numbers shall refer to section numbers of this Charter.

Section 17.13. Penalties for violations of Charter.

Any officer of the city found guilty by a court of competent jurisdiction of any act declared by this Charter to constitute misconduct in office may be punished by a fine of not to exceed five hundred dollars or imprisonment for not to exceed ninety days, or both, in the discretion of the court. The punishment provided in this section shall be in addition to that of having the office declared vacant as provided in sections 5.2 and 5.3.

Section 17.14. Amendments.

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

State law reference(s)—Charter amendments, MCL 117.21 et seq.

Section 17.15. Severability of Charter provisions.

If any provision, section, article or clause of this Charter or the application thereof to any person or circumstances shall be found to be invalid by a court, such invalidity shall not affect any remaining portion or application of the Charter which can be given effect without the invalid portion of application, provided, such remaining portions or applications are not determined by the court to be inoperable, and to this end, this Charter is declared to be severable.

CHAPTER 18. SCHEDULE[10]

[10]Editor's note(s)—The provisions of Charter ch. 18 have been deleted. Section 18.1 thereof provided that such chapter was a part of the Charter only to the extent and for the time required to inaugurate the government under the Charter. It is now completely obsolete.

CHARTER COMPARATIVE TABLE

This table shows the amendments to the Charter.

Resolution Number	Date	Section this Charter
	4- 3-1961(Amend)	12.1
	12- 4-1976(Amend)	4.18
	11- 7-1977(Amend)	6.1
	4-25-1980(Amend)	5.1
	11- 9-1987(Amend)	12.1
	3-19-1996(Elect)	9.1
	7-17-2017(Amend)	17.5
R20-046	3- 2-2020	5.6

Chapter 1 GENERAL PROVISIONS

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

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

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

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

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

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

Charter. The term "Charter" shall mean the Charter of the city.

City. The term "city" shall mean the City of Adrian, Michigan.

City commission. The term "city commission" shall mean the city commission of the City of Adrian, Michigan.

Code. The term "Code" shall mean the Code of Ordinances, City of Adrian, Michigan, as designated in section 1-1.

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

Conjunctions. In a provision involving two or more items, conditions, provisions or events, which items, conditions, provisions or events are connected by the conjunction "and," "or" or "either…or," the conjunction shall be interpreted as follows, provided that in appropriate cases, the terms "or" and "and" are interchangeable:

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

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

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

County. The term "county" shall mean Lenawee County, Michigan.

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

Gender. Terms of one gender include the other genders.

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

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

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

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

Month. The term "month" shall mean a calendar month.

Must. The term "must" is to be construed as being mandatory and not permissive.

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

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

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

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

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

Personal property. The term "personal property" shall mean any property other than real property.

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

Property. The term "property" shall mean real and personal property.

Public acts. References to public acts are references to the Public Acts of Michigan. (For example, a reference to Public Act No. 168 of 1959 is a reference to Act No. 168 of the Public Acts of Michigan of 1959.) Any reference to a public act, whether by act number or by short title is a reference to such act, as amended.

Public place. The term "public place" shall mean any street, park, public building, place of business or assembly open to or frequented by the public and any other place that is open to public view or to which the public has access.

Real property. The term "real property" includes land, tenements and hereditaments.

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

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

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

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

State. The term "state" shall mean the State of Michigan.

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

Week. The term "week" shall mean seven consecutive days.

Written and *in writing.* The terms "written" and "in writing" include any representation of words, letters, symbols or figures.

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

(Code 1972, §§ 1.8—1.10, 9.61)

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

Sec. 1-3. Catchlines and other headings; history notes.

(a) The catchlines of the several sections of this Code printed in boldface type are intended as mere catchwords to indicate the contents of the section and are not titles of such sections, or of any part of the section, nor unless expressly so provided shall they be so deemed when any such section, including the catchline, is amended or reenacted.

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

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

(Code 1972, § 1.6)

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

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

(a) Unless specifically provided otherwise, the repeal of an ordinance does not revive any repealed ordinance.

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

State law reference(s)—Effect of repeal of state statutes, MCL 8.4, 8.4a.

Sec. 1-5. Amendments to Code.

(a) All ordinances adopted subsequent to this Code that amend, repeal or in any way affect this Code may be numbered in accordance with the numbering system of the Code and printed for inclusion in the Code.

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

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

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

(Code 1972, § 1.2)

Charter reference(s)—Ordinance enactment procedures, § 7.3 et seq.

Sec. 1-6. Supplementation of Code.

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

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

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

(1) Arrange the material into appropriate organizational units.

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

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

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

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

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

(d) Ordinances that are not of a general or permanent nature shall not be prepared for insertion in this Code.

Sec. 1-7. General penalty; continuing violations.

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

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

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

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

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

(c) Except as otherwise provided by law or ordinance, a person convicted of a violation of this Code shall be punished by a fine not to exceed $500.00, imprisonment for a period of not more than 90 days, or both; however, unless otherwise provided by law, a person convicted of a violation of any provision of this Code that substantially corresponds to a violation of state law that is a misdemeanor for which the maximum period of imprisonment is 93 days shall be punished by a fine of not more than $500.00, imprisonment for a term of not more than 93 days, or both. A person convicted of a violation of this Code shall be responsible for costs. This subsection does not apply to any municipal civil infraction.

(d) The following provisions apply to municipal civil infractions:

(1) Violations of this Code are municipal civil infractions only if declared to be municipal civil infractions.

(2) The sanction for a violation that is a municipal civil infraction shall be a civil fine in an amount as set forth in this Code or any ordinance, plus any costs, damages, expenses and other sanctions, as authorized under chapter 87 of Public Act No. 236 of 1961 (MCL 600.8701 et seq.) and other applicable laws.

(3) Unless otherwise specifically provided for in a particular municipal civil infraction violation by this Code or any ordinance, the civil fine for a first violation shall be not less than $100.00, plus costs and other sanctions for each infraction.

(4) Increased civil fines may be imposed for a repeat offense by a person of any requirement or provision of this Code. As used in this subsection," the term "repeat offense" shall mean a second or any subsequent municipal civil infraction violation of the same requirement or provision committed by a person for which the person admits responsibility or is determined to be responsible.

(5) Unless otherwise specifically provided by this Code or any ordinance for a particular municipal civil infraction violation, the increased fine for repeat offenses shall be as follows:

a. The fine for any offense which is a first repeat offense shall be no less than $200.00, plus costs;

b. The fine for any offense which is a second repeat offense or any subsequent repeat offense shall be no less than $300.00, plus costs.

(e) Except as otherwise provided by law or ordinance, with respect to violations of this Code that are continuous with respect to time:

(1) Each day that the violation continues is a separate offense.

(2) Each act constitutes a separate offense.

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

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

(Code 1972, §§ 1.7, 1.13)

State law reference(s)—Penalty for ordinance violations, MCL 117.4(k); municipal civil infractions, MCL 117.51, MCL 600.8701 et seq.

Sec. 1-8. Severability of parts of Code.

Except as otherwise expressly provided to the contrary, if any portion of this Code or the application thereof to any person or circumstance shall be found to be invalid by a court, such invalidity shall not affect the remaining portions or applications of the ordinance which can be given effect without the valid portion or application, if such remaining portions or applications are not determined by the court to be inoperable, and, to this end, this Code is declared to be severable.

(Code 1972, § 1.14)

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

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

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

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

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

(a) Nothing in this Code or the ordinance adopting this Code affects any offense or act committed or done, any penalty or forfeiture incurred, or any contract or right established before the effective date of this Code.

(b) The adoption of this Code does not authorize any use or the continuation of any use of a structure or premises in violation of any city ordinance on the effective date of this Code.

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

Nothing in this Code or the ordinance adopting this Code affects the validity of any ordinance or portion of an ordinance listed below and all such provisions continue in full force and effect to the same extent as if published at length in this Code:

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

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

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

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

(5) Making or approving any appropriation or budget.

(6) Providing for salaries or other employee benefits not codified in this Code.

(7) Granting any right or franchise.

(8) Affecting any urban renewal project.

(9) Adopting or amending a comprehensive plan.

(10) Levying or imposing any special assessment.

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

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

(13) Dedicating, accepting or vacating any plat.

(14) Levying, imposing or otherwise relating to taxes not codified in this Code.

(15) Granting a tax exemption for specific property not codified in this Code.

(16) Not codified in this Code:

a. Prescribing traffic regulations for specific locations; or

b. Ordering, requiring or authorizing the erection or installation of traffic control signs, signals, devices or markings or parking meters.

(17) Pertaining to zoning, including, but not limited to, the basic zoning ordinance and ordinances rezoning property or amending the zoning map.

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

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

(20) The purpose of which has been accomplished.

Chapter 2 ADMINISTRATION[11]

[11]Cross reference(s)—Any ordinance authorizing or approving any contract, deed, or agreement saved from repeal, § 1-11(4); community development, ch. 18; human rights, ch. 38; law enforcement, ch. 42; special assessments, ch. 70; taxation, ch. 82; administration and enforcement of traffic and vehicle regulations, § 90-

31 et seq.; utilities, ch. 94; administration and enforcement of zoning regulations, § 106-41 et seq.; administration and enforcement of signs, § 106-461 et seq.

ARTICLE I. IN GENERAL

Sec. 2-1. Official notice.

(a) Notice regarding sidewalk repairs, sewer or water connections, dangerous structures, abating nuisances or any act, the expense of which, if performed by the city, may be assessed against the premises under the provisions of this Code, shall be served:

(1) By delivering the notice to the owner or party in interest personally or by leaving the same at his residence, office or place of business with some person of suitable age and discretion,

(2) By mailing said notice by first class mail to the owner or party in interest in the property involved at his address as shown in the last local tax assessment records, or

(3) If the owner or party in interest is unknown, by posting said notice in some conspicuous place on the premises for five days.

(b) No person shall interfere with, obstruct, mutilate, conceal or tear down any official notice or placard posted by a city officer, unless permission is given by said officer to remove said notice.

(Code 1972, § 1.11)

Sec. 2-2. Approval of legal documents.

The mayor shall sign, the city clerk shall attest to, the city administrator shall approve as to substance and the city attorney shall approve as to form all legal instruments requiring the assent of the city, unless otherwise provided for by law, the city Charter or this Code.

(Code 1972, § 1.127)

Secs. 2-3—2-30. Reserved.

ARTICLE II. OFFICERS AND EMPLOYEES[12]

DIVISION 1. GENERALLY

Sec. 2-31. Bonds.

(a) Surety bonds, conditioned as required by section 5.11 of the Charter, shall be filed by the following officers of the city in the amounts indicated:

[12]Cross reference(s)—Any ordinance providing for salaries or other employee benefits not codified in this Code saved from repeal, § 1-11(6); dog officer, § 6-32.

(1) Treasurer$25,000.00

(2) Deputy treasurer10,000.00

(3) City administrator15,000.00

(4) City clerk10,000.00

(5) Deputy city clerk5,000.00

(b) To the extent that any officer or department head set forth in subsection (a) of this section is covered by any blanket surety bond, the amount of the individual bond required for such officer or department head shall be proportionately reduced. All other officers and employees of the city who receive, distribute or are responsible for city funds or investments shall be covered by a blanket surety bond which shall cover each such employee in an amount of not less than $5,000.00.

(Code 1972, § 1.128)

Secs. 2-32—2-50. Reserved.

DIVISION 2. SPECIFIC OFFICERS

Sec. 2-51. City administrator.

The city administrator shall:

(1) Attend all meetings of the city commission, regular and special.

(2) Be responsible for the proper preaudit and recording of all financial transactions.

(Code 1972, § 1.121)

Charter reference(s)—City administrator, § 4.8 et seq.

Sec. 2-52. Clerk.

(a) The office of clerk shall be headed by the city clerk, who shall serve as clerk of the city commission and perform such other duties for the city commission as may be required. The clerk shall be responsible for the publication, filing, indexing and safekeeping of all city commission proceedings.

(b) The clerk shall publish all legal notices unless otherwise provided by law, the Charter or this Code, and shall notify the appointing authority of any board or commission 30 days prior to the expiration of the term of office of any member of such board or commission.

(Code 1972, §§ 1.55.00, 1.57.00)

Charter reference(s)—City clerk, § 4.11.

Sec. 2-53. Treasurer.

The office of the treasurer shall be headed by the city treasurer. Except as otherwise provided by the charter or by state law, the treasurer is subordinate to the director of finance and is a member of the department of finance.

(Code 1972, § 1.62.00)

Charter reference(s)—City treasurer, § 4.12.

Sec. 2-54. Assessor.

The office of the assessor shall be headed by the city assessor.

(Code 1972, § 1.60.00)

Charter reference(s)—City assessor, § 4.13.

Secs. 2-55—2-80. Reserved.

ARTICLE III. DEPARTMENTS AND AGENCIES[13]

DIVISION 1. GENERALLY

Sec. 2-81. Administrative service.

(a) The administrative service of the city shall be under the supervision and direction of the city administrator, except as otherwise provided by the city Charter, and shall be divided into the following offices and departments, each of which shall be the responsibility, and under the control, of a head as listed opposite such office or department:

Office or Department	Official Head
Office of clerk	City clerk
Office of assessor	City assessor
Office of treasurer	City treasurer
Department of finance	Director of finance
Department of police	Police chief
Department of fire	Fire chief
Department of public works	Superintendent of public works
Department of utilities	Director of utilities
Department of engineering and public works	City engineer/director of public works
Department of Human resources	Director of human resources
Department of law	City attorney
Department of parks and recreation	Director of parks and recreation
Department of library	Director of library
Department of community development	Director of community development
Office of emergency services	Deputy emergency services coordinator

[13]Charter reference(s)—Departments authorized, § 4.6.

(b) Each officer listed in subsection (a) of this section as the head of a department or office shall be an "administrative officer," as such term is used in section 4.6 of the Charter.

(Code 1972, §§ 1.50.00, 1.51.00)

Sec. 2-82. Administrative officers.

All administrative officers are responsible to the city administrator for the effective administration of their respective departments and offices and all activities assigned by them. The city administrator may set aside any action taken by any administrative officer and may supersede such officer in the functions of his office but, as to officers appointed by the city commission, such action shall be subject to approval by the city commission.

(Code 1972, § 1.122)

Sec. 2-83. Vacancies.

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

(Code 1972, § 1.123)

Sec. 2-84. General duties.

All departments of the city shall comply with the following:

(1) All department heads shall keep informed as to the latest practices in their particular field and shall inaugurate, with the approval of the city administrator in the case of departments responsible to him or in the case of other departments, with the approval of the officer or body to whom the department head is responsible, such new practices as appear to be of benefit to the service and the public.

(2) Reports of the activities of each department shall be made to the city administrator at the end of each month and an annual report shall also be filed with the city administrator within 60 days after the end of the fiscal year. A summary of all such reports shall be made by the city administrator and submitted to the city commission. Each department head shall establish a system of records and reports in sufficient detail to furnish all information necessary for proper control of departmental activities and to form a basis for the periodic reports to the city administrator. The city administrator shall submit a written report to the city commission as soon as possible after the close of each month, showing the operation and expenditures of each department for the preceding month and a comparison of such monthly expenditures, by departments, with the monthly allowances made for such departments in the annual budget. The city administrator shall keep the city commission fully advised at all times as to the financial condition and needs of the city.

(3) Each department head shall be held responsible for the preservation of all public records under his jurisdiction and shall provide a system of filing and indexing such records.

(Code 1972, § 1.124)

Sec. 2-85. Administrative manual.

The city administrator is authorized to adopt such administrative regulations in addition to, but not inconsistent with, the Charter and this Code, as he shall deem necessary and proper to provide for the adequate functioning of all departments. Such regulations shall comprise the administrative manual.

(Code 1972, § 1.125)

Secs. 2-86—2-110. Reserved.

DIVISION 2. DEPARTMENT OF COMMUNITY DEVELOPMENT

Sec. 2-111. Department head.

The department of community development shall be headed by the director of community development, who shall:

(1) Supervise and perform administrative and planning functions in the area of community development;

(2) Prepare applications for state and federal grant assistance; and

(3) Serve as a liaison between the city and other government agencies, businesses and city residents.

(Code 1972, § 1.118.00)

Sec. 2-112. Specific functions.

The department of community development shall have the following specific functions:

(1) Prepare state and federal grant applications.

(2) Administer grants with other city departments, monitor progress, programs and activities to ensure compliance with regulations related to fair housing, citizen participation, affirmative action, audits, utilization of local businesses, historic preservation and other community development activities.

(3) Develop and implement the city's housing assistance plan, a citizen participation plan, periodic surveys of housing conditions and other activities related to housing programs.

(4) Evaluate and assist in the preparation of Public Act No. 255 of 1978 (MCL 207.651 et seq.) and Public Act No. 198 of 1984 (MCL 125.1571 et seq.) requests.

(5) Oversee the issuance of all permits involved with building construction and plumbing, mechanical and electrical installations.

(6) Oversee the city's existing property maintenance and rental housing registration and inspection programs.

(7) Assist the various boards and/or commissions conducting hearings or examinations on matters relating to the city's zoning and community development services.

(8) Perform such other services as may be required by the city administrator.

(Code 1972, § 1.119.00)

Secs. 2-113—2-130. Reserved.

DIVISION 3. DEPARTMENT OF ENGINEERING AND PUBLIC WORKS

Sec. 2-131. Department head.

The department of engineering and public works shall be headed by the city engineer/public works director, who shall be experienced in municipal engineering works and be responsible for all matters relating to construction, management, maintenance and operation of all physical properties and equipment of the city, except as otherwise provided by the city Charter or this Code and who shall also be the city's chief inspector. The city engineer/public works director shall:

(1) Perform professional civil engineering and responsible administrative work in the design, planning and inspection of municipal construction and engineering projects;

(2) Plan, direct and coordinate city engineering, inspections, parking systems, planning and related activities; and

(3) Perform related work as may be required by the city administrator.

(Code 1972, §§ 1.91.00; 1.93.00)

Sec. 2-132. Specific functions.

The department of engineering and public works shall be responsible for, but not limited to, providing the following city services:

(1) Direct and administer municipal engineering operations, including the design, estimate of costs, inspections, construction and maintenance of sidewalks, street improvements, buildings and such other municipal projects as may be determined by the city administrator.

(2) Investigate and respond to citizen complaints pertaining to engineering or related activities.

(3) Supervise the investigation of construction, sanitation and other alleged violations and make reports recommending action.

(4) Maintain a detailed records system showing the location of streets, sewers, water distribution system, sidewalks and other public improvements.

(5) Provide technical information and recommendations to the city administrator and planning commission.

(6) Coordinate traffic engineering and street lighting programs, and maintain traffic control systems.

(7) Conduct safety inspections of all premises and any structures.

(8) Issue all permits involved with construction of sewer service, sidewalks, curb cuts and street openings.

(9) Assist the various boards and/or commissions conducting hearings or examinations on matters relating to the city's engineering services.

(10) Obtain all engineering services as may be required for the department.

(11) Have charge of the construction and maintenance of all street surfaces, the cleaning of streets, the removal of snow and ice from streets and sidewalks, the construction and maintenance of sidewalks and bridges and the operation of garbage collection and disposal service of the city.

(12) Responsibility for the maintenance and cleaning of city parking lots.

(13) Participate in the construction and repair of storm sewers and catchbasins.

(14) Supervise the preventative maintenance and repairs of city vehicles and equipment.

(15) Perform such other services as may be required by the city administrator.

(Code 1972, §§ 1.92.00, 1.94.00)

Secs. 2-133—2-150. Reserved.

DIVISION 4. DEPARTMENT OF FINANCE

Sec. 2-151. Director of finance.

The department of finance shall be headed by the director of finance, who shall, with the objective that the financial interests of the city shall at all times be protected, be responsible for financial planning, budgeting, reporting and control, except insofar as the duties of the city treasurer are regulated by the Charter and state law. The department head shall also be the chief fiscal officer.

(Code 1972, § 1.65.00)

Sec. 2-152. Functions.

The financial operations of the department of finance shall consist of the following functions:

(1) Internally audit all purchase orders, invoices, receipts and disbursements.

(2) Prepare the payrolls.

(3) Prepare all checks.

(4) Maintain and supervise general and specific accounting records.

(5) Bill property and other taxes and special assessments and other service charges.

(6) Maintain inventory records of all municipal property.

(7) Assist the city administrator in making purchases of materials, supplies and equipment for the city departments.

(8) Provide for and maintain any central services and stores system.

(9) Administer the city's insurance program.

(10) Assemble budget estimates and assist the city administrator in preparing and administering the budget.

(11) Prepare periodic financial reports showing, in detail, financial conditions of the city, and keep the city administrator informed of all developments affecting finances of the city.

(12) Except as otherwise provided by the charter and state law, oversee and supervise the city treasurer.

(13) Such general supervision of the financial affairs of the city as the city administrator shall from time to time authorize and require.

(Code 1972, § 1.66.00)

Secs. 2-153—2-170. Reserved.

DIVISION 5. DEPARTMENT OF LAW

Sec. 2-171. City attorney.

There is a city attorney with functions as provided in city charter section 4.14.

Sec. 2-172. Assistant city attorneys.

(a) Assistant city attorneys shall assist the city attorney in the performance of the duties of such office as prescribed by the Charter and this Code, and shall perform such other duties and functions as may be delegated by the city attorney.

(b) Assistant city attorneys shall be:

(1) Appointed by the city commission for an indefinite period;

(2) Responsible to and serve at the pleasure of the city commission; and

(3) Compensated as determined by the city commission.

(Code 1972, § 1.115.00)

Secs. 2-173—2-190. Reserved.

DIVISION 6. RESERVED[14]

Secs. 2-191—2-210. Reserved.

DIVISION 7. DEPARTMENT OF HUMAN RESOURCES

Sec. 2-211. Department head.

The department of human resources shall be headed by the director of human resources, who shall be experienced in human resources matters and be responsible for all matters relating to human resources of the city government, except as otherwise provided by the city Charter or this Code.

[14]Editor's note(s)—Ord. No. 14-005, adopted April 21, 2014, repealed former div. 6, §§ 2-191, 2-192, which pertained to the department of library, and derived from the 1972 Code, §§ 1.111.00 and 1.112.00. See ch. 2, art. VIII.

(Code 1972, § 1.91.00)

Secs. 2-212—2-230. Reserved.

DIVISION 8. EMERGENCY SERVICES ORGANIZATION[15]

Sec. 2-231. Definitions.

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

Disaster means an occurrence or threat of widespread or severe damage, injury, or loss of life or property resulting from a natural or human-made cause, including, but not limited to, fire, flood, snowstorm, ice storm, tornado, windstorm, wave action, oil spill, water contamination, utility failure, hazardous peacetime radiological incident, major transportation accident, hazardous materials incident, epidemic, air contamination, blight, drought, infestation, explosion, or hostile military action or paramilitary action, or similar occurrences resulting from terrorist activities, riots or civil disorders.

Emergency services has a broad meaning, including preparations for, and relief from, the effects of natural and manmade disasters.

Emergency services forces means any employees, equipment and facilities of any city department or agency designated in the official county emergency plan to be part of the total emergency services force of the county and to provide emergency services in the event of a disaster.

State of disaster means a declaration issued by the governor that a state of disaster exists under the provisions of Public Act No. 390 of 1976 (MCL 30.401 et seq.).

(Code 1972, § 1.240)

Cross reference(s)—Definitions generally, § 1-2.

State law reference(s)—Emergency management coordinators, MCL 30.409.

Sec. 2-232. Duties of mayor.

The mayor, with the approval of the city commission, is hereby authorized and directed to prepare for community disasters, utility to the fullest extent existing agencies within the city. The mayor, as executive head of city government, shall be responsible for the organization, administration and operation of the city's emergency services force, working through the county emergency services coordinator and the city deputy coordinator.

(Code 1972, § 1.241)

Sec. 2-233. Office of emergency services.

The office of emergency services shall be headed by the county emergency services coordinator, who shall be responsible for the administration, planning, coordination and operation of all emergency preparedness activities for the county and local governments located in the county.

[15]State law reference(s)—Emergency management, MCL 30.401 et seq.

(Code 1972, §§ 1.116.00, 1.237)

Sec. 2-234. Deputy emergency services coordinator.

The city hereby establishes the position of deputy emergency services coordinator, to provide liaison between the city and the county office of emergency services to ensure complete and efficient utilization of all resources during periods of an emergency. The mayor, with the approval of the city commission, shall appoint the deputy emergency services coordinator, who shall be a person, with the personal attributes and experience to provide liaison services to county officials and to coordinate the activities of certain city departments, boards, agencies and commissions to protect the public health, safety and welfare during emergency situations or disasters.

(Code 1972, §§ 1.117.00, 1.238, 1.243)

Sec. 2-235. Use of city employees, equipment and facilities.

The employees, equipment and facilities of all city departments, boards, agencies and commissions suitable for, or adaptable to, emergency services activities may be designated as part of the total emergency services of the county. Such designations shall be made by the chairman of the county board of commissioners, with the approval of the city commission.

(Code 1972, § 1.242)

Sec. 2-236. Effect of division.

This division will not relieve any elected official or municipal department of the normal responsibilities or authority given by general law or ordinance, nor will it affect the work of the American Red Cross or other volunteer agencies organized for relief in natural disaster.

(Code 1972, § 1.239)

Secs. 2-237—2-240. Reserved.

DIVISION 9. DEPARTMENT OF POLICE[16]

Sec. 2-241. Commanding officer.

The police department shall be headed by the chief of police who shall:

(1) Be the commanding officer of the police force;

(2) Direct the police work of the city;

(3) Be responsible for the enforcement of law and order; and

(4) Have such other duties as assigned by the city administrator.

[16]State law reference(s)—Law enforcement officer training standards, MCL 28.601 et seq.

(Code 1972, § 1.71.00)

Sec. 2-242. Functions.

The police work of the city shall consist of the following functions:

(1) Operation of motor and foot patrol units for routine investigations and the general maintenance of law and order.

(2) Maintenance of the central complaint desk at the central police headquarters in the city hall, the maintaining and supervising of police records, criminal and noncriminal identification, property identification, custody of property and the operation of detention quarters.

(3) Investigation of crimes, elimination of illegal liquor traffic and vice, and the preparation of evidence for the prosecution of criminal cases and offenses in violation of the ordinances of the city where responsibility for enforcement is not vested in another department.

(4) Prevention and control of juvenile delinquency, the removal of crime hazards and the coordination of community agencies interested in crime prevention.

(5) Control of traffic, traffic education programs, school patrols and coordination of traffic violation prosecutions.

(6) Such other duties as assigned by the city administrator.

(Code 1972, § 1.72.00)

Sec. 2-243. Rules.

The chief of police may prescribe rules for the governing of police officers of the city, subject to approval by the city administrator, which shall be entered in a book of police department rules and orders, and may be amended or revoked by the police chief upon written notice to, and approval by, the city administrator. Such rules may establish one or more divisions within the police department, each of which divisions may be charged with performing one or more of the functions of the police department enumerated in section 42-32. Any such division shall be supervised by a qualified officer of the police department, who shall be responsible for the functions of the police department assigned to such division. It shall be the duty of all members of the police force to comply with such rules and orders as may be adopted.

(Code 1972, § 1.73.00)

Sec. 2-244. Acting chief of police.

The chief of police shall not leave the city without notifying the city administrator, except for purposes due to emergencies. During periods of absence, disability or inability, for any cause, preventing the chief of police to perform the prescribed duties of such office, the city administrator shall designate or appoint some other member of the police department to act as chief of police during such period.

(Code 1972, § 1.74.00)

Sec. 2-245. Monthly reports.

The chief of police shall report to the city administrator monthly all arrests made by the police department, the disposition of persons arrested, the number of persons remaining in confinement for ordinance violations and such other information as the city administrator shall require.

(Code 1972, § 1.75.00)

Sec. 2-246. Special police officers.

The chief of police is authorized to appoint special police officers when, in his judgment, the emergency and necessity for such special police officers may exist, but such appointments shall not continue in effect for a period longer than ten days, unless confirmed by the city administrator.

(Code 1972, § 1.76.00)

Sec. 2-247. Police reserve.

(a) There is hereby established a police reserve, which shall consist of such personnel as shall be appointed by the chief of police as provided in this section and which shall function as set forth in this section.

(b) The police reserve shall be, and operate, under the direction of the police department, subject to, and in accordance with, such rules and regulations as shall be promulgated by the chief of police and approved by the city administrator.

(c) The chief of police shall prescribe and establish rules for appointment to, and service in, the police reserve, which, when approved by the city administrator, shall be entered in a book of police department rules and orders, and which shall include, but not be limited to, the following:

    (1) Minimum standards of physical, educational, mental and moral fitness in the police reserve.

    (2) Minimum training requirements in police and law enforcement skills in the police reserve.

    (3) Manner in which assignments to duty shall be made and the extent of the duties thereby assigned.

    (4) Manner in which command of the members of the police reserve shall be exercised.

    (5) Such other and additional regulations and restrictions as the chief of police shall deem necessary or appropriate for the efficient operation of the police reserve, its relationship to the operation of the police force and the protection of the city and the inhabitants thereof.

(d) All such rules and regulations shall be subject to the approval of the city administrator and may be amended or revoked from time to time with the approval of the city administrator.

(e) The police reserve shall at all times be under the direction of the police department and shall, in all respects, be responsible to the chief of police. No member of the police reserve shall at any time perform in any manner contrary to, or in violation of, the rules, regulations and restrictions established by the chief of police governing the functions and limitations of the police reserve.

(f) Subject to the limitations of all the provisions of this section and the rules, regulations and restrictions established by the chief of police, the police reserve shall perform the functions of the police department set forth in section 42-32.

(Code 1972, § 1.77.00)

Secs. 2-248—2-250. Reserved.

DIVISION 10. FIRE DEPARTMENT[17]

Sec. 2-251. Fire chief.

(a) *Generally.* The fire department shall be headed by the fire chief, who shall be charged with the:

(1) Prevention and extinguishment of fires;

(2) Protection of life and property against fire;

(3) Removal of fire hazards;

(4) Performance of other public services of an emergency nature assigned to the fire department;

(5) Conduction of an educational fire prevention program; and

(6) Such other duties as assigned by the city administrator.

(b) *Rules and regulations.* The fire chief shall adopt rules and regulations for the government of the fire department, subject to the approval of the city administrator, which shall be entered in a book of fire department rules and which may be changed and repealed by the fire chief upon notice to, and approval by, the city administrator. Such rules and regulations shall designate the chain of command for the fire department so that, in the absence or disability of the fire chief, the responsibility for the operation of the fire department shall immediately and automatically be vested in the next present ranking officer or member of the fire department.

(c) *Maintenance and care of fire department property and equipment.* The fire chief shall be responsible for the maintenance and care of all property and equipment used by the fire department.

(d) *Enforcement of fire laws.* It shall be the duty of the fire chief to enforce all state laws and provisions of this Code governing the following:

(1) Prevention of fires.

(2) Storage and use of explosives and flammables.

(3) Maintenance of fire alarm systems, both automatic and private, and all fire extinguishing equipment.

(4) Maintenance and use of fire escapes.

(5) Maintenance of fire protection and the elimination of fire hazards in all buildings and structures.

(6) Maintenance and adequacy of fire exits from factories, schools, hotels, asylums, hospitals, churches, halls, theaters and all other places in which numbers of persons work or congregate for any purpose.

(e) *Miscellaneous duties.* The fire chief shall perform the following duties:

(1) Investigate the origins, causes and circumstances of all fires.

(2) Issue all orders necessary for the enforcement of state laws and the provisions of this Code.

[17]State law reference(s)—Firefighter training, MCL 29.361 et seq.

(3) Require and supervise, from time to time, fire drills from all schools and educational institutions, as required by law.

(4) Report monthly to the city administrator all fire runs, emergency runs and fire loss reports, and such other information as the city administrator shall require.

(Code 1972, §§ 1.81.00—1.85.00)

Sec. 2-252. Firefighters auxiliary.

(a) There is hereby established a firefighters auxiliary, which shall consist of such personnel as shall be appointed by the fire chief and shall perform such duties as set forth in this section.

(b) The firefighters auxiliary shall be, and operate, under the direction of the fire department, subject to, and in accordance with, such rules and regulations as shall be promulgated by the fire chief and approved by the city administrator.

(c) The fire chief shall prescribe and establish rules for appointment to, and service in, the firefighters auxiliary, which, when approved by the city administrator, shall be entered in a book of fire department rules and orders and which shall include, but shall not be limited to, the following:

(1) Minimum standards of physical, educational, mental and moral fitness in the firefighters auxiliary.

(2) Minimum training requirements in fire skills in the firefighters auxiliary.

(3) Manner in which assignments to duty shall be made and the extent of the duties thereby assigned.

(4) Manner in which command of members of the firefighters auxiliary shall be exercised.

(5) Such other and additional regulations and restrictions as the fire chief shall deem necessary or appropriate for the efficient operation of the firefighters auxiliary, its relationship to the operation of the fire department and the protection of the city and its inhabitants.

(d) All such rules and regulations shall be subject to the approval of the city administrator and may be amended or revoked from time to time with the approval of the city administrator.

(e) The firefighters auxiliary shall at all times be under the direction of the fire department and shall, in all respects, be responsible to the fire chief. No member of the firefighters auxiliary shall at any time perform in any manner contrary to, or in violation of, the rules, regulations and restrictions established by the fire chief governing the functions and limitations of the firefighters auxiliary.

(f) Subject to the limitations of all of the provisions of this section and the rules, regulations and restrictions established by the fire chief, the firefighters auxiliary shall perform the functions of the fire department as set forth in section 26-41(b).

(Code 1972, § 1.86.00)

Sec. 2-253. Authority at fires and other emergencies.

The chief of the fire department, or duly authorized representatives as may be in charge at the scene of a fire or other emergency involving the protection of life and/or property, is empowered to direct such operations as may be necessary to extinguish or control any suspected or reported fire, gas leak or other hazardous condition or situation, or of taking any other action necessary in the reasonable performance of their duty. The chief of the fire department may prohibit any person, vehicle or object from approaching the scene and may remove, or cause to be removed, from the scene, any person, vehicle or object which may impede or interfere with the operations of the fire department. The chief of the fire department may remove, or cause to be removed, any person, vehicle or

object from hazardous areas. All persons ordered to leave a hazardous area shall do so immediately and shall not reenter the area until authorized to do so by the chief of the fire department.

(Code 1972, § 9.91(1))

Secs. 2-254—2-255. Reserved.

DIVISION 11 DEPARTMENT OF PARKS AND RECREATION

Sec. 2-256. Department head.

The department of parks and recreation shall be headed by the director of parks and recreation, who shall perform administrative and professional direction in planning, developing and administering a municipal recreation and parks program. The director of parks and recreation will utilize a variety of methods to determine recreation needs, interests and facilities required to provide such services to the community.

(Code 1972, § 1.109.00)

Sec. 2-257. Specific functions.

The department of parks and recreation shall perform, but not be limited to, the following functions:

(1) Plan, create and supervise recreation programs, facilities and equipment under the direction of the city administrator.

(2) Be responsible for the control and regulation of tree planting, planning, development, management of boulevards, parks, cemeteries and other beautification projects, including, but not limited to, city hall property, parking lots and riverfront properties.

(3) Respond to citizen complaints and inquiries concerning department programs.

(4) Make recommendations for land acquisition, capital improvements and prepare for, and make, grant applications.

(5) Coordinate year-round indoor and outdoor recreational programs and events.

(6) Communicate with the public through a variety of means to announce recreational programs.

(7) Perform such other tasks related to parks and recreation as may be required to implement programs for all age groups.

(8) Such other duties as assigned by the city administrator.

(Code 1972, § 1.110.00)

Secs. 2-258—2-260. Reserved.

DIVISION 12 DEPARTMENT OF UTILITIES

Sec. 2-261. Department head.

The department of utilities shall be headed by the director of utilities. The director of utilities shall be experienced in the administration of complete water and sewer systems, and shall be responsible for all matters relating to management, construction, maintenance, utilities office, customer service and enforcement of related city ordinances for all water and wastewater facilities and functions.

(Code 1972, § 1.98.00)

Sec. 2-262. Specific functions.

The department of utilities shall have, but not be limited to, the following functions:

(1) Operate and maintain the municipal water and sewer systems, including all related facilities, i.e., plants, pump stations, lift stations, elevated and ground storage tanks, dams, wells and all equipment of the department of utilities.

(2) Be responsible for plans and specifications for the construction of water and sewer systems and shall work with the department of engineering and public works and consulting engineers, when required.

(3) Be responsible for the installation, maintenance and repair of sewer and water lines for utility extensions.

(4) Prepare correspondence, records and reports as required by the city, state and federal governments.

(5) Prepare information for the news media.

(6) Meet with industrial wastewater dischargers as required to enforce city sewer use limitations as set forth in article IV of this chapter.

(7) Be responsible for the following:

   a. Operation of the utilities office.

   b. Meter reading and customer service.

   c. Installation and maintenance of water and sewer meters.

   d. Preparing construction estimates.

   e. Enforcing policy.

   f. Preparing the budget.

   g. Preparing operational analysis.

   h. Water and sewer rate recommendations, financial analysis, investments, purchasing, etc., in conjunction with the director of finance.

(8) Perform related work as required by the city administrator.

(Code 1972, § 1.99.00)

Secs. 2-263—2-270. Reserved.

ARTICLE IV. FINANCE[18]

Sec. 2-271. Payment of monies.

All monies belonging to the city shall be paid out as authorized by the Charter or action of the city commission, by checks drawn by the city treasurer and countersigned by the city clerk.

(Code 1972, § 1.126)

Secs. 2-272—2-300. Reserved.

ARTICLE V. PURCHASES AND CONTRACTS[19]

Sec. 2-301. Purchasing agent.

The city administrator shall act as purchasing agent of the city, and shall adopt any necessary rules with respect to requisitions and purchase orders.

(Code 1972, § 1.231)

Charter reference(s)—City administrator to be purchasing agent, § 4.10(j).

Sec. 2-302. Purchases and contracts under the dollar limit set by city commission.

Purchases of supplies, materials or equipment, the cost of which is less than the dollar limit that shall be set from time to time by resolution of the city commission may be made in the open market, but such purchases shall, where practical, be based on at least three competitive bids and shall be awarded to the lowest competent bidder meeting specifications. The purchasing agent may solicit bids verbally or by telephone or may contact prospective bidders by written communication. Where bids are solicited by written communication, a request for such bids shall be posted in the city hall. A record shall be kept for six months of all open market orders and the bids submitted thereon, which records shall be available for public inspection. Any or all bids may be rejected.

(Code 1972, § 1.232)

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[18]Charter reference(s)—Finance generally, ch. 8.

Cross reference(s)—Any ordinance promising or guaranteeing the payment of money or authorizing the issuance of bonds or other instruments of indebtedness saved from repeal, § 1-11(3); taxation, ch. 82.

State law reference(s)—Uniform Budget and Accounting Act, MCL 141.421; Revised Municipal Finance Act, MCL 141.2101 et seq.

[19]Charter reference(s)—Purchases, contracts and leases, ch. 12.

Sec. 2-303. Purchases and contracts over the dollar limit set by city commission.

Any expenditures for supplies, materials, equipment, construction projects or contracts obligating the city, where the amount of the city's obligation is in excess of the dollar limit that may be set from time to time by resolution of the city commission for such purposes, shall be governed by the following provisions:

(1) Such expenditures shall be made the subject of a written contract. A purchase order shall be a sufficient written contract only in cases where the expenditure is in the usual and ordinary course of the city's affairs and in no case shall it be sufficient for the construction of public works or the contracting for supplies or services over any period of time or where the quality of the goods or materials or the scope of the services bargained for is not wholly standardized.

(2) Notice inviting sealed competitive bids shall be published in the official newspaper at least five days before the final date for submitting bids thereon. Such notice shall briefly give the specifications of the supplies, materials, equipment or construction project, or other matter to be contracted for, and shall state the amount of the bond or other security to be given with the bid, if required, and the amount of bond or other security to be given with the contract. The notice shall state the time limit, the place of filing and the time of opening bids, and shall also state that the right is reserved to reject any or all bids. Any other conditions of award of the contract shall also be stated in general terms.

(3) The purchasing agent shall also solicit bids from a reasonable number of such qualified prospective bidders as are known to him by sending each such qualified prospective bidder a copy of the notice requesting bids, and such notice shall be posted in the city hall.

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

(5) Bids shall be opened in public by the city administrator, or if he shall be absent or incapacitated, by the city clerk, at the time and place designated in the notice requesting bids. The city administrator or city clerk and at least one other city official, preferably the head of the department most clearly concerned with the subject of the contract, shall be present at the opening of the bids. Upon such opening, the bids shall be carefully examined and tabulated and reported to the city commission, with the recommendation of the purchasing agent. After tabulation, all bids may be inspected by the competing bidders.

(6) When such bids are submitted to the city commission, the contract to be executed, in a form approved by the city attorney, shall also be submitted and, if the city commission shall find any of the bids to be satisfactory, it shall award the contract and shall authorize execution of the contract upon execution of the contract by the successful bidder and the filing of any bonds which may have been required, which bonds shall first be approved by the city attorney as to form and content. Contracts shall be awarded to the lowest competent bidder meeting specifications unless the city commission shall determine that the public interest will be better served by accepting a higher bid. Such award may be by resolution or ordinance. The city commission shall have the right to reject any or all bids and to waive irregularities in bidding and to accept bids which do not conform in every respect to the bidding requirements.

(7) At the time any public works construction, maintenance or repair contract is executed by him, the contractor shall file a bond executed by a surety company authorized to do business in the state to the city, conditioned upon the performance of the contract, and further conditioned to pay all laborers,

mechanics, subcontractors and materialmen as well as all just debts, dues and demands incurred in the performance of such work. Such contractor shall also file evidence of public liability insurance in an amount satisfactory to the city administrator, and agree to save the city harmless from loss or damage caused to any person or property by reason of the contractor's negligence.

(8) All bids and deposits of certified or cashier's checks may be retained until the contract is awarded and signed. If any successful bidder fails or refuses to enter into the contract awarded to him within five days after the contract has been awarded, or file any bond required within the same time, the deposit accompanying his bid shall be forfeited to the city.

(Code 1972, § 1.233)

State law reference(s)—Bidders on public works, MCL 123.501 et seq.

Sec. 2-304. Contracts let without competitive bidding.

Where a contract is let without competitive bidding, the proposed contract shall be approved by the city attorney as to form and content, unless prepared by him by direction of the city commission, and submitted to the city commission.

(Code 1972, § 1.234)

Sec. 2-305. Emergency purchases.

In case of an emergency, any department head, with the approval of the city administrator, may directly purchase any supplies, materials or equipment, the immediate procurement of which is necessary to the continuation of the work of his department. Such purchases and the emergency causing such purchases shall be reported in detail to the city administrator within one week from the time when such purchases are made, and such reports shall be preserved for a period of two years.

(Code 1972, § 1.235)

Sec. 2-306. Sales of property.

Whenever any city property, real or personal, is no longer needed for corporate or public purposes, the property may be offered for sale upon approval by the city commission. All property not exceeding the dollar limit that shall be set from time to time by resolution of the city commission may be sold for cash by the purchasing agent after receiving quotations or competitive bids for the price best obtainable. All real property and personal property with a value in excess of the dollar limit that may be set from time to time by resolution of the city commission may be sold after advertising and receiving competitive bids as provided in section 2-303, and after approval of the sale has been given by the city commission. In the sale of automotive equipment, bidders may include in their bids a trade-in allowance for old equipment, which shall be in lieu of all other bids required in this section.

(Code 1972, § 1.236)

Secs. 2-307—2-340. Reserved.

ARTICLE VI. MUNICIPAL CIVIL INFRACTIONS

DIVISION 1. GENERALLY

Sec. 2-341. Definitions.

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

Act means Public Act No. 236 of 1961 (MCL 600.101 et seq.).

Authorized city official means a police officer, code official or other personnel of the city authorized by this article or any ordinance to issue municipal civil infraction citations or municipal ordinance violation notices.

Bureau means the city municipal ordinance violations bureau, as established by this article.

Municipal civil infraction action means a civil action in which the defendant is alleged to be responsible for a municipal civil infraction.

Municipal civil infraction citation or *citation* means a written complaint or notice prepared by an authorized city official, directing a person to appear in court regarding the occurrence or existence of a municipal civil infraction violation by the person cited.

Municipal ordinance violation notice or *violation notice* means a written notice, other than a citation, prepared by an authorized city official, directing a person to appear at the city municipal ordinance violation bureau and to pay the fine and costs, if any, prescribed for the violation by the schedule of civil fines adopted by the city, as authorized under section 8396 and 8707(6) of the act (MCL 600.8396, 600.8707(6)).

(Code 1972, § 1.300)

Cross reference(s)—Definitions generally, § 1-2.

Sec. 2-342. Commencement of actions.

A municipal civil infraction action may be commenced upon the issuance, by an authorized city official, of the following:

(1) A municipal civil infraction citation directing the alleged violator to appear in court; or

(2) A municipal ordinance violation notice directing the alleged violator to appear at the city municipal ordinance violations bureau.

(Code 1972, § 1.301)

State law reference(s)—Similar provisions, MCL 600.8703.

Sec. 2-343. Issuance and service of citations.

Municipal civil infraction citations shall be issued and served by authorized city officials as follows:

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

(2) The place for appearance specified in a citation shall be the district court.

(3) Each citation shall be numbered consecutively and shall be in a form approved by the state court administrator. The original citation shall be filed with the district court. Copies of the citation shall be retained by the city and issued to the alleged violator as provided by section 8705 of the act (MCL 500.8705).

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

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

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

a. Based upon the investigation, the official has reasonable cause to believe that the person is responsible for a municipal civil infraction.

b. Based upon investigation of a complaint by a person who allegedly witnessed the person commit a municipal civil infraction, the official has reasonable cause to believe that the person is responsible for such an infraction and if the prosecuting attorney or city attorney approved, in writing, the issuance of the citation.

(7) Municipal civil infraction citations shall be served by an authorized city official as follows:

a. Except as provided by subsection (7)b. of this section, an authorized city official shall personally serve a copy of the citation upon the alleged violator.

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

(Code 1972, § 1.302)

State law reference(s)—Similar provisions, MCL 600.8705, 600.8707.

Sec. 2-344. Citation contents.

(a) A municipal civil infraction citation shall contain the:

(1) Name and address of the alleged violator;

(2) Municipal civil infraction alleged;

(3) Place where the alleged violator shall appear in court;

(4) Telephone number of the court; and

(5) Time at or by which the appearance shall be made.

(b) The citation shall inform the alleged violator that he may do one of the following:

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

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

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

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

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

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

(1) If the alleged violator desires to admit responsibility, with explanation, in person or by representation, the alleged violator must apply to the court in person, by mail, by telephone or by representation within the time specified for appearance and obtain a scheduled date and time for an appearance.

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

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

(4) At a formal hearing the alleged violator must appear in person before a judge, with the opportunity of being represented by an attorney.

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

(Code 1972, § 1.303)

State law reference(s)—Similar provisions, MCL 600.8709.

Sec. 2-345. Authorized city officials.

Any city police officer, building official and all other individuals authorized by the city commission are hereby designated as authorized city offices to issue civil infraction citations directing alleged violators to appear in court or municipal civil infraction violation notices directing alleged violators to appear at the municipal ordinance violations bureau as provided in this article.

(Code 1972, § 1.307)

Secs. 2-346—2-370. Reserved.

DIVISION 2. MUNICIPAL ORDINANCE VIOLATION NOTICES

Sec. 2-371. Municipal ordinance violations bureau.

(a) *Established.* The city establishes a municipal ordinance violations bureau, as authorized under section 8396 of the act (MCL 600.8396), to accept admissions of responsibility for municipal civil infractions in response to municipal ordinance violation notices issued and served by authorized city officials, and to collect and retain civil fines and costs as prescribed by this article or any ordinance.

(b) *Location; supervision; rules and regulations; employees.* The bureau shall be located at city hall and shall be under the supervision and control of the treasurer. Subject to the approval of the city commission, the treasurer shall adopt rules and regulations for the operation of the bureau and appoint any necessary qualified employees to administer the bureau.

(c) *Disposition of violations.* The bureau may dispose only of municipal civil infraction violations for which a fine has been scheduled and for which a municipal ordinance violation notice, as compared with a citation, has been issued. The fact that a fine has been scheduled for a particular violation shall not entitle any person to dispose of the violation at the bureau. Nothing in this subsection shall prevent or restrict the city from issuing a municipal civil infraction citation for any violation or from prosecuting any violation in a court of competent jurisdiction. No person shall be required to dispose of a municipal civil infraction violation at the bureau, and may have the violation processed before a court of appropriate jurisdiction. The unwillingness of any person to dispose of any violation at the bureau shall not prejudice the person or in any way diminish the person's rights, privileges and protection accorded by law.

(d) *Scope of authority.* The scope of the bureau's authority shall be limited to accepting admissions of responsibility for municipal civil infractions and collecting and retaining civil fines and costs as a result of such admissions. The bureau shall not accept payment of a fine from any person who denies having committed the offense or who admits responsibility only with explanation, and in no event shall the bureau determine, or attempt to determine, the truth or falsity of any fact or matter relating to an alleged violation.

(Code 1972, § 1.304)

Sec. 2-372. Issuance and service of municipal ordinance violation notices.

(a) *Contents.* Municipal ordinance violation notices shall be issued and served by authorized city officials under the same circumstances and upon the same persons as are provided for municipal civil infraction citations in section 2-343(7). In addition to any other information required by this article or any other ordinance, the violation notice shall indicate the:

(1) Time by which the alleged violator must appear at the bureau;

(2) Methods by which an appearance may be made;

(3) Address and telephone number of the bureau;

(4) Hours during which the bureau is open;

(5) Amount of the fine scheduled for the alleged violation; and

(6) Consequences for failure to appear and pay the required fine within the required time.

(b) *Appearance; payment of fines and costs.* An alleged violator receiving a municipal ordinance violation notice shall appear at the bureau and pay the specified fine and costs at or by the time specified for appearance in the municipal ordinance violation notice. An appearance may be made by mail, in person or by representation.

(c) *Procedure when admission of responsibility is not made or fine is not paid.* If an authorized city official issues and serves a municipal ordinance violation notice and if an admission of responsibility is not made and the civil fine and cost, if any, prescribed by the schedule of fines for the violation are not paid at the bureau, a municipal civil infraction citation may be filed with the district court and a copy of the citation may be served by first class mail upon the alleged violator at the alleged violator's last known address. The citation filed with the court does not need to comply in all particulars with the requirements for citations as provided by sections 8705 (MCL 600.8705) and 8709 (MCL 600.8709) of the act, but shall consist of a sworn complaint containing the allegations stated in the municipal ordinance violation notice and shall fairly inform the alleged violator how to respond to the citation.

(Code 1972, § 1.305)

Sec. 2-373. Schedule of civil fines established.

(a) A schedule of civil fines, payable to the municipal ordinance violations bureau, for admissions of responsibility by persons served with municipal ordinance violation notices is hereby established as follows:

(1) First offense$100.00

(2) Second repeat offense200.00

(3) Third repeat offense300.00

(b) A copy of the schedule, as amended from time to time, shall be posted at the bureau.

(Code 1972, § 1.306)

Secs. 2-374—2-400. Reserved.

ARTICLE VII. BOARDS AND COMMISSIONS

DIVISION 1. GENERALLY

Sec. 2-401. Vacancies; removal; rules and regulations; compensation.

(a) *Vacancies.* Any vacancy occurring in the membership of any board or commission shall be filled for the remainder of the unexpired term in the manner provided for original appointment to such board or commission.

(b) *Removal.* The appointing authority may remove any member of any board or commission for cause.

(c) *Rules and regulations.* Each board and commission shall have power to make rules and regulations concerning the administration of its affairs which shall not be inconsistent with laws, the city Charter and this Code.

(d) *Compensation.* All members of boards and commissions shall serve without compensation as members thereof.

(Code 1972, § 1.141)

Secs. 2-402—2-420. Reserved.

DIVISION 2. LOCAL OFFICERS' COMPENSATION COMMISSION[20]

Sec. 2-421. Created.

There is hereby created a local officers compensation commission, that shall determine the salaries of all local officials.

(Code 1972, § 1.195(1))

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

Sec. 2-422. Membership.

(a) The local officers' compensation commission shall consist of seven members who are registered electors of the city, appointed by the mayor and subject to confirmation by a majority of the members elected and serving on the city commission.

(b) Subject to the times prescribed in this section for appointment, the terms of office shall be seven years. Members shall be appointed before October 1 of the year in appointment. Vacancies shall be filled for the remainder of an unexpired term. A member or employee of the legislative, judicial or executive branch of government or a member of the immediate family of a member or employee of the legislative, judicial or executive branch of government shall not be a member of the commission.

(Code 1972, § 1.195(2), (3))

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

Sec. 2-423. Functions.

The local officers' compensation commission shall determine the salaries of the local elected officials of the city, which determination shall be the salaries, unless the city commission, by resolution adopted by two-thirds of the members elected to and serving on the city commission, rejects such determination. The determination of the local officers' compensation commission shall be effective 30 days following the filing of such determination with the city clerk unless the determination is rejected by the city commission. In case of rejection, the existing salaries shall prevail. Any expense allowance or reimbursement paid to elected officials in addition to salary shall be for expenses incurred in the course of city business and accounted for to the city.

(Code 1972, § 1.195(4))

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

[20]State law reference(s)—Local officers compensation commission, MCL 117.5c.

Sec. 2-424. Meetings generally; officers; compensation.

(a) The local officers' compensation commission shall meet for not more than 15 session days in 1979 and every odd-numbered year thereafter, and shall make its determination within 45 calendar days of its first meeting. For the purpose of this subsection, the term "session days" means any calendar day on which the local officers' compensation commission meets and a quorum is present.

(b) A majority of the members of the local officers' compensation commission constitute a quorum for conducting the business of such commission.

(c) The local officers' compensation commission shall take no action or make determinations without a concurrence of a majority of the members appointed and serving on the local officers' compensation commission.

(d) The local officers' compensation commission shall elect a chairman from among its members.

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

(Code 1972, § 1.195(5))

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

Sec. 2-425. Public meetings and records.

The business which the local officers' compensation commission may perform shall be conducted at a public meeting of the commission held in compliance with Public Act No. 267 of 1976 (MCL 15.261 et seq.). Public notice of the time, date and place of the meeting of the local officers' compensation commission shall be given in the manner required by such act. A writing prepared, owned, used, in the possession of or retained by the local officers' compensation commission in the performance of an official function shall be made available to the public in compliance with Public Act No. 442 of 1976 (MCL 15.231 et seq.).

State law reference(s)—Mandatory provisions, MCL 117.5c(d), (e).

Secs. 2-426—2-450. Reserved.

DIVISION 3. PLANNING COMMISSION[21]

Sec. 2-451. Continued.

The city planning commission, created in accordance with Public Act No. 285 of 1931 (MCL 125.31 et seq.), is hereby continued.

(Code 1972, § 1.151)

State law reference(s)—Authority to create planning commission, MCL 125.32.

[21]State law reference(s)—Municipal planning, MCL 125.31 et seq.

Sec. 2-452. Membership.

The city planning commission shall consist of one member of the city commission to be selected by the city commission, as a member ex officio, and eight other persons who shall be appointed by the mayor, with such appointments to be subject to the approval by a majority vote of the members elect of the city commission. The membership of the planning commission shall be representative of important segments of the community, such as the economic, governmental, educational, and social development of the city, in accordance with the major interests, as they exist in the city, such as agriculture, natural resources, recreation, education, public health, government, transportation, industry, and commerce. The membership shall also be representative of the entire territory of the city to the extent practicable. All members of the planning commission shall serve without compensation, and in the case of the appointed members, shall hold no other municipal office, except one of the appointed members may be a member of the zoning board of appeals. The term of the ex officio member shall correspond to their respective official tenures. The term of each appointed member shall be three years or until his successor takes office. After a public hearing, a member, other than a member selected by the city commission, may be removed by the mayor for inefficiency, neglect of duty, or malfeasance in office. The city commission may, for like cause, remove the member selected by the city commission. The ex officio member appointed under this section shall have full voting rights. Vacancies occurring other than through the expiration of term shall be filled for the unexpired term by the mayor in the case of a member selected or appointed by the mayor, and by the city commission in the case of the member appointed by the city commission.

(Code 1972, § 1.151; Ord. No. 08-08, 5-5-08, eff. 5-20-08; Ord. No. 11-004, 7-5-2011)

State law reference(s)—Planning commission membership, MCL 125.33.

Sec. 2-453. Powers and duties.

The planning commission has the powers and duties provided by Public Act No. 33 of 2008 (MCL 125.3801 et seq.).

(Ord. No. 11-003, 7-5-2011)

State law reference(s)—General powers of planning commission, MCL 125.36 et seq.

Secs. 2-454—2-499. Reserved.

ARTICLE VIII. LIBRARY BOARD

Sec. 2-500. Purpose.

The purpose of this article is to establish a public library pursuant to the authority granted by the City, Village and Township Libraries Act, 1877 PA 164 ("PA 164").

(Ord. No. 14-005, 4-21-2014)

Sec. 2-501. Establishment.

The city establishes and shall maintain a public library for the use and benefit of the inhabitants of the City of Adrian pursuant to Section 1 of PA 164. The library shall be known as the "Adrian Public Library."

(Ord. No. 14-005, 4-21-2014)

Sec. 2-502. Library board.

(a) *Appointment; number.* The mayor shall, with the approval of the city commission, appoint a library board consisting of five members chosen from the citizens at large, with reference to their fitness for that office.

(b) *Terms.*

(1) *Initial terms.* With terms starting on the effective date of this article [May 6, 2014], the mayor shall appoint the initial library board as follows: one library board member shall be appointed for a term of five years; one library board member shall be appointed for a term of four years; one library board member shall be appointed for a term of three years; one library board member shall be appointed for a term of two years; one library board member shall be appointed for a term of one year.

(2) *Terms after initial terms.* After the initial terms in subsection (b)(1) expire and after the expiration of each term thereafter, the mayor shall appoint one library board member, with approval of the city commission, for a term of five years.

(c) *Removal.* The mayor may, by and with the consent of the city commission, remove any library board member for misconduct or neglect of duty.

(d) *Vacancy.* Vacancies in the office of library board member as a result of removal from office, resignation or otherwise, shall be reported to the city commission. Vacancies shall be filled by the mayor with the approval of city commission.

(e) *No compensation.* Library board members shall serve without compensation.

(Ord. No. 14-005, 4-21-2014)

Sec. 2-503. Funding.

(a) *Annual tax levy.* As specifically authorized by Section 1 of PA 164, the city commission may levy a tax of not to exceed one mill on the dollar annually on all the taxable property in the city.

(b) *Additional voted tax levy.* If approved by a majority of the voters voting on the proposal at the regular annual election, the city commission may increase the tax levied under subsection (a) by an amount not to exceed one additional mill on the dollar annually on all the taxable property in the city.

(c) *Tax collection.* The tax shall be levied and collected in the same manner as other general taxes of the city.

(d) *Library fund.* All taxes collected by the city shall be deposited into a fund known as the "library fund." All moneys received for such library, including but not limited to taxes, state aid payments and penal fines, shall be deposited in the treasury of the City of Adrian to the credit of the library fund. The library fund shall be kept separate and apart from other moneys of the city.

(e) *Addition to tax limitation.* The tax levied shall be in addition to any tax limitation imposed by a city charter, as permitted by Section 1 of PA 164.

(Ord. No. 14-005, 4-21-2014)

Sec. 2-504. Library board authority; powers and duties.

(a) *Election of officers.* The library board shall elect one of their members as president and may elect other officers as they may deem necessary.

(b) *Adoption of bylaws and rules.* The library board shall make and adopt such by-laws, rules, and regulations for their own guidance and for the government of the library, as may be expedient, not inconsistent with PA 164.

(c) *Control over expenditures.* As required by PA 164, the library board shall have the exclusive control of the expenditure of all moneys collected to the credit of the library fund. The library fund shall be drawn upon by the proper officers of the city, upon the properly authenticated vouchers of the library board.

(d) *Control over library buildings.* The library board shall have exclusive control of the construction of any library building, and of the supervision, care, and custody of the grounds, rooms, or buildings constructed, leased, or set apart for that purpose. The library board shall have power to purchase or lease grounds, to occupy, lease, or erect an appropriate building or buildings for the use of the library.

(e) *Authority to appoint staff.* The library board shall have the authority to appoint a suitable librarian and necessary assistants, and fix their compensation; and shall also have power to remove such appointees.

(f) *Budget authority.* The library board shall have the authority to establish and approve a budget.

(g) *Authority to receive donations.* Any person desiring to make donations of money, personal property, or real estate for the benefit of the library, shall have the right to vest the title to money or real estate so donated in the library board, to be held and controlled by the library board, when accepted, according to the terms of the deed, gift, devise, or bequest of such property; and as to such property, the library board shall be held and considered to be special trustees.

(h) *General authority.* The library board shall have authority, in general, to carry out the spirit and intent of this act in establishing and maintaining a public library. This shall include any authority specifically granted by PA 164 and Michigan law. If any authority provided by this article is in conflict with PA 164, the provisions of PA 164 shall govern.

(Ord. No. 14-005, 4-21-2014)

Sec. 2-505. Annual report.

The library board members shall make, at the end of each and every year from and after the organization of such library, a report to the city commission, stating the condition of their trust at the date of such report the various sums of money received from the library fund and from other sources, and how such moneys have been expended, and for what purposes; the number of books and periodicals on hand; the number added by purchase, gift, or otherwise during the year; the number lost or missing; the number of visitors attending; the number of books loaned out, and the general character and kind of such books, with such other statistics, information, and suggestions as they may deem of general interest. All such portions of said report as relate to the receipt and expenditure of money, as well as the number of books on hand, books lost or missing, and books purchased, shall be verified by affidavit.

(Ord. No. 14-005, 4-21-2014)

Sec. 2-506. City ordinances.

City commission shall have the authority to adopt ordinances imposing suitable penalties for the punishment of persons committing injury upon the library, library grounds or other library property, or for willful injury to or failure to return any book belonging to the library.

(Ord. No. 14-005, 4-21-2014)

Chapter 6 ANIMALS[22]

ARTICLE I. IN GENERAL

Sec. 6-1. Wild birds and birds' nests.

No person, except a police officer acting in his official capacity, shall molest, injure, kill or capture any wild bird, or molest or disturb any wild bird's nest, or the contents thereof.

(Code 1972, § 9.43)

Sec. 6-2. Control and removal of animal excreta.

(a) No person owning, harboring, keeping, possessing or in charge of an animal shall permit, cause, suffer or allow such animal to discharge its excreta upon any parking lot, public thoroughfare, sidewalk, street, highway, road, boulevard, school property, cemetery, passageway, bypass, play area, park or any place where people congregate or walk, or upon any public property whatsoever, or upon any private property without permission of the owner of such property, unless such person uses an appropriate device for the transmission of such excreta immediately by a person to a suitable receptacle or location.

(b) A person who violates any of the provisions of this section is responsible for a municipal civil infraction.

(Code 1972, §§ 1.20(22), 9.58)

Secs. 6-3—6-30. Reserved.

ARTICLE II. DOGS[23]

Sec. 6-31. Ownership.

Any person who keeps or harbors any dog or has such dog in his care, or who permits any dog to remain about any premises owned or occupied by him shall be deemed the owner of such dog for the purposes of this article.

(Code 1972, § 9.48)

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[22]Cross reference(s)—Environment, ch. 22; health and sanitation, ch. 30; animal show license; exhibition license, § 46-92; animals, livestock and fowl, § 106-145.

State law reference(s)—Authority to adopt animal control ordinance, MCL 287.290.

[23]State law reference(s)—Dogs, MCL 287.261 et seq.

Sec. 6-32. Dog officer.

(a) There is hereby established the position of dog officer of the city. The dog officer shall be appointed by, and serve at the pleasure of, the city administrator, and shall receive such compensation as shall be fixed from time to time by resolution of the city commission.

(b) The dog officer shall have access to the facilities of the police department and the police department shall assist the dog officer to the extent necessary to achieve effective enforcement of the provisions of this article. The dog officer shall have the powers and duties to:

(1) Impound any dog he finds running at large contrary to the provisions of this article.

(2) Impound any dog not licensed as required by the state and this article.

(3) Impound any dog not inoculated as required by this article.

(4) Impound any dog not wearing the license tags and inoculation tag required to be worn by this article.

(5) Impound any fierce or vicious dog, or any dog he finds to be violating the provisions of this article in any other way.

(6) Keep such records and make such reports to the city administrator as shall be prescribed from time to time by the city administrator.

(7) Enforce all the provisions of this article.

(c) In furtherance of the duties imposed by this section, the dog officer shall have the power to issue appearance tickets for violations of the provisions of this article and to make complaints to the district court in respect to any violation of the provisions of this article.

(Code 1972, §§ 9.53—9.55)

Cross reference(s)—Officers and employees, § 2-31 et seq.

Sec. 6-33. Requirements for release of impounded dog.

No impounded dog shall be released until the following conditions have been met:

(1) Payment to the city of a pound fee in the amount established by resolution. The city pound fee shall be in addition to any fees charged by the operators of the pound and such fines or penalties as may be imposed by any court for violations of the provisions of this article.

(2) Payment of the cost of boarding such dog at the rate of established by resolution.

(3) Presentation of evidence that the dog is currently licensed.

(Code 1972, § 9.56)

Sec. 6-34. Running at large.

(a) It shall be unlawful for the owner of any dog to allow such dog to go beyond the premises of the owner unless the dog is held securely on a leash not more than eight feet in length and at all times held by a person over the age of seven years.

(b) It shall be unlawful for any person who is the owner of any female dog to permit or allow such female dog to go beyond the premises of such owner when such dog is in heat, except for breeding purposes only, and

then only if held securely on a leash not more than eight feet in length and at all times held by a person over the age of 18 years.

(c) A person who violates any of the provisions of this section is responsible for a municipal civil infraction.

(Code 1972, §§ 1.20(22), 9.50)

Sec. 6-35. Fierce and vicious dogs; dogs having, or suspected of having, rabies.

(a) It shall be unlawful for any person to own a fierce or vicious dog. Any dog which has bitten a person or domestic animal without molestation or which, by its actions, gives indication that it is liable to bite any person or domestic animal without molestation shall be deemed vicious.

(b) It shall be unlawful for any person to own a dog that has been bitten by any animal known to have been afflicted with rabies. Any person who shall have in his possession a dog which has contracted rabies, or has been subject to contracting rabies, or which is suspected of having rabies, or which has bitten or injured any person shall, upon demand of the dog officer, health officer or any police officer, produce or surrender up such dog to such officer to be held for observation as provided in this section. It shall be the duty of any person owning a dog which has been attacked or bitten by another dog or animal showing symptoms of rabies, or which has bitten or injured any person or any other dog suspected of having rabies, to immediately notify the dog officer or police department and health department of the city that such person has such a dog in his possession.

(c) Whenever a dog is reported to have bitten any person, it shall thereupon be the duty of the dog officer to cause such animal to be confined by the owner at home or in one of the veterinary hospitals in the city, or the vicinity thereof, or with the county Humane Society, for a period of not less than ten days, nor more than 15 days, for the purpose of ascertaining whether such animal is afflicted with rabies. The dog officer shall have the discretion to determine which of the places set forth in this subsection shall be used for the confinement of the dog and shall have the right to require that the dog be removed from the home of the owner and placed either in a veterinary hospital or the county Humane Society shelter. The dog officer shall have the right to either seize the dog or to require the owner to accomplish the confinement, and if the dog officer so orders, the owner shall accomplish the confinement within 12 hours in one of the places, and for the length of time required in this subsection. If such dog is afflicted with rabies, it shall be destroyed. If such dog is not afflicted with rabies, it may be returned to the owner as provided in this section. If any such animal is confined under the provisions of this section, the owner thereof shall be liable for any fees and costs which accrued because of the detention of such dog.

(d) Whenever a dog confined under this section is suspected of having rabies, it shall be the duty of the owner of such dog, if known, and if not known, it shall be the duty of the custodian of such dog or the dog officer, to arrange for necessary examinations by a veterinarian and further examinations of tissue of such dog by the state department of health if requested by the examining veterinarian of the county health office. Reports of such examinations shall be transmitted forthwith to the person bitten.

(Code 1972, § 9.52)

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

Secs. 6-36—6-50. Reserved.

ARTICLE III. FEEDING CERTAIN WILD ANIMALS

Sec. 6-51. Purpose.

The city shall control the feeding of certain wild animals within the city as the practice may cause unsustainable growth, intensify wild animal population densities, decrease the overall health of the animals, increase the probability and occurrence of transferable diseases to humans within the area (e.g. Lyme disease), and actively encourages the presence of an urban wild animal population that aggravates other property impacts.

(Ord. No. 20-010, 11-2-2020)

Sec. 6-52. Wild animal feeding prohibited.

No person shall intentionally feed, cause to be fed, provide for, or make available food or other substances for the consumption by deer, geese, skunks, opossums, raccoons, woodchucks, or coyotes within the city, either on private or public property.

This section shall not apply to:

(1) Naturally growing vegetation or their seed, planted vegetation growing in yards or flower beds for landscaping, or planted vegetation for human consumption in gardens.

(2) Bird seed, grain, or corn; if contained in an elevated bird feeder and not purposely deposited on the ground or in a feeder trough.

(3) Public employees acting within the scope of their authority for purposes of public health or safety or wildlife management purposes.

(Ord. No. 20-010, 11-2-2020)

Sec. 6-53. Provision for other animals.

The city commission may add other animals to the list in section 6-52 by resolution.

(Ord. No. 20-010, 11-2-2020)

Sec. 6-54. Violations.

A person who violates any of the provisions of this article is responsible for a municipal civil infraction.

(Ord. No. 20-010, 11-2-2020)

Chapter 10 BUILDINGS AND BUILDING REGULATIONS[24]

[24]Cross reference(s)—Environment, ch. 22; fire prevention and protection, ch. 26; historic preservation, ch. 34; building improvements in historic districts, § 34-38; manufactured homes and trailers, ch. 50; solid waste, ch. 66; streets, sidewalks and other public places, ch. 74; building construction obstructing sidewalks, § 74-12; moving buildings and bulky or heavy objects, § 74-59; street names and building numbers, § 74-131 et seq.; subdivisions and other divisions of land, ch. 78; utilities, ch. 94; building sewers and connections, § 94-157; vegetation, ch. 98; waterways, ch. 102; zoning, ch. 106; variations of building site areas, widths and densities, § 106-290.

ARTICLE I. IN GENERAL

Sec. 10-1. Mechanical contractor registration.

(a) It shall be unlawful for any person to engage in the installation, service or repair of any heating, ventilating, air conditioning or refrigeration equipment or appurtenance within the city unless such person has been issued a temporary permit or regular license by the state to do so and has registered such temporary permit or regular license with the city inspection department.

(b) The fee for mechanical license registration shall be as established by resolution and shall expire on December 31 of each year.

(c) A person who violates any of the provisions of this section is responsible for a municipal civil infraction.

(Code 1972, §§ 1.20(10), 8.23, 8.24)

Sec. 10-2. Electrical contractors and electricians.

(a) *License.* It shall be unlawful of any person to install any electrical wiring, device, appliance or appurtenance for the generation, distribution and utilization of electric energy, within or on any building, structure or property, without being duly licensed in accordance with Public Act No. 217 of 1956 (MCL 338.881 et seq.).

(b) *Vehicle identification.* All electrical contractor service vehicles (trucks, vans, etc.) shall be identified with letters and numbers not less than two inches high. Each vehicle shall be legibly marked on both sides, depicting the company's name and telephone number.

(c) *Violations.* A person who violates any of the provisions of this section is responsible for a municipal civil infraction.

(Code 1972, §§ 1.20(10), 8.16, 8.17)

State law reference(s)—Local regulation of electrical contractors, MCL 338.881 et seq.

Secs. 10-3—10-30. Reserved.

ARTICLE II. STATE CONSTRUCTION CODE[25]

Sec. 10-31. Municipal civil infractions.

(a) A person who does any of the following is responsible for a municipal civil infraction:

(1) Knowingly violates Public Act No. 230 of 1972 (MCL 125.1501 et seq.) or the state construction code, or a rule for the enforcement of such act or code.

[25]State law reference(s)—State construction code, MCL 125.1501 et seq.

(2) Knowingly constructs or builds a structure or building in violation of a condition of a building permit.

(3) Knowingly fails to comply with an order issued by the city, a construction board of appeals, a board or the state construction code commission pursuant to Public Act No. 230 of 1972 (MCL 125.1501 et seq.).

(4) Knowingly makes a false or misleading written statement, or knowingly omits required information or a statement in an inspection report, application, petition, request for approval or appeal to the city, the construction board of appeals, a board or the state construction code commission.

(5) Knowingly refuses entry or access to an inspector lawfully authorized to inspect any premises, building or structure pursuant to Public Act No. 230 of 1972 (MCL 125.1501 et seq.).

(6) Unreasonably interferes with an authorized inspection.

(b) With respect to subsection (a)(3) of this section, a person is guilty of a separate offense for each day that the person fails to comply with a stop construction order validly issued by the city and for each week that the person fails to comply with any other order validly issued by the city. With respect to subsection (a)(1) or (a)(4) of this section, a person is guilty of a separate offense for each knowingly violation of Public Act No. 230 of 1972 (MCL 125.1501 et seq.) or a rule promulgated under such act and for each false or misleading written statement or omission of required information or statement knowingly made in an application, petition, request for approval or appeal to the construction of board of appeals, a board or the state construction code commission. With respect to subsection (a)(2) of this section, a person is guilty of a separate offense for each knowing violation of a condition of a building permit.

(Code 1972, § 1.20(19))

State law reference(s)—Authority to make certain violations municipal civil infractions, MCL 125.1523(3).

Sec. 10-32. Enforcing agency designated.

Pursuant to the provisions of Public Act No. 230 of 1972 (MCL 125.1501 et seq.), the following officials are hereby designated as the enforcing agency to discharge responsibilities of the city under such act. The city assumes responsibility for the administration and enforcement of such act throughout its corporate limits.

(1) The building official shall enforce all provisions of the state construction code where enforcement responsibility is not vested in another city official.

(2) The electrical official shall enforce the state electrical code.

(3) The mechanical official shall enforce the state mechanical code.

(4) The plumbing official shall enforce the state plumbing code.

(Code 1972, §§ 8.1, 8.9, 8.21.1, 8.25)

State law reference(s)—Local enforcement of state construction code, MCL 125.1508a.

Sec. 10-33. Fee schedules.

The City of Adrian shall follow the fee schedule set by the State of Michigan for all applications, permits, inspections, and plan examinations under the building, electrical, mechanical and plumbing codes. The fees for appeals and other services shall be established by resolution.

(Code 1972, §§ 8.4, 8.13, 8.22, 8.28; Ord. No. 04-18, 7-19-2004; Ord. No. 04-19, 7-19-2004; Ord. No. 04-20, 7-19-2004; Ord. No. 04-21, 7-19-2004; Ord. No. 04-22, 7-19-2004; Ord. No. 10-012, 11-15-2010)

State law reference(s)—Permit fees authorized, MCL 125.1510

Sec. 10-34. State construction code.

(a) *Agency designated.* Pursuant to the provisions of the state construction code, in accordance with section 8b(6) of Act 230, of the Public Acts of 1972, as amended, the building official of the city is hereby designated as the enforcing agency to discharge the responsibility of the city under Act 230, of the Public Acts of 1972, as amended. The city assumes responsibility for the administration and enforcement of said Act throughout the corporate limits of the community adopting this section.

(b) *Code appendix enforced.* Pursuant to the provisions of the state construction code, in accordance with section 8b(6) of Act 230, of the Public Acts of 1972, as amended, appendix G of the state building code shall be enforced by the enforcing agency within the jurisdiction of the community adopting this section.

(c) *Designation of regulated flood prone hazard areas.* The Federal Emergency Management Agency (FEMA) Flood Insurance Study (FIS) entitled Lenawee County, Michigan and dated August 15, 2019 and the Flood Insurance Rate Map(s) (FIRMS) panel number(s) of 26091CIND0A, 26091C0187D, 26091C0189D, 26091C0191D, 26091C0192D, 26091C0193D, 26091C0194D and 26091C0325D dated August 15, 2019 are adopted by reference for the purposes of administration of the state construction code, and declared to be a part of section 1612.3 of the state building code, and to provide the content of the "flood hazards" section of table R301.2(1) of the state residential code.

(Ord. No. 19-009, §§ 1—3, 8-13-2019)

Sec. 10-35. Construction board of appeals.

Pursuant to section 14 of the of the Public Acts of 1972, as amended, MCL 125.1514, there is hereby established a construction board of appeals, which shall consist of three regular members appointed by the mayor, and confirmed by the city commission. Appointments to the board shall be for terms of four years.

The construction board of appeals shall have the powers and duties set forth in section 14 of the Public Acts of 1972, as amended in the construction code, in any appendices thereto that are also adopted and enforced, and to hear and decide appeals from articles III and IV of this chapter.

(Ord. No. 19-021, 12-2-2019)

Secs. 10-36—10-60. Reserved.

ARTICLE III. PROPERTY MAINTENANCE CODE

Sec. 10-61. Adopted.

A certain document, three copies of which are on file in the inspection department of the city, being marked and designated as the International Property Maintenance Code, most recent edition, as published by the International Code Council, is hereby adopted as the Property Maintenance Code of the City of Adrian in the State of Michigan, for the control of buildings and structures as provided in this article; and each and all of the regulations, provisions, penalties, conditions and terms of such property maintenance code are hereby referred to, adopted and made a part of this article, as if fully set out in this section, with additions, insertions, deletions and changes, if any, prescribed in this article.

(Code 1972, § 8.5; Ord. No. 13-017, 9-3-2013; Ord. No. 13-017, 9-17-2018)

State law reference(s)—Adoption by reference, MCL 117.3(k).

Sec. 10-62. Availability of copies.

Complete printed copies of the International Property Maintenance Code, most recent edition, adopted in section 10-61, are available for public use and inspection at the office of the city inspection department.

(Code 1972, § 8.6; Ord. No. 13-017, 9-3-2013; Ord. No. 13-017, 9-17-2018)

Sec. 10-63. Changes.

The following sections of the International Property Maintenance Code, most recent edition, are hereby amended or deleted as set forth, and additional sections and subsections are added as indicated.

101.1 Title. These regulations shall be known as the Property Maintenance Code of the City of Adrian, hereinafter referred to as "this code."

103.5 Inspection fees.

a. The city commission shall, by resolution, adopt a schedule of fees for activities and services performed by the department in carrying out its responsibilities under this Code. The schedule shall include fees for the Rental Housing Inspection Program of the City of Adrian. This schedule shall be available to the public from the city clerk. Any unpaid fees shall become a lien on the real property and collected as a single lot assessment pursuant to the Adrian City Code.

b. The schedule of fees adopted by the city commission shall also include a complaint inspection fee for inspections performed pursuant to a property maintenance code violation complaint. Said inspection fee will be charged at an hourly rate to the owner of record according to the files at the city assessor's office. In the event such fee is not paid when due, the fee shall become a lien on the real property and collected as a single lot assessment pursuant to this Code.

c. Notwithstanding the provisions in paragraph b., in the event a permit is required to complete the corrective action, then there shall be no inspection fee assessed.

d. There shall be no inspection fee following a complaint if no corrective action is ordered by the city.

111.3 Notice of meeting. The board shall meet upon notice from the chairman within 30 days of the filing of an appeal, or at stated periodic meetings.

202.0 General definitions. The following definitions are added or amended as set forth in this section:

Attractive nuisance. Any condition or instrumentality which may prove detrimental to children or others, whether on the premises, in a building on the premises or upon an unoccupied lot, including, but not limited to, abandoned wells, cisterns, shafts, basements, excavations, mounds of gravel or earth, abandoned refrigerators, freezers or other appliances, abandoned and/or inoperative motor vehicles, or parts thereof, structurally unsound structures or fences, trash, debris or vegetation, which may prove a hazard to inquisitive minors.

Certificate of compliance. A document issued by the City of Adrian, indicating that the unit identified thereon is in compliance with all applicable provisions of this code, particularly the property maintenance code and the fire prevention code.

Code official. The official who is charged with the administration and enforcement of this code, or any duly authorized representative.

Rental dwelling unit. Shall mean the same as a dwelling unit, as defined in this section.

302.4 Weeds. All premises and exterior property shall be maintained free from weeds or plant growth in excess of 8 inches. It shall be the duty of the property owner to cut and remove, or destroy by lawful means, all such weeds and grass as often as may be necessary to comply with the provisions of section 98-71 of the city Code. Any such weeds or grass which attain a height of 8 inches are hereby declared to be a public nuisance.

302.8 Motor vehicles. Except as otherwise provided by ordinance, no unregistered motor vehicle shall be parked, kept or stored on any premises except in an enclosed structure; and no vehicle shall, at any time, be in a state of disassembly, disrepair or in the process of being stripped or dismantled. All motor vehicles must park on the provided and improved designated parking space or on the street as allowed by law. As permitted by Adrian City Zoning Ordinance (chapter 106 of the city Code), a vehicle of any type is permitted to undergo major overhaul, including body work, provided that such work is performed inside a completely enclosed structure and approved for such purposes.

302.10 Outdoor furniture. Outdoor furniture will be constructed of materials which are made to withstand outdoor weather conditions, and to prevent dampness or deterioration of such furniture. All exposed surfaces shall be protected from the elements and against decay or rust by periodic application of weather-coating materials, such as paint or similar surface treatment. Indoor furniture shall not be used, located, placed or stored outdoors or on an open porch.

302.11 Attractive nuisances. All premises shall be kept free of attractive nuisances.

302.12 Outdoor storage. All exterior property including but not limited to stairways, decks, porches and balconies shall be maintained in a clean condition. Indoor items, such as milk crates, boxes, plastic containers, bed frames, mattresses, or any other indoor item, along with auto parts, bicycle parts, machinery or machinery parts, wood, paper, or like items are prohibited from being kept or stored on all exterior property.

304.3 Street numbers. All premises shall bear a distinctive street number on the front or near the front entrance of such premises in accordance with, and as designated upon, the street plan map on file in the office of the department of engineering and public works. The owners and occupants of all buildings in the city shall cause the correct numbers to be placed thereon in accordance with such street plan map. No person shall display other than the officially designated numbers on any house or building.

304.13 Windows, skylights and doorframes. Every window, skylight, door and frame shall be kept in sound condition, good repair and weather tight.

304.13.1 Glass. All buildings are required to have glass panes in all windows.

304.13.2. Glazing. All glazing materials shall be maintained free from cracks and holes.

304.13.3 Openable windows. Every window other than a fixed window shall be easily openable and capable of being held in position by window hardware.

304.14 Insect screens. During the period of April 1 to December 1, every door, window and other outside opening utilized or required for ventilation purposes serving any structure containing habitable rooms, food preparation areas, food service areas or any areas where products to be included or utilized in food for human consumption are processed, manufactured, packaged or stored, shall be supplied with approved, tightly fitting screens of not less than 16-mesh per inch, and every swing door shall have a snug closing device in good working condition.

602.3 Heat supply. Every owner and operator of any building who rents, leases or lets one or more dwelling unit, rooming unit, dormitory or guestroom on terms, either expressed or implied, shall supply heat during the period from October 1 to May 15 to maintain a temperature of not less than 65 degrees Fahrenheit (18 degrees Celsius) in all habitable rooms, bathrooms and toilet rooms.

602.4 Occupiable work spaces. Indoor occupiable work spaces shall be supplied with heat during the period from September 15 to May 15 to maintain a temperature of not less than 65 degrees Fahrenheit (18 degrees Celsius) during the period the spaces are occupied.

Exceptions:

1. Processing, storage and operation areas that require cooling or special temperature conditions.
2. Areas in which persons are primarily engaged in vigorous physical activities.

604.4 Edison fuse panels. All Edison based fuse panels shall be equipped with properly sized type S fuses and fuse base adapters.

702.5 Minimum escape window dimensions. For all existing sleeping rooms, an emergency escape window is required as follows: The minimum clear opening width of 20 inches, and a clear opening height of 20 inches. The clear opening width may be reduced to a minimum of 14 inches, provided that the net clear opening area is a minimum of 500 square inches or the clear height may be reduced to a minimum of 16 inches, provided, the clear opening is a minimum of 500 square inches.

(Code 1972, § 8.7; Ord. No. 02-06, 3-18-2002; Ord. No. 06-19, 11-20-2006; Ord. No. 07-06, 5-7-2007; Ord. No. 13-017, 9-3-2013; Ord. No. 13-017, 9-17-2018)

Sec. 10-64. Violations municipal civil infraction.

A person who violates any of the provisions of this article is responsible for a municipal civil infraction.

(Code 1972, § 1.20(19))

Secs. 10-65—10-90. Reserved.

ARTICLE IV. RENTAL DWELLINGS

Sec. 10-91. Definitions.

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

Certificate of compliance means a certificate issued by the housing inspector, which certifies compliance with the provisions of the codes and ordinances of the city for all rental dwellings and rental units.

Housing inspector means the official who is charged with the administration and enforcement of this Code, or any duly authorized representative.

Occupant includes all tenants, lessees and persons residing within a rental dwelling or rental unit.

Other specified dwelling unit means any residential unit, regardless of whether renter-occupied or owner-occupied, for which a neighborhood enterprise zone exemption certificate is approved by the city commission.

Owner means any person, firm, corporation or other legal entity having a legal or equitable interest in the premises.

Owner's representative means a person or representative of a corporation, partnership, firm, joint venture, trust, association, organization or other entity designated by the owner of the premises as responsible for operating such property in compliance with all the provisions of the city's ordinances.

Rental dwelling unit means any structure, building or other facility promised and/or leased to a residential tenant for use as a home, residence or sleeping unit. Such term includes, but is not limited to, one- or two-family dwellings, multiple dwellings and apartment units.

(Code 1972, § 8.62; Ord. No. 07-10, 7-2-07, eff. 7-10-07)

Cross reference(s)—Definitions generally, § 1-2.

Sec. 10-92. Purpose of standards.

The city recognizes a compelling interest in establishing standards for the maintenance of sanitary and safe residential rental structures in the city as an important factor for the general health, safety and welfare of all of its citizens. This article is designed to promote the continued maintenance of quality and safe rental properties and to enhance and maintain property values.

(Code 1972, § 8.60)

Sec. 10-93. Applicability; exclusions.

(a) This article shall apply to any dwelling, or part thereof, which is occupied by persons pursuant to any oral or written rental or lease agreement or other valuable compensation. Such dwelling shall include, but not be limited to, single-family dwellings, multiple-family dwellings, roominghouses and boardinghouses.

(b) This article shall apply to all other specified dwelling units as defined in the previous section.

(c) This article does not apply to jails, hospitals, nursing homes, school dormitories, convalescent homes, foster homes or temporary group shelters provided by legal nonprofit agencies which are inspected, certified and/or licensed by the state.

(Code 1972, § 8.61; Ord. No. 07-10, 7-2-07, eff. 7-18-07)

Sec. 10-94. Registration.

(a) *Compliance required.* All rental dwelling units are required to be registered pursuant to this article and shall comply with the following:

(1) All existing rental property shall be registered within 180 days of the effective date of the ordinance from which this article is derived and every three years thereafter.

(2) All newly constructed rental dwelling units shall be registered prior to any use or occupancy as a rental dwelling unit and every three years thereafter.

(3) A new owner shall register a rental dwelling unit, which is sold, transferred or conveyed, within 30 days of the date of the closing of such sale. Any existing certificate of compliance shall be transferred to the new owner and shall be valid until its expiration or revocation for noncompliance with city codes and ordinances.

(4) All existing nonrental dwelling units, which are converted to rental dwelling units, shall be registered prior to the date on which the property is first occupied for rental purposes and every three years thereafter.

(b) *Applications.*

(1) Applications for registration shall be made in such form and in accordance with such instructions as may be provided by the housing inspector designated by the city administrator and shall include at least the following information:

a. The name, address and telephone number of the owner (no post office box shall be accepted).

b. The name, address and telephone number of the owner's representative, if the rental property owner has opted to appoint a representative.

(2) Upon registration, the housing inspector shall inform applicants of the certificate of compliance requirements. The owner shall be responsible for notifying the housing inspector of any change of address of either the owner or owner's representative.

(c) *Fee.* At the time of registration of the dwelling unit, there will be a prescribed fee, as adopted. Any unpaid registration fees shall become a lien on the property and collected as an assessment pursuant to section 70-12.

(Code 1972, § 8.63)

Sec. 10-95. Applicable standards.

The standards used to determine rental property and dwelling unit compliance with city codes and ordinances shall be the International Property Maintenance Code, as adopted and amended by the city commission.

(Code 1972, § 8.64)

Sec. 10-96. Certificate of compliance.

(a) No person shall lease or rent a rental dwelling unit unless there is a valid certificate of compliance issued by the housing inspector in the name of the owner for the specific rental dwelling unit. The certificate of compliance shall be issued after registration and inspection by the housing inspector to determine that each rental dwelling unit complies with the provisions of the codes and ordinances of the city.

(b) A certificate of compliance shall expire three years from the date of issuance, unless a longer term is approved by the housing inspector.

(c) The owner shall schedule an inspection before the current certification expires. The fee for the inspection shall be established from time to time by the resolution by the city commission. The failure to schedule an inspection before expiration of the current certification will result in a late fee to be set from time to time by resolution of the city commission.

(Code 1972, § 8.65; Ord. No. 10-013, 11-15-2010)

Sec. 10-97. Inspections.

(a) The housing inspector shall inspect rental dwelling units on a periodic basis pursuant to this article or under any of the following circumstances:

(1) After the initial registration of the rental dwelling unit.

(2) Upon receipt of a complaint from an owner, owner's representative or occupant that the premises is in violation of this article. If the housing inspector determines that a complaint was filed without a factual

basis and such inspection is made on a complaint basis, an inspection fee may be charged to the complainant.

(3) Upon receipt of a report or referral from the police department, fire department, public or private school, or another public agency.

(4) Upon evidence of an existing ordinance violation observed by the housing inspector.

(5) At the request of the owner to determine compliance with the International Property Maintenance Code.

(b) The housing inspector shall make an appointment with the owner or owner's representative for an inspection of the rental dwelling unit. The owner or owner's representative must give the housing inspector at least 24 hours' notice when changing the scheduled appointment with an alternative date and time. The housing inspector shall issue a written inspection report noting any violations of this article or any other provision of the city's ordinances and shall provide a copy of the report to the owner or owner's representative. The housing inspector shall direct the owner or owner's representative to correct violations within the time set forth in the report. A reasonable time for correcting violations shall be determined by the housing inspector in light of the nature of the violations and all relevant circumstances, which shall not exceed 60 days, unless correction of the violation within a 60-day period is impossible due to seasonal considerations. Upon request of the person responsible for correcting violations, the housing inspector may extend the time for correcting violations, but not to exceed an additional 30 days.

(c) The housing inspector shall give a confirmation notice, by first class mail, to the owner or owner's representative at least ten days before the scheduled inspection. If the owner, owner's representative and/or tenant refuse to permit a scheduled inspection, the housing inspector may, through the city attorney, seek a search warrant to conduct the inspection.

(Code 1972, § 8.66)

Sec. 10-98. Fees.

Fees for registration of rental units, inspections, re-inspections, certificates of compliance and late fees shall be as established from time to time by resolution of the city commission. The fee schedule shall be available to the public from the city clerk. Any unpaid inspection fees shall become a lien on the property and collected as provided by section 70-12.

(Code 1972, § 8.67; Ord. No. 10-014, 11-15-2010)

Sec. 10-99. Violations.

(a) If the owner or owner's representative does not correct a violation of any provision of this article, the housing inspector may revoke any existing certificate of compliance and may bring an action to seek the enforcement of this article by an appropriate legal remedy. Any structure not in compliance with this article is deemed a nuisance.

(b) Any owner or owner's representative of a rental dwelling unit who fails to register or obtain a certificate of compliance for each rental dwelling unit shall be responsible for a municipal civil infraction. Any owner or owner's representative who fails to comply with any other parts of this article shall be responsible for a municipal civil infraction.

(c) An owner or owner's representative may be charged with more than one violation of the provisions of this article in a single complaint or municipal civil infraction, provided that each violation so charged relates to the same property.

(Code 1972, § 8.68(a)—(c))

Secs. 10-100—10-399. Reserved.

ARTICLE V. VACANT BUILDINGS

Sec. 10-400. Purpose.

The purpose of this article is to help protect the health, safety and welfare of the citizens by preventing blight, protecting property values and neighborhood integrity, avoiding the creation and maintenance of nuisances, facilitating rehabilitation and restoration, and insuring the safe and sanitary maintenance of dwellings, commercial and industrial buildings. Due to economic conditions, mortgage foreclosures and increased bankruptcies many homes and buildings have become vacant and unsupervised. This has caused properties to become attractive nuisances for minors and has increased criminal activity. Vacant properties have a negative impact on surrounding properties and neighborhoods. Potential buyers are deterred by the presence of nearby vacant abandoned buildings. There is an increased instance of unsecured or open doors and windows, broken water pipes, flooded basements, theft of metals and other materials, overgrowth of grass, weeds, shrubs and bushes, illegal dumping and rat and vermin activity at vacant structures. Such neglect devalues properties and causes deterioration in neighborhoods and industrial and commercial areas. The city also needs the ability to contact owners for utility shutoff, fire safety, and for police related reasons.

(Ord. No. 13-016, 9-3-2013; Ord. No. 15-004, 5-4-2015)

Sec. 10-401. Definitions.

For purposes of this section, the following words and phrases shall have the meanings respectively ascribed to them as follows:

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

Owner is defined as any person, partnership, corporation, limited liability company or other legal entity with legal or equitable ownership interest in the structure.

Vacant [means] a building, structure or land shall be deemed to be vacant if no person or persons actually currently conducts a lawful licensed business or lawfully resides or lives in any part of the building as the legal or equitable owner(s) or tenant-occupant(s), or owner-occupant(s), or tenant(s) on a permanent, not transient basis. Buildings with multiple tenants and /or uses, and land with more than one structure shall be deemed vacant if more than 60 percent of the ground floor, based on total square footage, is unoccupied.

(Ord. No. 13-016, 9-3-2013; Ord. No. 15-004, 5-4-2015)

Sec. 10-402. Evidence of vacant property.

Evidence of vacancy shall include any condition that on its own, or combined with other conditions present, would lead a reasonable person to believe that the property is vacant. Such conditions include, but are not limited to:

(1) Overgrown and/or dead vegetation;

(2) Accumulation of newspapers, circulars, fliers, and/or mail;

(3) Past due utility notices, and/or disconnected utilities;

(4) Accumulation of trash, junk, and/or debris;

(5) Boarded up or broken windows;

(6) Abandoned vehicles, auto parts or materials;

(7) The absence of, or continually drawn window coverings, such as curtains, blinds, and/or shutters;

(8) The absence of furnishings, and/or personal items consistent with habitation or occupancy;

(9) Statements by neighbors, passersby, delivery agents or utility agents, including the department of public works and/or police/fire department employees that the property is vacant;

(10) Is under condemnation notice or legal order to vacate;

(11) Has taxes in arrears to the city for a period of time exceeding 365 days; or

(12) Is under notice for being in violation of city ordinances;

(13) Graffiti;

(14) Any other violation of the 2012 International Property Maintenance Code.

(Ord. No. 13-016, 9-3-2013)

Sec. 10-403. Vacant properties to be registered.

There is hereby created in the City of Adrian Inspection Department, a registry of vacant properties. Owners of real property are required to register all vacant properties within 60 days of the vacancy. Structures that are vacant at the time of the enactment of this article must register within 30 days. Failure to register a vacant property is a civil infraction. The following properties are exempt from this article:

(1) County owned property reverted by tax foreclosure and land bank owned property.

(2) Properties currently registered as rental properties so long as the registrations are current and all required inspections have been completed.

(3) Properties wherein the owner spends a portion of the year residing at another address.

(Ord. No. 13-016, 9-3-2013; Ord. No. 15-004, 5-4-2015)

Editor's note(s)—Ord. No. 15-004, adopted May 4, 2015, repealed former § 10-403, which pertained to registry of vacant properties, and derived from Ord. No. 13-016, adopted Sept. 3, 2013. Said ordinance amended and renumbered former § 10-404 as § 10-403.

Sec. 10-404. Owners registration form; content, consent for inspection.

Owners who are required to register their properties pursuant to this article shall submit a completed vacant property registration form, as provided by the city inspection department, containing the following information:

(1) Name of the owner of the property.

(2) A mailing address where mail may be sent that will be acknowledged as received by the owner. If certified mail/return receipt requested is sent to the address and the mail is returned marked refused

or unclaimed, or if ordinary mail sent to the address is returned for whatever reason, then such occurrence shall be prima facia evidence that the owner has failed to comply with this requirement.

(3) The name, address and phone number of an individual responsible for the care and control of the property. The named individual must live within 30 miles of the City of Adrian.

(4) Signed consent provision allowing the city to enter and inspect the property upon notice to the owner and without notice to the owner in the case of an emergency.

(5) The status of all utility services (water, sewer, gas and electric).

(Ord. No. 13-016, 9-3-2013; Ord. No. 15-004, 5-4-2015)

Editor's note(s)—Ord. No. 15-004, adopted May 4, 2015, renumbered former § 10-405 as § 10-404.

Sec. 10-405. Registration fee.

The registration fee shall be set by resolution of the city commission to offset the cost of administering this article. In addition, in the case where the owner has failed to register, there shall be assessed an added cost of the city's expense in having to determine ownership, which may include but is not limited to title search.

(Ord. No. 13-016, 9-3-2013; Ord. No. 15-004, 5-4-2015)

Editor's note(s)—Ord. No. 15-004, adopted May 4, 2015, renumbered former § 10-406 as § 10-405.

Sec. 10-406. Initial inspection.

Upon initial registration, each vacant property shall be inspected by the city. Failure to allow an inspection is a civil infraction. Upon completion of the inspection, if the city determines that the cost of repair exceeds the value of the property, the city may proceed with other enforcement action including but not limited to condemnation and demolition.

(Ord. No. 13-016, 9-3-2013; Ord. No. 15-004, 5-4-2015)

Editor's note(s)—Ord. No. 15-004, adopted May 4, 2015, amended and renumbered former § 10-407 as § 10-406.

Sec. 10-407. Requirement to keep information current.

If at any time the information contained in the registration form is no longer valid, the property owner shall within ten days file a new registration form containing current information. There shall be no fee to update the current owner's information. The owner shall also provide notification to the city upon sale of the property.

(Ord. No. 13-016, 9-3-2013; Ord. No. 15-004, 5-4-2015)

Editor's note(s)—Ord. No. 15-004, adopted May 4, 2015, renumbered former § 10-408 as § 10-407.

Sec. 10-408. Required maintenance for vacant structures.

An owner of vacant property is required to maintain the vacant property as follows:

(1) The property shall be kept free of:

a. Weeds or grass more than eight inches high;

b. Vegetation growth between the sidewalk and/or driveway;

c. Dry brush;

d. Dead vegetation;

e. Trash, junk and debris;

f. Building materials;

g. Rodent harborage;

h. Discarded items, including but not limited to, furniture, clothing, large and small appliances, printed material, signage, containers;

i. Any illegal storage of vehicles.

(2) The property shall be maintained free of graffiti, tagging or similar markings.

(3) The property shall be landscaped and properly maintained. Landscaping includes but is not limited to grass, ground covers, bushes, shrubs, hedges, or similar plantings, decorative rock or bark designed and maintained in an appropriate manner. Landscaping does not include weeds, gravel, broken concrete, asphalt, decomposed materials, plastic sheeting, indoor-outdoor carpet, or any similar material. Maintenance includes, but is not limited to, regular watering, irrigation, cutting, pruning and mowing of landscaping and removal of trimmings.

(4) Pools, spas and other water features shall be kept in working order or winterized to ensure that the water remains clear and free of pollutants and debris, or drained and kept dry and free of debris, and must comply with the minimum security fencing, barrier and maintenance requirements of the Michigan Building, and Construction Codes and the International Property Maintenance Code.

(5) Properties subject to this article shall be maintained in a secure manner so as not to be accessible to unauthorized persons. Secure manner includes, but is not limited to, the closure and locking of windows, doors (walk-through, sliding and garage), gates and any other opening of such size that it may allow a child to access the interior of the property and/or structure(s). Broken windows must be repaired or replaced within 14 days. Boarding up of open or broken windows is prohibited except as an approved by the inspection department.

(6) Timely removal of bulk mail and posted circulars.

(7) If the vacant property is not heated, it must be winterized.

(8) If electrical service is not terminated, the vacant property must be inspected for compliance with the 2012 International Property Maintenance Code.

(9) Failure to comply with any other provision of the 2012 International Property Maintenance Code.

(Ord. No. 13-016, 9-3-2013; Ord. No. 15-004, 5-4-2015)

Editor's note(s)—Ord. No. 15-004, adopted May 4, 2015, renumbered former § 10-409 as § 10-408.

Sec. 10-409. Securing structures.

A city order to secure a vacant property shall be complied with by the owner within 72 hours. If the securing has not been completed or does not comply with the requirements for securing the structure under this article, the city shall secure the structure and bill the owner for all costs incurred, including service fees and administrative costs. If payment in full is not received within 30 days from the due date, a late fee in the amount of $50.00 shall be charged. If full payment is not received, the amount owed to the city shall be collected as a special assessment against the property as provided in section 70-12 of the Adrian City Code.

(Ord. No. 13-016, 9-3-2013; Ord. No. 15-004, 5-4-2015)

Editor's note(s)—Ord. No. 15-004, adopted May 4, 2015, renumbered former § 10-410 as § 10-409.

Sec. 10-410. Fire or storm damaged property.

If a building regulated hereunder is damaged by fire or storm, the owner has 90 days from the date of the fire to apply for a permit to start construction or demolition. Failure to do so will result in the property being deemed vacant and will be subject to the requirements of this article.

(Ord. No. 13-016, 9-3-2013; Ord. No. 15-004, 5-4-2015)

Editor's note(s)—Ord. No. 15-004, adopted May 4, 2015, renumbered former § 10-411 as § 10-410.

Sec. 10-411. Reuse and occupancy.

No vacant structure shall be reoccupied until inspected and found to be in compliance with the 2012 International Property Maintenance Code and a certificate of occupancy is issued by the city. The fee for the inspection shall be set by resolution of the city commission.

(Ord. No. 13-016, 9-3-2013; Ord. No. 15-004, 5-4-2015)

Editor's note(s)—Ord. No. 15-004, adopted May 4, 2015, renumbered former § 10-412 as § 10-411.

Sec. 10-412. Responsibility for violations.

All nuisance, housing, building and related code violations will be cited and noticed to the owner of record and shall become the owner's responsibility to bring in compliance. If the owner sells or otherwise disposes of the property to another party, the new owner shall not be entitled to any extension of time to correct or address such violations as existed at the time of sale, transfer or conveyance of the property.

(Ord. No. 13-016, 9-3-2013; Ord. No. 15-004, 5-4-2015)

Editor's note(s)—Ord. No. 15-004, adopted May 4, 2015, renumbered former § 10-413 as § 10-412.

Sec. 10-413. Monitoring of property; fee.

The building department is hereby authorized to monitor the condition of any property required to be registered under this article. The right to monitor the property includes the right to enter for purposes of inspection. The city shall notify the owner of the intent to inspect the property prior to entry except in the event of an emergency.

(Ord. No. 13-016, 9-3-2013; Ord. No. 15-004, 5-4-2015)

Editor's note(s)—Ord. No. 15-004, adopted May 4, 2015, amended and renumbered former § 10-414 as § 10-413.

Sec. 10-414. Right to appeal.

The owner shall have the right to appeal the imposition of the vacant building registration fees to a committee appointed by the city administrator, upon filing an application in writing along with a $50.00 nonrefundable filing fee to the City of Adrian no later than 30 calendar days after the date of the invoice. On appeal, the owner shall bear the burden of providing satisfactory proof of occupancy.

(Ord. No. 15-004, 5-4-2015)

Sec. 10-415. Waiver of registration fee.

A one-time waiver of the registration fee may be granted by the committee appointed by the city administrator upon application by the owner, if all taxes and fees, such as but not limited to; property taxes, mowing charges, snow removal, past vacant building registration fees, rental registrations, trash collection, and water and sewer billings have been paid prior to application of the waiver. If the owner:

(1) Demonstrates with satisfactory proof that he/she is in the process of demolition, rehabilitation, or other substantial repair of the vacant building.

(2) Demonstrates the anticipated length of time for the demolition, rehabilitation, or other substantial repair of the vacant building.

(3) Provides satisfactory proof that he/she was actively attempting to sell or lease the property during the vacancy period.

(Ord. No. 15-004, 5-4-2015)

Sec. 10-416. Unpaid fees; assessment.

All fees and costs hereunder that remain unpaid after 14 days' written notice to the owner/management company shall be assessed against the property as a lien and included on the tax roll pursuant to section 70-12 of the Adrian City Code.

(Ord. No. 13-016, 9-3-2013; Ord. No. 15-004, 5-4-2015)

Editor's note(s)—Ord. No. 15-004, adopted May 4, 2015, renumbered former § 10-415 as § 10-416.

Sec. 10-417. Penalties.

(a) A violation of any provision of this article is a civil infraction and is punishable by a fine of $150.00 for a first offense and $250.00 for any subsequent offense.

(b) In addition to any other penalty provided for in this section, this section may be enforced by suit for injunction, action for damages, or any equitable relief appropriate to the enforcement of this section.

(Ord. No. 13-016, 9-3-2013; Ord. No. 15-004, 5-4-2015)

Editor's note(s)—Ord. No. 15-004, adopted May 4, 2015, renumbered former § 10-416 as § 10-417.

Chapter 14 CEMETERIES[26]

ARTICLE I. IN GENERAL

Secs. 14-1—14-30. Reserved.

[26]Cross reference(s)—Streets, sidewalks and other public places, ch. 74.

ARTICLE II. PUBLIC CEMETERIES[27]

Sec. 14-31. Definitions.

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

Burial space means a lot, or portion of a lot, in any cemetery designated and maintained for the interment of a human body and for no other purpose.

Cemetery means the Oakwood Cemetery, as established, and any other public cemetery owned, managed or controlled by the city.

Owner means any person owning or possessing the privilege, license or right of interment in any burial space.

Superintendent means the cemetery superintendent.

(Code 1972, § 3.41)

Cross reference(s)—Definitions generally, § 1-2.

Sec. 14-32. Management, supervision and care.

The cemeteries which have been or may be established by the city, and maintained either within or outside the limits of the city, of which plats have been or shall be filed in the office of the city clerk, shall be under the management, supervision and care of the superintendent. If necessary, the superintendent shall cause such cemeteries to be laid out in lots, drives and walks, and the lots shall be numbered, the drives and walks shall be named, and plats shall be made. The city commission shall fix the price of lots and other services necessary thereto.

(Code 1972, § 3.42)

Sec. 14-33. Rules and regulations; register.

(a) The city commission shall from time to time make such rules and regulations for the burial of the dead, care, improvement and protection of the grounds, mausoleums, monuments and appurtenances of the cemeteries and orderly conduct of persons visiting the cemeteries, as may be deemed necessary.

(b) The superintendent shall ensure that this article and all rules and regulations in respect to cemeteries are strictly enforced.

(c) The superintendent shall cause to be kept a register of all interments made in any city cemetery, in which register shall appear the name of the deceased, the date and place of interment and such other information as may be required.

[27]State law reference(s)—Authority of city to acquire and maintain cemeteries, MCL 128.1.

(Code 1972, § 3.43)

Sec. 14-34. Additional rules and regulations.

The city administrator shall make such additional rules and regulations, not inconsistent with the terms of this article, subject to the approval of the city commission, as may be deemed necessary for the operation and control of city cemeteries.

(Code 1972, § 3.48)

Sec. 14-35. Sale of burial rights.

All deeds for lots shall be executed on behalf of the city by the mayor and city clerk. Any person desiring to purchase a burial space in any city cemetery shall make application and pay the required amount for the selected lot to the city clerk. Upon the purchase of any burial space, the city clerk shall prepare and deliver to the purchaser a duly executed deed for such burial space. Such deed shall convey to the purchaser a duly executed deed for the burial space. Such deed shall convey to the purchaser the right of interment only and shall be held subject to the provisions of this Code, existing rules and regulations, and such ordinances, rules and regulations as may be adopted by the city commission.

(Code 1972, § 3.44)

Sec. 14-36. Perpetual care fund.

(a) The fund previously known as the Oakwood Cemetery Fund shall be now known as the Oakwood Perpetual Care Fund. There shall be added to such fund all sums paid to the city in accordance with the terms and conditions of perpetual care contracts for lots located in Oakwood Cemetery and such sums as may be appropriated by the city commission from time to time. The fund shall be administered by the city administrator, and the city treasurer shall have custody of all money, credits and securities constituting the fund.

(b) Any part of the principal of the perpetual care fund may be invested as authorized by the laws of the state.

(c) No part of the perpetual care fund shall be transferred to any other fund, nor encumbered or used, except as authorized in this subsection. The income from the fund may be expended only for the following purposes:

    (1) The perpetual maintenance and care of lots located in Oakwood Cemetery which are covered by perpetual care contracts.

    (2) Each year, the remainder of the income realized from the perpetual care fund, if any, may be used for the general maintenance, repair and upkeep of Oakwood Cemetery.

(Code 1972, §§ 3.49—3.51)

Sec. 14-37. Lot owners' burial rights.

The owner of any burial space in any city cemetery shall have the right of burial of the dead only and shall allow no interments for remuneration. All interments in burial spaces shall be restricted to members of the family and immediate relatives of the owner thereof, unless special permission by the owner shall be filed in writing in the office of the city clerk, with the consent of the superintendent endorsed thereon.

(Code 1972, § 3.45)

Sec. 14-38. Lot records.

The superintendent shall keep proper records in which the deeds to all burial spaces shall be recorded at length. In connection with all such records, the superintendent shall also keep a general index in which shall be alphabetically noted the name of the party to every such instrument of conveyance.

(Code 1972, § 3.46)

Sec. 14-39. Labor charges.

The superintendent shall charge and cause to be collected on behalf of the city such fees for work performed in the city cemeteries as may be fixed by the city administrator from time to time. All such fees shall be paid to the city treasurer or his agent. No person, other than an employee of the city acting under the discretion of the superintendent, shall dig or open any grave, nor shall any person grade or fill in a burial space or otherwise do any work in connection therewith unless such work shall be done under supervision of the city employee in charge of such cemetery.

(Code 1972, § 3.47)

Sec. 14-40. Trespassing; desecration.

No person shall trespass on any lot or burial space within any city cemetery, nor pick or cut flowers or shrubs, except on his own burial space, or cut down, injure or disturb any tree or shrub, or otherwise commit any desecration within any city cemetery.

(Code 1972, § 3.48)

State law reference(s)—Malicious mischief, MCL 750.377a et seq.; mutilation of dead bodies, MCL 750.160, MCL 750.546 et seq.

Sec. 14-41. Violations; municipal civil infraction.

Unless stated otherwise in this article, a person who violates any of the provisions of this article is responsible for a municipal civil infraction.

(Code 1972, § 1.20(6))

Chapter 18 COMMUNITY DEVELOPMENT[28]

ARTICLE I. IN GENERAL

[28]Cross reference(s)—Administration, ch. 2; environment, ch. 22; historic preservation, ch. 34; licenses, permits and miscellaneous business regulations, ch. 46; special assessments, ch. 70; streets, sidewalks and other public places, ch. 74; subdivisions and other divisions of land, ch. 78; utilities, ch. 94; vegetation, ch. 98; waterways, ch. 102; zoning, ch. 106.

Secs. 18-1—18-30. Reserved.

ARTICLE II. DOWNTOWN DEVELOPMENT

DIVISION 1. GENERALLY

Secs. 18-31—18-50. Reserved.

DIVISION 2. DOWNTOWN DEVELOPMENT AUTHORITY[29]

Sec. 18-51. Created.

A downtown development authority is hereby created in the city pursuant to Public Act No. 197 of 1975 (MCL 125.1651 et seq.).

(Code 1972, § 14.1)

Sec. 18-52. Boundaries.

The boundaries of the downtown development authority shall be as follows:

(1) Original plat:

Lots 1, 2, 3, 4, 5, 6, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 133, 135, 137, 139, 141, 181, 182, 183, 184, 185, 186, 187, 189, 190, a strip of land 20 feet wide between lots 190 and 191, 191, 192, 193 and 194.

(2) James Berry's subdivision of the Comstock Homestead:

Lots 1—43.

(3) Assessor's plat no. 1:

Block 2, lots 1—12.

(4) Assessor's plat no. 2:

Block 1, lots 1—17; block 2, lots 1—9; block 3, lots 1—7; block 4, lots 1, 2 and 3; and block 7, lots 1—4.

(5) Assessor's plat no. 3:

Block 1, lots 1—6.

(6) Assessor's plat no. 11:

[29]State law reference(s)—Downtown development authorities, MCL 125.1651 et seq.

Block 1, lot 1; block 2, lots 1—12; and block 3, lots 1—4.

(7) Assessor's plat no. 14:

Lots 2, 3, 4 and 5, except a portion of a lot described as beginning at the southwest corner of lot 2, thence north 78° 44′ east 110 feet; thence north 11° 05′ west 78 feet; thence north 86° 15′ west 50.2 feet; thence south 22° 55′ west 109.8 feet to the point of beginning, known as 402 West Maumee Street.

(8) Nixon's subdivision of village lot in the city:

Lots 1 and 2.

(9) Other land bound on the north by the south line of East Maumee Street, on the east by the west line of South Broad Street, on the south by lots 64 and 65 of the original plat and on the west by lot 35 of the original plat (Masonic Temple).

(10) Land bound on the west by the east line of Wolverton (or College Avenue), on the north by the south line of West Maumee Street, on the east by the west line of South Winter Street and on the south by the north line of James Berry's subdivision to the Comstock Homestead.

(Code 1972, § 14.3)

Sec. 18-53. Operation.

The downtown development authority shall have the powers and duties, and shall operate as provided in Public Act No. 197 of 1975 (MCL 125.1651 et seq.).

(Code 1972, § 14.2)

Secs. 18-54—18-60. Reserved.

DIVISION 3. DEVELOPMENT AND TAX INCREMENT FINANCING PLAN[30]

Sec. 18-61. Findings.

(a) A development and tax increment financing plan (the "TIF plan") was approved by the city downtown development authority ("DDA") on January 23, 1990 and approved by the city commission for the city on March 5, 1990, after a public hearing held on that date.

(b) The TIF plan was initially approved for 30 years, with an expiration date of March 5, 2020.

(c) The city has developed amendment no. 1 to the TIF plan ("amendment no. 1"), on file with the city clerk, extending the life of the TIF plan until March 5, 2025, because it has found that the conditions that led to the adoption of the TIF plan continue to prevail and because the goals and strategies outlined in the TIF plan continue to be appropriate for and beneficial to the DDA.

[30]Editor's note(s)—Ord. No. 20-003, adopted February 17, 2020, set out provisions intended for use as §§ 18-54 and 18-55. To leave room for future expansion, and at the editor's discretion, these provisions have been included as §§ 18-61 and 18-62.

(d) On December 19, 2019, after an opportunity for input, the city downtown area citizens council approved a resolution to recommend approval of amendment no. 1.

(e) At the January 8, 2020 meeting of the DDA, its board passed a resolution to recommend approval of amendment no. 1 to the TIF plan.

(f) The TIF plan, as amended by amendment no. 1, meets the requirements set forth in Act 57 of the Public Acts of 2018, the Recodified Tax Increment Financing Act, as amended (the "Act").

(g) Public services, such as fire and police protection and utilities, remain adequate to service the DDA district.

(h) The TIF plan, as amended by amendment no. 1, constitutes a continuing public purpose.

(i) The city commission has set a public hearing for Monday, February 17, 2020 on the ratification of the TIF plan and consideration of approval of amendment no. 1, as required by the Act before adoption of that amendment.

(Ord. No. 20-003, 2-17-2020)

Sec. 18-62. Determination, ratification, and adoption.

Based on the foregoing findings, the city commission ratifies the TIF plan and adopts amendment no. 1 thereto to be effective in accordance with section 7.5 of the city Charter.

(Ord. No. 20-003, 2-17-2020)

Chapter 22 ENVIRONMENT[31]

ARTICLE I. IN GENERAL

Secs. 22-1—22-30. Reserved.

ARTICLE II. HAZARDOUS MATERIAL STORAGE AND TRANSFER

Sec. 22-31. Definitions.

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

Hazardous material means, as defined by the United States Department of Transportation, a material that poses an unreasonable risk to the health and safety of the operating or emergency personnel, the public and/or the environment if not properly controlled during handling, storage, manufacture, processing, packaging, use, disposal or transportation.

[31]Cross reference(s)—Animals, ch. 6; buildings and building regulations, ch. 10; community development, ch. 18; health and sanitation, ch. 30; historic preservation, ch. 34; manufactured homes and trailers, ch. 50; parks and recreation, ch. 62; solid waste, ch. 66; streets, sidewalks and other public places, ch. 74; subdivisions and other divisions of land, ch. 78; utilities, ch. 94; vegetation, ch. 98; waterways, ch. 102; zoning, ch. 106.

Hazardous substance means a chemical categorized pursuant to the regulations of the state department of transportation or the state fire marshal as a poison A, flammable gas, nonflammable gas, poison B, flammable liquid, combustible liquid, liquid or solid corrosive, liquid or solid irritating material, explosive and blasting agent, flammable solid, oxidizer, organic peroxide or carcinogen. Substances excluded from this definition shall include:

(1) Buried storage tanks and process vessels.

(2) Natural gas holders used to store vaporized natural gas.

(3) Transmission pipelines which have a nominal diameter of less than four inches or which have a normal operating pressure of less than 100 pounds per square inch (psi).

(4) Distribution piping associated with a container, storage tank or process vessel.

(5) Mobile tanks while moving on railroad tracks and highways.

(Code 1972, §§ 9.150, 9.201)

Cross reference(s)—Definitions generally, § 1-2.

Sec. 22-32. Scope and applicability.

This article shall apply to any and all persons, corporations or other enterprises (referred to in this article as "operator") engaged in activities involving the storage, transfer, processing, generating or disposing of hazardous materials (referred to in this article as "activity") that are being handled in liquid or gas form and in quantities deemed to pose an immediate health or safety threat to persons and property located within the city should the material or material byproducts be released from its containment/handling system into the environment.

(Code 1972, § 9.151)

Sec. 22-33. Storage and transfer activities; security procedures.

(a) Unless exempted by the chief of the city fire department, all storage and transfer activities shall be undertaken from within an area secure from unauthorized entry. All activities not within a fully enclosed building shall be secured by an industrial fence or equivalent, not less than six feet in height. Except during periods of continual presence by authorized operator's or trained personnel, all gates and access points into the activity area shall be kept closed and locked.

(b) Written security procedures shall be maintained by the operator and personnel trained and instructed to follow such procedures.

(Code 1972, § 9.152)

Sec. 22-34. Rail siding activity areas.

Rail cars that are not being moved shall comply the following provisions:

(1) Gates shall be kept closed and locked.

(2) Car brakes shall be set and wheels chocked.

(3) Derail devices shall be placed at either end of the car train and, space permitting, between each car at a distance of not less than one-half car length between the rail car and derailer. The responsibility for lowering the derailers between the railroad and operator personnel shall be clearly defined, in writing. Operator personnel shall ensure that the derailers remain in a raised or closed position unless a tank

car is being moved. Should derailers be removed by the railroad for rail maintenance or any other reason, the operator shall ensure that the derailers are reinstalled immediately at the conclusion of the activities necessitating the lowering of the derailers.

(4) During all connections, unloading of hazardous material and rail tank car movements, trained operator personnel shall be in attendance to ensure safe conduct of such operations.

(Code 1972, § 9.153)

Sec. 22-35. Tanks and connecting lines.

(a) All owners, lessors, renters or users of a container governed by Public Act No. 207 of 1941 (MCL 29.1 et seq.) shall present to the city fire department current 5C certificates for all flammable or combustible liquids regulated by such act issued under section 5c of such act (MCL 129.5c).

(b) For each tank of 20-ton capacity or larger, lines transferring substances between storage containers and/or between a storage container and the plant shall have a remote operated emergency shutdown valve and a manual block valve at each end. Depending upon specific circumstances, the operator may be permitted to use a check valve in place of a remote operated emergency shutdown valve at the plant end. Any pumps involved in the transfer process must have remote shutoff capability.

(c) External lines routinely transferring corrosive substances shall be replaced every six months. Internal lines shall consist of full schedule pipe and fittings that are fully insulated, using foam based or cellular type materials. Internal lines shall be replaced no less than every 18 months. The chief of the city fire department may grant a waiver from such requirements for specified periods of time if he is satisfied that the pipes or lines in use are of a type designed to allow the flow of such corrosive materials and such pipes or lines remain in good repair.

(Code 1972, § 9.154)

Sec. 22-36. Labeling.

All containers and distribution systems containing a material covered by this article shall be clearly marked in accordance with a system approved by the city fire department.

(Code 1972, § 9.155)

Sec. 22-37. Access and inspections.

(a) The exterior environments within the storage area shall be maintained so as to provide an obstacle-free access to tanks and lines for emergency vehicles and equipment.

(b) The city fire department shall be kept informed as to the location of any keys needed to provide access to gates leading to external yard and tank storage areas.

(c) Facilities must be made available to the city fire department for annual inspections to ensure compliance with the provisions of this article.

(Code 1972, § 9.156)

Sec. 22-38. City expenses in event of spill or release.

(a) Any person initiating or originating a spill and/or release of a hazardous material which requires or necessitates the use of the firefighting personnel and/or equipment of the city fire department shall be charged for the actual expense of the personnel and equipment for the purpose of mitigating the emergency situation if the spill or release of a hazardous material originated in or involved a motor vehicle, motor transport vehicle and/or fixed site facility.

(b) The city administrator shall cause the person involved, starting, initiating or originating the spill and/or release, or the owner of the property, to be billed for the actual expenses incurred by the city fire department.

(c) The charges shall constitute a lien on the property for which the fire service charges were incurred, including both real and personal property, and if such charges are not paid, they shall be collected as a special assessment against the premises as provided in section 70-12.

(d) Notwithstanding subsection (c) of this section, the city shall be empowered to maintain proceedings in any court of competent jurisdiction to collect the cost of such services as a matured debt of the city.

(Code 1972, §§ 9.200, 9.203—9.204)

Chapter 26 FIRE PREVENTION AND PROTECTION[32]

ARTICLE I. IN GENERAL

Sec. 26-1. False alarm.

No person shall willfully turn in, sound or cause to be communicated to the fire department a false alarm of fire.

(Code 1972, § 9.90)

State law reference(s)—False fire alarms, MCL 750.240.

Sec. 26-2. Compliance with orders and directions.

(a) A person shall not willfully fail or refuse to comply with any lawful order or direction of the chief of the fire department or interfere with the compliance attempts of another individual.

(b) A person who violates any of the provisions of this section is responsible for a municipal civil infraction.

(Code 1972, §§ 1.20(23), 9.91(3))

State law reference(s)—Obstructing or resisting firefighters, MCL 750.241.

[32]Cross reference(s)—Buildings and building regulations, ch. 10; fire chief's certificate, § 46-40.

State law reference(s)—State fire prevention code, MCL 29.1 et seq.

Sec. 26-3. Interference with fire department vehicles and operations.

It shall be unlawful to in any way interfere with, attempt to interfere with, conspire to interfere with, obstruct or restrict the mobility of, or block the path of travel of any fire department emergency vehicle, or to interfere with, attempt to interfere with, conspire to interfere with, obstruct or hamper any fire department operation.

(Code 1972, § 9.91(2))

State law reference(s)—Obstructing or resisting firefighters, MCL 750.241.

Sec. 26-4. Unlawful boarding and tampering with fire department emergency equipment and vehicles.

(a) A person shall not, without proper authorization from the chief of the fire department in charge of the fire department emergency equipment, cling to, attach himself to, climb upon or into, board or swing upon any fire department emergency vehicle, whether the vehicle is in motion or at rest, or sound the siren, horn, bell or other sound protection device, or manipulate or tamper with, or attempt to manipulate or tamper with, any levers, valves, switches, starting devices, brakes, pumps or any equipment or protective clothing on, or any part of, any fire department emergency vehicle.

(b) A person who violates any of the provisions of this section is responsible for a municipal civil infraction.

(Code 1972, §§ 1.20(23), 9.91(8))

Sec. 26-5. Damage and injury to fire department vehicles and personnel.

It shall be unlawful for any person to damage or deface, or attempt to conspire to damage or deface, any fire department emergency vehicle at any time, or to injure, or attempt or conspire to injure, fire department personnel while performing department duties.

(Code 1972, § 9.91(9))

State law reference(s)—Destruction of fire department property, MCL 750.377b.

Sec. 26-6. Blocking, damaging, etc., fire hydrants and fire department connections.

(a) It shall be unlawful to obscure from view, damage, deface, obstruct or restrict the access to any fire hydrant or fire department connection for the pressurization of fire suppression systems, including fire hydrants and fire department connections that are located on public or private streets and access lanes, or on private property.

(b) If obstructions or encroachments are not removed upon the expiration of the time set forth in a notice of violation, the chief of the fire department shall proceed to remove the obstructions or encroachments. The cost incurred in the performance of such necessary work shall be paid from the municipal treasury on a certificate of the chief of the fire department and with the approval of the chief administrative official, and the legal authority of the city shall institute appropriate action for the recovery of such costs.

(c) A person who violates any of the provisions of this section is responsible for a municipal civil infraction.

(Code 1972, §§ 1.20(23), 9.91(11))

State law reference(s)—Parking vehicle near fire hydrant, MCL 257.674(1)(d).

Sec. 26-7. Permission required for fire hydrant use.

(a) A person shall not use or operate any fire hydrant intended for use of the fire department for fire suppression purposes unless such person secures written permission for such use from the chief of the fire department and the director of utilities. Such a permit shall be issued upon a showing of compliance with all applicable ordinances. This subsection shall not apply to the use of such fire hydrants by a person employed and authorized to make such use by the director of utilities.

(b) A person who violates any of the provisions of this section is responsible for a municipal civil infraction.

(Code 1972, §§ 1.20(23), 9.91(12))

Sec. 26-8. Location and relocation of fire hydrants.

The chief of the fire department shall recommend to the chief administrative official of the city the location or relocation of new or existing fire hydrants and the placement or replacement of inadequate water mains located upon public property and deemed necessary to provide an adequate fire flow and distribution pattern. A fire hydrant shall not be placed into or removed from service until approved by the chief of the fire department.

(Code 1972, § 9.91(13))

Sec. 26-9. High fire and life hazards.

All new and existing ship yards, oil storage plants, lumberyards, amusement or exhibition parks and educational or institutional complexes and similar occupancies and uses involving high fire or life hazards, which are located more than 150 feet from a public street or require quantities of water beyond the capabilities of the public water distribution system shall be provided with properly placed fire hydrants. Such fire hydrants shall be capable of supplying fire flows as required by the chief of the fire department and shall be connected to a water system in accordance with accepted engineering practices. The chief of the fire department shall designate and approve the number and location of fire hydrants. The chief of the fire department may require the installation of sufficient fire hose and equipment, housed in accordance with recognized standards, and may require the establishment of a trained fire brigade when the hazard involved requires such measures. Private hydrants shall not be placed into or removed from service until approved by the chief of the fire department.

(Code 1972, § 9.91(14))

Sec. 26-10. Disturbing fire suppression equipment.

(a) A person shall not obstruct, remove, tamper with or otherwise disturb any fire hydrant or fire appliance required to be installed or maintained under ordinance or state law, except for the purpose of extinguishing fires, training or testing, recharging or making necessary repairs, or, when permitted, it shall be replaced or reinstalled as soon as the purpose for which it was removed has been accomplished. Defective and nonapproved fire appliances or equipment shall be replaced or repaired as directed by the chief of the fire department.

(b) A person who violates any of the provisions of this section is responsible for a municipal civil infraction.

(Code 1972, §§ 1.20(23), 9.91(15))

Sec. 26-11. Sale of defective fire extinguishers.

(a) A person shall not sell, trade, loan or give away any form, type or kind of fire extinguisher which is not approved by nationally recognized testing laboratories, or which is not in proper working order, or the contents of which do not meet the requirements of the chief of the fire department. The requirements of this subsection shall not apply to the sale, trade or exchange of obsolete or damaged equipment for scrap or junk when such units are permanently disfigured or marked with a permanent sign identifying the unit as inoperative and not for emergency use.

(b) A person who violates any of the provisions of this section is responsible for a municipal civil infraction.

(Code 1972, §§ 1.20(23), 9.91(16))

Sec. 26-12. Reserved.

Editor's note(s)—Ord. No. 16-010, adopted Sept. 19, 2016, repealed former § 26-12 which pertained to collection of fees of fire service, and derived from Ord. No. 16-007, adopted Aug. 1, 2016.

Secs. 26-13—26-70. Reserved.

ARTICLE II. FIRE PREVENTION CODE

Sec. 26-71. Adopted.

The International Fire Code, 2018 Edition, including appendix A (as amended below), B, C, D, E, F, G, H, I, and J; as published by the International Code Council, Inc., is hereby adopted as the fire prevention code of the city.

(Ord. No. 01-14, § 9.103, 1-7-2002; Ord. No. 13-019, 9-3-2013; Ord. No. 16-008, 8-1-2016; Ord. No. 19-008, 8-5-2019)

State law reference(s)—Adoption by reference, MCL 117.3(k).

Sec. 26-72. Availability for public use and inspection.

Each and all of the regulations, provisions, conditions and terms of the International Fire Code, 2018 Edition, published by the International Code Council, Inc., are on file and available for public use and inspection in the office of the city fire department.

(Ord. No. 01-14, § 9.104, 1-7-2002; Ord. No. 13-019, 9-3-2013; Ord. No. 16-008, 8-1-2016; Ord. No. 19-008, 8-5-2019)

Sec. 26-73. References.

References in the International Fire Code, 2018 Edition, to the "name of the state" shall remain in the State of Michigan; references to the "name of the jurisdiction," as set forth in section 101.1 of such code, shall be the City of Adrian.

(Ord. No. 01-14, § 9.105, 1-7-2002; Ord. No. 13-019, 9-3-2013; Ord. No. 16-008, 8-1-2016; Ord. No. 19-008, 8-5-2019)

Sec. 26-74. Amendments.

The following sections are subsections of the International Fire Code, 2018 Edition, and are hereby amended or deleted as set forth and indicated, and sections are added as indicated. Subsequent section numbers used in this section shall refer to the like numbered sections of the International Fire Code, 2018 Edition.

INTERNATIONAL FIRE CODE—CHAPTER 1

Section 101.1. Insert: City of Adrian in place of [NAME OF JURISDICTION]

Section 102.7.1 Replace: *Conflicts.* Where conflicts occur between provisions of this code and referenced codes and standards, the provisions of the most stringent code shall apply.

Section 102.7.2 Replace: *Provisions in referenced codes and standards.* Where the extent of the reference to a referenced code or standard includes subject matter that is within the scope of this code, the most stringent code, as applicable, shall take precedence over the provisions in the referenced code or standard.

Section 102.8.1 Add: *Growing Processing and Extraction of Oils from Plant Based Materials.* All facilities where growing, processing, or extraction of oils from plant based materials is performed shall comply with the standards set forth in NFPA 1 Chapter 38 as set forth in section 102.7 as well as the International Fire Code, 2018 Edition.

Section F-109.4. Violation penalties. Persons who shall violate a provision of this code or shall fail to comply with any of the requirements thereof or who shall erect, install, alter, repair or do work in violation of the approved construction documents or directive of the code official, or of a permit or certificate used under provisions of this code, shall be guilty of a misdemeanor, punishable by a fine of not more than $500 or by imprisonment not exceeding ninety (90) [days], or both such fine and imprisonment. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

Section 111.4. Failure to comply. Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform, to remove a violation or unsafe condition, shall be guilty of a civil infraction, and subject to a fine of not less than $500 or more than $1000.

INTERNATIONAL FIRE CODE—CHAPTER 3

Section 307.2.1. Replace: *Permits are required for bonfires and recreational fires.* All permits or other proper authorizations shall be requested by and issued to the owner or occupant of the land upon which the bonfire is to be kindled. The permit or authorization must be approved by the fire official prior to the lighting or ignition of the bonfire or recreational fire.

INTERNATIONAL FIRE CODE—CHAPTER 5

Section 506.3. Required location. If required by the fire official, key boxes shall be installed in or on the following new and existing structures:

1. In all residential occupancies that are locked for security reasons and that have common corridors to living units.
2. In all residential occupancies with six or more units without common corridors and in which a key is not readily available for rescue purposes.
3. In any occupancy required to be equipped with fire detection, fire suppression or automatic fire alarms.
4. In any commercial or industrial occupancy of 20,000 square feet or larger.
5. In any covered mall for entry into individual spaces.

6. In any commercial or industrial structure without windows and over 40 feet in depth. Windows that are covered to the extent that quick access and visibility to the inside of the structure are blocked will not be considered as windows.

Section 506.4. Type, contents, installation. The key box shall be of a type approved by the fire official and shall contain keys to gain necessary access as required by the fire official. Commercial and industrial structures that contain hazardous materials shall place material safety data sheets and maps showing the location of same in the key box and key boxes shall be installed in a manner and location approved by the fire official.

Section 506.5. Alarms. At the request of the owner or the lessee, the fire official shall permit him to install a key box tamper switch connected to the building's fire alarm system.

Section 506.6. Security. To maintain security, keys will be controlled by the fire department.

INTERNATIONAL FIRE CODE—CHAPTER 33

Section 3301.2.3. Insert: *Permit restrictions.* No person, business or organization shall possess explosive material in a quantity sufficient to require a permit under the code.

INTERNATIONAL FIRE CODE—CHAPTER 80

Referenced Standards. NFPA. Insert: *01-38 Fire Code: Marijuana Growing, Processing or Extraction Facilities.* All sections.

INTERNATIONAL FIRE CODE-APPENDIX A

BOARD OF APPEALS

SECTION A101 GENERAL

A101.1 Scope. A board of appeals shall be established within the jurisdiction for the purpose of hearing applications for modification of the requirements of the *International Fire Code* pursuant to the provisions of Section 108 of the *International Fire Code*. The board shall be established and operated in accordance with this section, and shall be authorized to hear evidence from appellants and the *fire code official* pertaining to the application and intent of this code for the purpose of issuing orders pursuant to these provisions.

A101.2 Membership. The membership of the board shall consist of the members appointed to the cities construction board of appeals.

A101.4 Quorum. Three members of the board shall constitute a quorum. In varying the application of any provisions of this code or in modifying an order of the *fire code official*, affirmative votes of the majority present, but not less than three, shall be required.

A101.5 Secretary of board. The *fire code official* shall act as secretary of the board and shall keep a detailed record of all its proceedings, which shall set forth the reasons for its decisions, the vote of each member, the absence of a member and any failure of a member to vote.

A101.6 Legal counsel. The jurisdiction shall furnish legal counsel to the board to provide members with general legal advice concerning matters before them for consideration. Members shall be represented by legal counsel at the jurisdiction's expense in all matters arising from service within the scope of their duties.

A101.7 Meetings. The board shall meet within 10 days after notice of appeal has been received.

A101.8 Conflict of interest. Members with a material or financial interest in a matter before the board shall declare such interest and refrain from participating in discussions, deliberations and voting on such matters.

A101.9 Decisions. Every decision shall be promptly filed in writing in the office of the *fire code official* and shall be open to public inspection. A certified copy shall be sent by mail or otherwise to the appellant, and a copy shall be kept publicly posted in the office of the *fire code official* for 2 weeks after filing.

A101.10 Procedures. The board shall be operated in accordance with the Administrative Procedures Act of the state in which it is established or shall establish rules and regulations for its own procedure not inconsistent with the provisions of this code and applicable state law.

(Ord. No. 01-14, § 9.106, 1-7-2002; Ord. No. 13-019, 9-3-2013; Ord. No. 16-008, 8-1-2016; Ord. No. 18-010, 6-4-2018; Ord. No. 19-008, 8-5-2019)

Chapter 30 HEALTH AND SANITATION[33]

ARTICLE I. IN GENERAL

Secs. 30-1—30-30. Reserved.

ARTICLE II. AMBULANCES[34]

Sec. 30-31. Definitions.

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

Advanced life support mobile emergency care service means a person who provides, for profit or otherwise, the licensed personnel, vehicles and other equipment required to perform all of the following advanced emergency medical techniques at the scene of an emergency:

(1) Endotracheal intubation;

(2) Defibrillation;

(3) Drug administration and intravenous lifeline;

(4) Cardiac monitoring;

(5) Establishment and maintenance of an airway;

(6) Other techniques approved by the department and consistent with the department approved criteria for advanced emergency medical technician training.

Ambulance means a vehicle which meets standards established by the department and which is primarily used or designated as available to provide transportation and treatment to patients.

Ambulance operation means a person licensed by the department to provide, for profit or otherwise, the licensed personnel, ambulances and other equipment required to transport and perform emergency medical services for patients.

Department means the Michigan Department of Community.

[33]Cross reference(s)—Animals, ch. 6; environment, ch. 22; manufactured homes and trailers, ch. 50; solid waste, ch. 66; utilities, ch. 94.

[34]State law reference(s)—Emergency medical services, MCL 333.20901 et seq.

Disaster means an occurrence of imminent threat of widespread or severe damage, injury or loss of life or property resulting from a natural or manmade cause, including, but not limited to, fire, flood, snow, ice, windstorm, oil spill, water contamination, utility failure, hazardous radiological incident, major transportation accident, epidemic, air contamination, drought, infestation or explosion.

Emergency patient means an individual whose physical or mental condition is such that the individual is, or may reasonably be suspected or known to be, in imminent danger of loss of life or significant health impairment.

License means an authorization, annual or as otherwise specified, granted by the department and evidenced by a certificate of licensure or permit granting permission to a person to establish or maintain and operate, or both, an ambulance operation.

Licensed personnel includes the following:

(1) *Advanced emergency medical technician or paramedic* means an individual who has met the requirements of department approved training in the advanced emergency medical procedures described in this article and who is licensed by the department or an individual approved by the department.

(2) *Certified advanced cardiac life support provider* means a person who is certified as having completed and passed an American Heart Association advanced cardiac life support course.

(3) *Emergency medical technician* means an individual who has met the requirements of a department approved emergency medical technician ambulance course and who is licensed by the department or otherwise approved by the department.

(4) *Emergency medical technician specialist* means an emergency medical technician who has met the requirements of additional training prescribed by the department and is licensed by the department to provide limited advanced mobile emergency care services or an individual otherwise approved by the department.

Nonemergency patient means an individual who needs medical services, but whose physical or mental condition is such that the individual may reasonably be suspected of not being in imminent danger of loss of life or significant health impairment.

Nonemergency transporting vehicle means a motor vehicle primarily used or designated as available to provide nonemergency transportation to, from or between health facilities to nonemergency patients.

Patient means an emergency patient or nonemergency patient, or both.

Rule means a rule promulgated by the department.

Vehicle means an ambulance or nonemergency transporting vehicle.

(Code 1972, § 9.171)

Cross reference(s)—Definitions generally, § 1-2.

Sec. 30-32. Purpose.

The transportation of sick or injured persons by public or private ambulance is a matter closely affecting the public health, safety and welfare. It is recognized that only by requiring all providers to meet the same standards of care can the practice of ambulance companies operating without full advanced mobile emergency care service concentrating on answering nonemergency calls or cutting back on equipment and training to the economic detriment of companies with full emergency capacity and persons in need of emergency care be prevented. Therefore, it is the intention of this article to require ambulance providers operating within the city, unless otherwise exempted, to provide advanced mobile emergency care service.

(Code 1972, § 9.170)

Sec. 30-33. Compliance with state standards.

No person shall operate, or caused to be operated, any ambulance, public or private, or any other vehicle commonly used for the transportation or conveyance of the sick or injured upon the streets of the city until and unless such person is currently licensed by the department and meets all requirements of state statutes and rules of all applicable state agencies.

(Code 1972, § 9.172(2))

Sec. 30-34. City license.

(a) No person shall, as owner, agent or otherwise, furnish, operate, conduct, advertise or otherwise be engaged in the operation of an ambulance or ambulance operation upon any street, highway, alley, public way or public place in the city without having obtained a license as issued by the city.

(b) A license as provided in this section shall not be required for the following:

(1) An ambulance operated by an agency of the United States.

(2) Vehicles requested or required by a governmental entity to provide patient aid in case of large scale public disaster.

(3) A vehicle used for the transportation or conveyance of any patient from outside the limits of the city to a location inside the limits of the city.

(4) Any specialized ambulance, when requested by a physician, that is designed to provide a service that an advanced mobile emergency care service is not capable of or routinely engaged in, such as, but not limited to, neonatal care ambulances or helicopters.

(5) An ambulance provided by an ambulance operation not licensed under this article, when such is requested when no vehicle meeting the requirements of this article is available to the requesting ambulance operation.

(Code 1972, § 9.172(1), (3))

Sec. 30-35. Standards for ambulance operations.

Each ambulance operation shall:

(1) Comply with all standards, requirements, statutes and rules promulgated and established by the state for ambulance operations.

(2) Provide, at a minimum, advanced mobile emergency care service 24 hours a day, seven days a week, with vehicles staffed and equipped in compliance with this article.

(3) Use only department licensed personnel to staff ambulances.

(4) Equip and operate ambulances with lights and audible signals in compliance with the provisions of the Michigan Vehicle Code (MCL 257.1 et seq.), as adopted by the city for authorized emergency vehicles.

(5) Provide advanced mobile emergency care service at all times with any vehicle providing patient transportation and care.

(Code 1972, § 9.173)

Secs. 30-36—30-49. Reserved.

ARTICLE III. SMOKEFREE OUTDOOR PUBLIC PLACES

Sec. 30-50. Definitions.

For purposes of this section, the following words and phrases shall have the meanings respectively ascribed to them as follows:

City building means any building or structure owned by the city, including but not limited to Adrian City Hall, Adrian Police Department, the Adrian District Library, and Adrian City Chambers.

Smoke or *smoking* means possessing a cigarette, e-cigarette, cigar, or pipe that contains tobacco or any other product that is lighted or burning; lighting a cigarette, e-cigarette, cigar, or pipe that contains tobacco or any other product; or exhaling smoke from burning tobacco or any other burning product that is contained in a cigarette, e-cigarette, cigar or pipe.

Smokefree outdoor public places mean all of the following:

(1) Outdoors within 20 feet of entrances, windows and ventilation systems of all city buildings or farther than 20 feet of entrances, windows and ventilation systems when the city administrator has had signs posted informing persons who enter the property that smoking is prohibited beyond the point at which the sign is located.

(2) Outdoors within 20 feet of any playground located within city parks.

(3) Outdoors within 20 feet of athletic field within city parks.

(4) Outdoors within city parks or portions of parks when signs are posted prohibiting smoking, as determined by the city administrator.

(Ord. No. 17-001, 1-17-2017)

Sec. 30-51. Smoking prohibited in smokefree outdoor public places.

(a) No person shall smoke in a smokefree outdoor public place as defined in this chapter.

(b) The prohibition in this section against smoking in smokefree outdoor public places is in addition to prohibitions against smoking in state law and in other ordinances or regulations and shall not be construed to permit smoking in areas where it is prohibited by state law or by other ordinances or regulations or on private property as determined by the private property owner.

(c) When smoking trash receptacles are provided, if possible they should be placed near or outside the perimeter of the no smoking area in order to discourage smoking in these areas.

(Ord. No. 17-001, 1-17-2017)

Sec. 30-52. Posting signs.

(a) The prohibitions against smoking in this chapter are enforceable whether or not signs are posted except as otherwise provided in this section.

(b) In addition to the prohibitions specifically set forth in this chapter, this chapter may also be enforced in city parks or portions of parks when signs are posted informing people that smoking is prohibited.

(c) This chapter may also be enforced on property on which a city building is located in areas that are farther than 20 feet from entrances, windows and ventilation systems of a city building only when signs are posted informing people who enter the property that smoking is prohibited beyond the point at which the sign is located.

(Ord. No. 17-001, 1-17-2017)

Sec. 30-53. Authority of city administrator.

(a) The city administrator, in consultation with the parks department, is authorized to designate any city park or portion of a city park as a smokefree outdoor public place where smoking is prohibited by having a sign or signs posted prohibiting smoking.

(b) The city administrator is authorized to designate the property or a portion of the property on which a city building is located as a smokefree outdoor public place where smoking is prohibited by having a sign posted at the location beyond which smoking is prohibited.

(Ord. No. 17-001, 1-17-2017)

Sec. 30-54. Penalty.

A violation of this section shall constitute a civil infraction which shall be punishable by a fine of not more than $50.00.

(Ord. No. 17-001, 1-17-2017)

Chapter 34 HISTORIC PRESERVATION[35]

ARTICLE I. IN GENERAL

Sec. 34-1. Definitions.

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

Alteration means work that changes the detail of a resource, but does not change its basic size or shape.

Certificate of appropriateness means the written approval of a permit application for work that is appropriate and does not adversely affect a resource.

Certificate of economic hardship means a certificate issued by the commission authorizing an alteration, construction, removal or demolition, even though a certificate of appropriateness has previously been denied.

[35]Cross reference(s)—Buildings and building regulations, ch. 10; community development, ch. 18; environment, ch. 22; utilities, ch. 94; zoning, ch. 106.

State law reference(s)—Local Historic Districts Act, MCL 399.201 et seq.

Commission means the Adrian Historic Commission, also known as the State and Dennis Streets Historic District Commission.

Committee means the historic district study committee appointed by the city commission.

Contributing historic structure means a resource that contributes to the character of the historic district, including its sense of time, place and historical development by its location, design, setting, materials, workmanship, association and retention of basic integrity of architectural design. Such resources may include those associated with important persons, events or types of service or embody the distinguishing characteristics of an architectural specimen inherently valuable as a representation of a period, style or method of construction.

Demolition means the razing or destruction, whether entirely or in part, of a resource and includes, but is not limited to, demolition by neglect.

Demolition by neglect means neglect in maintaining, repairing or securing a resource that results in deterioration of an exterior feature of the resource or the loss of structural integrity of the resource.

Denial means the written rejection of a permit application for work that is inappropriate and adversely affects a resource.

Design guideline means a standard of appropriate activity that will preserve the historic and architectural character of a property, structure or area.

Exterior architectural feature means the architectural character and general composition of the exterior of a structure, including, but not limited to, the kind and texture of the building material and the type, design and character of all windows, doors, light fixtures, signs and appurtenant elements.

Historic district means an area or group of areas that contain one or more resources that share a common historic element, such as geography, period, style or theme, and which have been designated as an historic district by ordinance of the city commission pursuant to Public Act No. 169 of 1970 (MCL 399.201 et seq.). All portions of such districts need not be contiguous.

Historic preservation means the identification, evaluation, establishment and protection of resources significant in history, architecture, archaeology, engineering or culture.

Individual historic property means an individual building, structure, site or object which has historical significance and which has been designated as part of an historic district by ordinance of the city commission pursuant to Public Act No. 169 of 1970 (MCL 399.201 et seq.).

Noncontributing resource means a noncontributing structure because it does not add to the historic district's sense of time, place and historical development, or where the location, design, setting, materials, workmanship, feeling and association have been altered or have deteriorated so that the overall integrity of the structure has been irretrievably lost. Ordinarily, resources that have been built within the past 50 years shall not be considered to contribute to the significance of the historic district unless a strong justification concerning their historical or architectural merit is given or the historical attributes of the historic district are considered to be less than 50 years old.

Notice to proceed means the written permission to issue a permit for work that is inappropriate and that adversely affects a resource, pursuant to a finding under section 34-93.

Open space means undeveloped land, a naturally landscaped area, or a formal or manmade landscaped area that provides a connective link or a buffer between other resources.

Ordinary maintenance means keeping a structure unimpaired and in good condition through ongoing, minor intervention, undertaken from time to time, in its exterior condition. Ordinary maintenance does not change the external appearance of the resource, except through the elimination of the usual and expected effects of weathering. Ordinary maintenance does not constitute work for purposes of this chapter.

Owner of record means the person, corporation or other legal entity listed as the owner on the records of the city assessor.

Removal means any relocation of a structure on its site or to another site.

Repair means to restore a decayed or damaged resource to a good or sound condition by any process. A repair that changes the external appearance of a resource constitutes work for purposes of this chapter.

Resource means one or more publicly or privately owned historic buildings, structures, sites, objects, features or open spaces located within an historic district.

Work means the construction, addition, alteration, repair, moving, excavation or demolition of a resource.

(Ord. No. 02-01, § 1(5.303), 1-22-2002)

Cross reference(s)—Definitions generally, § 1-2.

State law reference(s)—Similar provisions, MCL 399.201a.

Sec. 34-2. Purpose.

Historic preservation is declared to be a public purpose and the city commission may, by ordinance, regulate the construction, addition, alteration, repair, moving, excavation and demolition of structures in historic districts within the city limits. The purpose of this chapter shall be the following:

(1) Safeguard the heritage of the city by preserving historic districts as well as the individual buildings, structures, sites and objects within the districts in the city which reflect elements of the city's history, culture, archaeology, engineering or architecture;

(2) Stabilize and improve property values in the districts and the surrounding neighborhoods by protecting the value and preserving historic resources;

(3) Foster civic beauty;

(4) Strengthen the local economy;

(5) Promote the use of historic districts for the education, pleasure and welfare of the citizens of the city and state;

(6) Allow use of state and federal tax credits and other grant programs available to owners of historic properties, which encourage historic preservation;

(7) Assist property owners in recognizing and protecting their historic resources.

(Ord. No. 02-01, § 1(5.302), 1-22-2002)

State law reference(s)—Similar provisions, MCL 399.202.

Secs. 34-3—34-30. Reserved.

ARTICLE II. HISTORIC DISTRICTS

DIVISION 1. GENERALLY

Sec. 34-31. Grants, gifts and programs.

The city commission may accept state or federal grants for historic preservation purposes; participate in state and federal programs that benefit historic preservation; and accept public or private gifts for historic preservation purposes. The historic commission for the district is hereby appointed the agent to accept and administer historic preservation grants, gifts and program responsibilities. The commission may appoint an agent on its behalf to administer the grant or program responsibilities.

(Ord. No. 02-01, § 1(5.313), 1-22-2002)

Sec. 34-32. Establishment, modification and elimination.

The city may at any time, by ordinance, establish, amend or eliminate an historic district. Before doing so, the city commission must receive a report from the historic district study committee. The committee shall include at least two members of the historic district commission, at least one member residing or working in the affected area, and such additional members appointed by the city commission. A majority of the committee members must show a demonstrated interest in, or knowledge of, historic preservation and one member shall be a representative of any existing historical preservation society, recognized neighborhood association and merchants' group in the affected area. The term of office for committee members considering historic districts shall end when the city commission takes final action on the committee's recommendations or at such earlier date as the city commission, by resolution, directs. Each committee shall review and research properties within the proposed district and shall make a preliminary report on the historical significance of areas under study. The report shall contain recommendations concerning the area to be included in the proposed historic district. When modifying or eliminating an existing district, the city commission may retain the initial committee or establish a new committee.

(1) To establish a new historic district or modify an existing historic district:

    a. The committee, or consultants employed by the committee, shall do all of the following:

        1. Conduct a photographic inventory of resources within each proposed historic district, following procedures established or approved by the bureau of history.

        2. Conduct basic research of each proposed historic district and the historic resources located within the district.

        3. Determine the total number of historic and nonhistoric resources within a proposed historic district and the percentage of historic resources of that total. In evaluating the significance of historic resources, the committee shall be guided by the selection criteria for evaluation issued by the United States Secretary of the Interior for inclusion of resources in the National Register of Historic Places, as set forth in 36 CFR 60, and criteria established or approved by the department, if any.

        4. Prepare a preliminary committee report that addresses, at a minimum, all of the following:

            i. Charge of the committee;

            ii. Composition of the committee's membership;

            iii. Historic districts studied;

            iv. Boundaries for each proposed historic district in writing and on maps;

            v. History of each proposed historic district;

vi. Significance of each district as a whole, as well as a sufficient number of its individual resources to fully represent the variety of resources found within the district, relative to the evaluation criteria.

5. Transmit copies of the preliminary report for review and recommendations to the city planning commission, bureau of history, state historical commission and state historic review board. Copies shall be made available to the public in accordance with the Freedom of Information Act.

b. Not less than 60 calendar days after the transmittal of the preliminary report, the committee shall hold a public hearing in compliance with Public Act No. 267 of 1976 (MCL 15.261 et seq.). Public notice of the time, date and place of the hearing shall be given. Written notice shall be mailed by first class mail, not less than 14 calendar days before the hearing, to the owners of properties within the proposed historic district, as listed on the city tax rolls.

c. After the date of the public hearing, the committee and the city commission shall have not more than one year to take the following actions, unless otherwise authorized by the city commission:

1. The committee shall prepare and submit a final report, with its recommendations and the recommendations of the city planning commission, if any, to the city commission. If the recommendation is to establish a historic district, the final report shall include a draft of a proposed ordinance.

2. After receiving a final report that recommends the establishment of an historic district, the city commission, at its discretion, may introduce and pass or reject an ordinance. If the city commission passes an ordinance establishing one or more historic districts, the city commission shall file a copy of the ordinance, including a legal description of the properties located within the historic district, with the register of deeds. The city commission shall not pass an ordinance establishing a contiguous historic district less than 60 days after a majority of the property owners within the proposed historic district, as listed on the city tax rolls, have approved the establishment of the historic district pursuant to a written petition.

d. All writings prepared, owned, used, in possession of, or retained by the committee in the performance of any official function shall be made available to the public.

(2) If considering elimination of a historic district, the committee shall follow the procedures set forth in subsection (1) of this section for issuing a preliminary report, holding a public hearing and issuing a final report, but with the intent of showing one or more of the following:

a. The historic district has lost the physical characteristics that enabled establishment of the district.

b. The historic district was not significant in the way previously defined.

c. The historic district was established pursuant to defective procedures.

(3) Upon receipt of substantial evidence showing the presence of historic, architectural, archeological, engineering or cultural significance of a proposed historic district, the city commission may adopt a resolution requiring that all applications for permits within the proposed historic district be referred to the commission as prescribed in section 34-63. The commission shall review permit applications with the same powers that would apply if the proposed historic district was an established historic district for not more than one year or until such time as the city commission approves or rejects the establishment of the historic district by ordinance, whichever occurs first.

(Ord. No. 02-01, § 1(5.306), 1-22-2002)

State law reference(s)—Similar provisions, MCL 399.203, 399.214.

Sec. 34-33. Register of historic places.

The historic resources designated pursuant to this article and standards of preservation for historic districts shall be described in the city's register of historic places (referred to in this article as the "historic register"), which shall be maintained by the city clerk. All of the procedures and penalties set forth within this article are applicable to the properties set forth in the historic register.

(Ord. No. 02-01, § 1(5.304), 1-22-2002)

Sec. 34-34. Districts established.

(a) Through the process provided for in section 34-62, the city commission may establish, modify, or eliminate historic districts. It is the purpose of this section to maintain a record of the status of specific historic districts.

District 1. State Street and Dennis Street District. The following described parcels within the city are located within district 1:

(1) Tax identification number XAO-400-5031-00, 304 State Street, more particularly described as the east 113.25 feet of lot 22, block 5 of Berry's southern addition.

(2) Tax identification number XAO-400-5030-00, 312 State Street, more particularly described as lot 21, block 5 of Berry's southern addition.

(3) Tax identification number XAO-400-6001-00, 319 State Street, more particularly described as lot 1 and the north 16.5 feet of lot 2, block 6 of Berry's southern addition.

(4) Tax identification number XAO-400-5029-00, 322 State Street, more particularly described as lot 20, block 5 of Berry's southern addition.

(5) Tax identification number XAO-400-5028-00, 408 State Street, more particularly described as the north 16.5 feet of lot 18 and all of lot 19, block 5 of Berry's southern addition.

(6) Tax identification number XAO-400-6002-01, 409 State Street, more particularly described as the south 82.5 feet of lot 2, except the south four feet of the west 115 feet, block 6 of Berry's southern addition.

(7) Tax identification number XAO-400-5027-00, 416 State Street, more particularly described as the south 49.5 feet of lot 18, block 5 of Berry's southern addition.

(8) Tax identification number XAO-400-6003-01, 417 State Street, more particularly described as lot 3 and the south four feet of the west 114 feet of lot 2, block 6 of Berry's southern addition.

(9) Tax identification number XAO-400-5026-00, 422 State Street, more particularly described as the north half of lot 17 and the south 12.5 feet of lot 18, block 5 of Berry's southern addition.

(10) Tax identification number XAO-400-6004-00, 425 State Street, more particularly described as lot 4, block 6 of Berry's southern addition.

(11) Tax identification number XAO-400-5025-00, 426 State Street, more particularly described as the south half of lot 17, block 5 of Berry's southern addition.

(12) Tax identification number XAO-400-5024-00, 428 State Street, more particularly described as the north half of lot 16, block 5 of Berry's southern addition.

(13) Tax identification number XAO-400-5028-00, 432 State Street, more particularly described as the north 12 feet of lot 15 and the south half of lot 16, block 5 of Berry's southern addition.

(14) Tax identification number XAO-400-6005-00, 433 State Street, more particularly described as lot 5, block 6 of Berry's southern addition.

(15) Tax identification number XAO-400-5022-00, 440 State Street, more particularly described as the south 70.5 feet of lot 15, block 5 of Berry's southern addition.

(16) Tax identification number XAO-400-6006-00, 443 State Street, more particularly described as the north 74.5 feet of lot 6, block 6 of Berry's southern addition.

(17) Tax identification number XAO-400-5021-00, 448 State Street, more particularly described as the north 16.5 feet of lot 13 and all of lot 14, block 5 of Berry's southern addition.

(18) Tax identification number XAO-400-6007-00, 449 State Street, more particularly described as the south eight feet of lot 6 and all of lot 7, block 6 of Berry's southern addition.

(19) Tax identification number XAO-400-5020-O1, 456 State Street, more particularly described as the north 16.5 feet of lot 12 and the south 66 feet of lot 13, except a 0.5-foot by 25-foot portion of lot 12, block 5 of Berry's southern addition.

(20) Tax identification number XAO-400-6008-00, 457 State Street, more particularly described as lot 8, block 6 of Berry's southern addition.

(21) Tax identification number XAO-400-5019-O1, 462 State Street, more particularly described as the east 105 feet of the south 66 feet of lot 12, plus a 0.5-foot by 25-foot portion of lot 12, block 5 of Berry's southern addition.

(22) Tax identification number XAO-400-6009-00, 463 State Street, more particularly described as the west 123 feet of lot 9, block 6 of Berry's southern addition.

(23) Tax identification number XAO-400-8022-00, 504 State Street, more particularly described as the east 80 feet of the north 66 feet of lot 9, block 8 of Berry's southern addition.

(24) Tax identification number XAO-400-8021-00, 510 State Street, more particularly described as the north 99 feet of the south 132 feet of lot 9 and the north 99 feet of the south 132 feet of the east 73.7 feet of lot 10, block 8 of Berry's southern addition.

(25) Tax identification number XAO-400-7003-01, 511 State Street, more particularly described as beginning at the northwest corner of lot 1, block 7 of Berry's southern addition; thence east 76 feet; thence south 59 feet; thence south 48° 52′, east 10.61 feet; thence east 40 feet; thence south 66 feet; thence west 124 feet; thence north 132 feet to the point of beginning.

(26) Tax identification number XAO-400-7004-00, 517 State Street, more particularly described as the north 66 feet of the south 132 feet of lot 1, block 7 of Berry's southern addition.

(27) Tax identification number XAO-400-8020-00, 518 State Street, more particularly described as the south half of the south third of lot 9 and the south half of the south third of the east half of lot 10 and the north 21 feet of lot 8, block 8 of Berry's southern addition.

(28) Tax identification number XAO-400-7005-00, 523 State Street, more particularly described as the south 66 feet of lot 1, block 7 of Berry's southern addition.

(29) Tax identification number XAO-400-8018-00, 530 State Street, more particularly described as the south half of lot 8, block 8 of Berry's southern addition.

(30) Tax identification number XAO-400-7006-00, 531 State Street, more particularly described as the north 66 feet of lot 2, block 7 of Berry's southern addition.

(31) Tax identification number XAO-400-7007-00, 537 State Street, more particularly described as the south 132 feet of lot 2, block 7 of Berry's southern addition.

(32) Tax identification number XAO-400-8017-00, 538 State Street, more particularly described as the north half of lot 7, block 8 of Berry's southern addition.

(33) Tax identification number XAO-400-7008-00, 543 State Street, more particularly described as the south 48 feet of the north 180 feet of lot 2, block 7 of Berry's southern addition.

(34) Tax identification number XAO-400-8016-00, 544 State Street, more particularly described as the north 49.5 feet of the south 66 feet of lot 7, block 8 of Berry's southern addition.

(35) Tax identification number XAO-400-7009-00, 547 State Street, more particularly described as the south 76 feet of lot 2, block 7 of Berry's southern addition.

(36) Tax identification number XAO-400-8015-00, 548 State Street, more particularly described as the north 16.5 feet of lot 6 and the south 16.5 feet of lot 7, block 8 of Berry's southern addition.

(37) Tax identification number XAO-400-8014-00, 550 State Street, more particularly described as the south 25 feet of the north 41.4 feet of lot 6, block 8 of Berry's southern addition.

(38) Tax identification number XAO-400-8013-00, 554 State Street, more particularly described as the south 31 feet of the north 72.5 feet of lot 6, block 8 of Berry's southern addition.

(39) Tax identification number XAO-400-1003-00, 204 East Church Street, more particularly described as a parcel of land beginning 115.5 feet east of the southwest corner of block 1 of Berry's southern addition; thence east 131.5 feet; thence north 308.61 feet; thence north 72° 08’ west, 66.46 feet; thence south 40° 09’ west, 105.86 feet; thence south 246.9 feet to the point of beginning.

(40) Tax identification number XAO-850-0211-00, 229 Dennis Street, more particularly described as lot, block of Berry's southern addition.

(41) Tax identification number XAO-400-3016-00, 232 Dennis Street, more particularly described as lot 12 and the east 95 feet of the north one foot of lot 11, block 3 of Berry's southern addition.

(42) Tax identification number XAO-400-3015-00, 236 Dennis Street, more particularly described as lot 11, except the east 95 feet of the north one foot, block 3 of Berry's southern addition.

(43) Tax identification number XAO-400-3014-00, 304 Dennis Street, more particularly described as lot 10, block 3 of Berry's southern addition.

(44) Tax identification number XAO-400-5001-00, 305 Dennis Street, more particularly described as lot 1, block 5 of Berry's southern addition.

(45) Tax identification number XAO-400-5002-00, 311 Dennis Street, more particularly described as lot 2, block 5 of Berry's southern addition.

(46) Tax identification number XAO-400-3013-00, 312 Dennis Street, more particularly described as lot 9, block 3 of Berry's southern addition.

(47) Tax identification number XAO-400-5003-00, 319 Dennis Street, more particularly described as the north 57.75 feet of lot 3, block 5 of Berry's southern addition.

(48) Tax identification number XAO-400-3011-00, 320 Dennis Street, more particularly described as the west 53 feet of lot 8, block 3 of Berry's southern addition.

(49) Tax identification number XAO-400-5004-00, 327 Dennis Street, more particularly described as the south 24.66 feet of lot 3 and the north half of lot 4, block 5 of Berry's southern addition.

(50) Tax identification number XAO-400-5005-00, 333 Dennis Street, more particularly described as the south half of lot 4 and the north 24.75 feet of lot 5, block 5 of Berry's southern addition.

(51) Tax identification number XAO-400-5006-00, 403 Dennis Street, more particularly described as the south 57.75 feet of lot 5, block 5 of Berry's southern addition.

(52) Tax identification number XAO-400-4021-00, 404 Dennis Street, more particularly described as the north 44 feet of the east 100 feet of lot 15, block 4 of Berry's southern addition.

(53) Tax identification number XAO-400-4020-00, 406 Dennis Street, more particularly described as the south 38.5 feet of the east 100 feet of lot 15, block 4 of Berry's southern addition.

(54) Tax identification number XAO-400-5007-00, 409 Dennis Street, more particularly described as lot 6, block 5 of Berry's southern addition.

(55) Tax identification number XAO-400-4019-00, 414 Dennis Street, more particularly described as lot 14, block 4 of Berry's southern addition.

(56) Tax identification number XAO-400-5008-00, 415 Dennis Street, more particularly described as the north 70 feet of lot 7, block 5 of Berry's southern addition.

(57) Tax identification number XAO-400-4018-00, 422 Dennis Street, more particularly described as the north 66 feet of lot 13, block 4 of Berry's southern addition.

(58) Tax identification number XAO-400-5009-00, 423 Dennis Street, more particularly described as the south 12.5 feet of lot 7 and the north 35 feet of lot 8, block 5 of Berry's southern addition.

(59) Tax identification number XAO-400-5010-00, 427 Dennis Street, more particularly described as the south 47.5 feet of lot 8 and the north two feet of lot 9, block 5 of Berry's southern addition.

(60) Tax identification number XAO-400-4017-00, 430 Dennis Street, more particularly described as lot 12 and the south 16.5 feet of lot 13, block 4 of Berry's southern addition.

(61) Tax identification number XAO-400-5011-00, 435 Dennis Street, more particularly described as the south 64 feet of lot 7, block 5 of Berry's southern addition.

(62) Tax identification number XAO-400-4016-00, 438 Dennis Street, more particularly described as lot 11, block 4 of Berry's southern addition.

(63) Tax identification number XAO-400-5012-00, 439 Dennis Street, more particularly described as the north 37 feet of lot 10, block 5 of Berry's southern addition.

(64) Tax identification number XAO-400-5013-00, 441 Dennis Street, more particularly described as the south 37 feet of the north 74 feet of lot 10, block 5 of Berry's southern addition.

(65) Tax identification number XAO-400-4015-00, 444 Dennis Street, more particularly described as lot 10, block 4 of Berry's southern addition.

(66) Tax identification number XAO-400-5014-00, 447 Dennis Street, more particularly described as the south 8.5 feet of lot 10 and the north 42 feet of the west 143 feet and the north 15 feet of the east 38 feet of lot 11, block 5 of Berry's southern addition.

(67) Tax identification number XAO-400-4014-00, 450 Dennis Street, more particularly described as lot 9, block 4 of Berry's southern addition.

(68) Tax identification number XAO-400-5015-00, 451 Dennis Street, more particularly described as the west 100 feet of the south 40.5 feet of lot 11, block 5 of Berry's southern addition.

(69) Tax identification number XAO-400-9024-00, 502 Dennis Street, more particularly described as the east 79 feet of the north 66 feet of lot 17, block 9 of Berry's southern addition.

(70) Tax identification number XAO-400-8001-00, 503 Dennis Street, more particularly described as the west 103 feet of the north 50 feet of lot 1, block 8 of Berry's southern addition.

(71) Tax identification number XAO-400-8003-00, 507 Dennis Street, more particularly described as the south half of the north half of lot 1 and the south half of the northwest quarter of lot 10, block 8 of Berry's southern addition.

(72) Tax identification number XAO-400-9023-00, 512 Dennis Street, more particularly described as the north 66 feet of the south 132 feet of lot 17, block 9 of Berry's southern addition.

(73) Tax identification number XAO-400-8004-00, 513 Dennis Street, more particularly described as the north half of the south half of lot 1 and the north half of the southwest quarter of lot 10, block 8 of Berry's southern addition.

(74) Tax identification number XAO-400-8005-00, 517 Dennis Street, more particularly described as the south quarter of lot 1 and the south quarter of the west half of lot 10, block 8 of Berry's southern addition.

(75) Tax identification number XAO-400-9022-00, 518 Dennis Street, more particularly described as the south 66 feet of lot 17, block 9 of Berry's southern addition.

(76) Tax identification number XAO-400-8006-00, 523 Dennis Street, more particularly described as the north half of lot 2, block 8 of Berry's southern addition.

(77) Tax identification number XAO-400-9021-00, 524 Dennis Street, more particularly described as the north half of lot 16, block 9 of Berry's southern addition.

(78) Tax identification number XAO-400-8007-00, 529 Dennis Street, more particularly described as the south half of lot 2, block 8 of Berry's southern addition.

(79) Tax identification number XAO-400-9020-00, 530-32 Dennis Street, more particularly described as the south half of lot 16, block 9 of Berry's southern addition.

(80) Tax identification number XAO-400-9019-00, 536 Dennis Street, more particularly described as the north half of lot 15, block 9 of Berry's southern addition.

(81) Tax identification number XAO-400-8008-00, 537 Dennis Street, more particularly described as the north half of lot 3, block 8 of Berry's southern addition.

(82) Tax identification number XAO-400-9018-00, 542 Dennis Street, more particularly described as the north 42.5 feet of the south half of lot 15, block 9 of Berry's southern addition.

(83) Tax identification number XAO-400-8009-00, 543 Dennis Street, more particularly described as the south 66 feet of lot 3, block 8 of Berry's southern addition.

(84) Tax identification number XAO-400-8010-00, 549 Dennis Street, more particularly described as the north half of lot 4, block 8 of Berry's southern addition.

(85) Tax identification number XAO-400-9017-00, 550 Dennis Street, more particularly described as the north half of lot 14 and the south 23.5 feet of lot 15, block 9 of Berry's southern addition.

(86) Tax identification number XAO-400-8011-00, 555 Dennis Street, more particularly described as the north 50 feet of the south half of lot 4, block 8 of Berry's southern addition.

(87) Tax identification number XAO-400-9016-00, 558 Dennis Street, more particularly described as the south half of lot 14, block 9 of Berry's southern addition.

(88) Tax identification number XAO-400-8012-00, 561 Dennis Street, more particularly described as the south 16 feet of lot 4 and all of lot 5, block 8 of Berry's southern addition.

(89) Tax identification number XAO-400-9015-00, 564 Dennis Street, more particularly described as lot 13, block 9 of Berry's southern addition.

(b) *District 2. Lenawee County Savings Bank Historic District.* The following described parcel within the city is located within district 2:

(1) Tax identification number XA0-000-0030-01, 135 East Maumee Street, more particularly described as north 87 feet of south 93 feet of east 72.17 feet and north 144 feet of south 237 feet of east 75 feet of north 10.5 feet lot 32 and north 24.75 feet of east 67.5 feet of lot 31 original plat.

(c) *District 3. U.S. Post Office Historic District.* The following described parcel within the city is located within district 3:

(1) Tax identification number XA0-000-0126-00, 159 East Maumee Street, more particularly described as beginning at the intersection of the west right-of-way line of Broad Street with the north right-of-way line of Maumee Street, thence 126.0 feet northeasterly along the west right-of-way line of Broad Street to a point, thence 122.5 feet northwesterly to a point on a line which forms an interior angle of 89 degrees 49' with the previously described line, thence 126.0 feet southwesterly to a point on a line which forms an interior angle of 90 degrees 11' with the previously described line intersecting the north right-of-way line at Maumee Street, thence 122.5 feet southeasterly along the right-of-way line of Maumee Street to the point of beginning.

(Ord. No. 02-02, § 1, 1-22-2002; Ord. No. 09-04, 4-20-2009)

Editor's note(s)—Ord. No. 09-04, adopted April 20, 2009, enacted provisions which were not specifically amendatory of § 34-34, but which the editor determined to be substantively amendatory of this section. Amendments have been made accordingly.

Sec. 34-35. Alteration of property listed in historic register.

(a) Except as permitted by the historic register or by section 34-38, no person shall alter, move or demolish any resource listed in the historic register in a manner that affects the resource's exterior appearance without first obtaining permission from the commission and the building department, and complying with the requirements set forth in this section.

(b) No person shall alter, move or demolish a resource contrary to its preservation standards without first obtaining a notice to proceed from the commission, which is binding on the chief building inspector.

(c) To obtain permission to work on any resource in an historic district, an application for a building permit must be filed with the chief building inspector. The chief building inspector shall review the application for compliance with the requirements of all other ordinances of this Code and shall immediately forward a complete application to the commission, together with the accompanying plans and other information, for a review and determination regarding compliance with this article. Application for such permission from the commission may be made prior to filing a final application with the chief building inspector. In such cases, the commission shall review the final plans submitted to the chief building inspector for compliance with the commission's determination. All applications for such permits shall be accompanied by drawings or diagrams, in legible form, which need not be certified, and by suitable photographs of all areas of the exterior of the structure to be affected if such permit were to be granted. The applicant shall pay such fees as are required.

(d) (1) In reviewing an application for a permit, the commission shall follow:

a. The secretary of the interior's standards for rehabilitation and guidelines for rehabilitating historic buildings;

b. The city's historic district guidelines for rehabilitation of historic structures, adopted in this article by reference; and

c. Any other factor, including aesthetics, which the commission considers pertinent. However, the demolition or moving of resources of historical or architectural worth shall be discouraged.

(2) The commission shall also consider the following:

a. The relationship of any architectural features of the resource to the rest of the resource and the surrounding area;

b. The general compatibility of the design, arrangement, texture and materials proposed to be used;

c. Other factors, such as aesthetic value, that the commission finds relevant.

(e) The commission shall deny applications only on the basis of considerations specified in subsection (d) of this section. Denial shall be in writing and state the reasons for such denial and all appeal procedures.

(f) If the proposed work on the resource endangers the historic preservation purposes of the city, the commission shall attempt to establish with the owner an economically feasible plan for preservation of the resource.

(g) If all efforts by the commission to preserve an historic resource fail, or if it is determined that public ownership is most suitable, the city commission, if deemed to be in the public interest, may acquire such historic property using public funds, gifts for historical purposes, grants from the state or federal governments for acquisitions of historic properties, or proceeds from revenue bonds issued for historic preservation purposes. Such acquisitions shall be based on the recommendation of the commission. The city commission has the responsibility for the maintenance of publicly owned historic resources, using its own funds, if not specifically earmarked for other purposes, or other public funds committed for such purpose.

(h) Upon recommendation of the commission, the city commission may sell historic resources required under this article, with protective easements included in the property transfer documents.

(i) The commission shall issue a notice to proceed for the work on a resource in an historic district if any of the following conditions exist and if, in the findings of the commission, the proposed changes will materially improve or correct such conditions:

(1) The resource constitutes a hazard to the safety of the public or to the occupants of the structure;

(2) The resource is a deterrent to a major improvement program, which will be of substantial benefit to the community;

(3) Retaining the resource will cause undue financial hardship to the owner when a governmental action, an act of God or other event beyond the owner's control created the hardship, and all feasible alternatives to eliminate the financial hardship, which may include offering the resource for sale at its fair market value or moving the resource to a vacant site within the historic district, have been attempted and exhausted by the owner;

(4) Retaining the resource is not in the best interest of the majority of the community.

(j) The commission shall approve or deny plans and, if approved, shall issue a certificate of appropriateness, which is to be signed by the chairman, attached to the application for building permits and immediately transmitted to the chief building inspector. The chairman shall stamp all prints submitted to the commission, signifying the commission's approval. All permits issued shall be only according to that decision. If the commission denies such plans, it shall state its denial, reasons for doing so and the appeal process, and shall transmit a record of such action, in writing, to the chief building inspector and the applicant. If the commission denied the plan submitted, it may advise what it thinks is proper. The applicant, if it so desires, may make modifications to the plans and shall have the right to resubmit the application at any time after making the correct modifications. A denial of the commission shall be binding on the chief building inspector.

(k) The commission shall meet within 30 calendar days after notification of the chief building inspector of the permit filing, unless otherwise mutually agreed upon by the applicant and the commission, and shall review the plans according to the duties and powers specified in this section. In reviewing the plans, the commission may confer with the applicant for the permit. Failure of the commission to approve or deny such plans within 60 calendar days from the date of application for a permit, unless otherwise mutually agreed upon by the applicant and the commission, shall be deemed approval of the application, and the chief building inspector shall proceed to process the application without regard to its certificate of appropriateness.

(l) After the certificate of appropriateness has been issued and the building permit granted to the applicant, the chief building inspector shall from time to time inspect the construction, alteration or repair approved by such certificate, and shall take such action as is necessary to force compliance with the approved plans.

(m) Due to peculiar conditions of design and construction in historic districts where structures were often built closest to the lot lines, it is in the public interest to retain the district's historic appearance by granting variances to normal yard setback requirements. Where the commission deems that such variances will not adversely affect neighboring properties, the commission may recommend to the city planning commission that such variances in standard yard setback requirements be made.

(Ord. No. 02-01, § 1(5.307), 1-22-2002)

State law reference(s)—Similar provisions, MCL 399.205.

Sec. 34-36. Maintenance and repair.

Nothing in this article shall be construed to prevent ordinary maintenance or repair of any resource within an historic district.

(Ord. No. 02-01, § 1(5.308), 1-22-2002)

State law reference(s)—Similar provisions, MCL 399.210.

Sec. 34-37. Deterioration.

No owner of property listed in the historic register shall permit such property to deteriorate to an extent listed in this section. Vacant property shall be secured at all times from intrusion by animals or unauthorized persons. (Refer to the International Property Maintenance Code, which is enforced by the city inspection department.) Prohibited deterioration includes, but is not limited to, the following:

(1) Parts of property which are attached so that they may fall and injure members of the public or property;

(2) Deteriorated or inadequate foundation;

(3) Defective or deteriorated flooring or floor supports, or flooring or floor supports of insufficient size to safely carry imposed loads;

(4) Members of walls, partitions or other vertical supports that split, lean, list or buckle due to defective material or deterioration;

(5) Members of walls, partitions or other vertical supports that are of insufficient size to safely carry imposed loads;

(6) Members of ceilings, roofs, ceiling and roof supports or other horizontal members which sag, split or buckle due to defective material or deterioration;

(7) Members of ceilings, roofs, ceiling and roof supports or other horizontal members that are of insufficient size to safely carry imposed loads;

(8) Fireplaces or chimneys which list, bulge or settle due to defective material or deterioration;

(9) Fireplaces or chimneys that are of insufficient size or strength to safely carry imposed loads;

(10) Deteriorated, crumbling or loose plaster;

(11) Deteriorated or ineffective waterproofing of exterior walls, roofs, foundations or floors, including broken windows or doors;

(12) Defective or lack of weather protection for exterior wall coverings, including lack of paint, or weathering due to lack of paint or other protective covering;

(13) Any fault or defect in the building which renders the building structurally unsafe or not properly watertight;

(14) Deterioration of any significant architectural feature of the property.

(Ord. No. 02-01, § 1(5.309), 1-22-2002)

Sec. 34-38. Building improvements.

Repairs or improvements that maintain or restore the historical significance of a property may be made to properties in the historic register without strict compliance with the requirements of this Code if, in the opinion of the chief building inspector, a proposed improvement is safe and will not endanger the health, safety and welfare of the public, and a certificate of appropriateness has been issued by the commission.

(Ord. No. 02-01, § 1(5.310), 1-22-2002)

Cross reference(s)—Buildings and building regulations, ch. 10.

Sec. 34-39. Emergency moratoriums.

If the city commission receives a recommendation from an historic district study committee pursuant to section 34-62, and if it determines there is a substantial danger of irreparable harm to buildings recommended for historic designation, it may declare an emergency moratorium on demolition or other action which will irreparably harm buildings proposed for historic designation. The moratorium may be declared by a resolution of the city commission and may not be for a period exceeding one year. The moratorium shall end when the city commission has taken final action on an ordinance considered pursuant to the recommendation. During the period of the moratorium, no permit shall be issued in violation of the moratorium. The city commission may authorize the city attorney to institute court proceedings to prevent damage to buildings within the designated moratorium area.

(Ord. No. 02-01, § 1(5.311), 1-22-2002)

Sec. 34-40. Surveys and research.

The city may undertake an ongoing survey and research effort in the city to identify neighborhoods, areas, sites, structures and objects that have historic, community, architectural or aesthetic importance, interest or value. As part of the survey, the commission for the district may review and evaluate any prior surveys and studies by any unit of government or private organization and compile appropriate descriptions, facts and photographs.

(Ord. No. 02-01, § 1(5.314), 1-22-2002)

Sec. 34-41. Economic hardships.

(a) Application for a certificate of economic hardship shall be made on a form prepared by the commission and submitted in conjunction with an application for work as set forth in section 34-37.

(b) The commission may, at its sole discretion, solicit expert testimony, schedule a public hearing and/or require that the applicant for a certificate of economic hardship make submissions concerning any or all of the following information before it makes a determination on the application.

(1) An estimate of any additional cost that would be incurred to comply with the recommendations of the commission for changes necessary for the issuance of a determination of appropriateness;

(2) A report from a licensed engineer or residential builder for an estimate of the cost of the proposed construction, alteration, demolition or removal, or an architect with experience in rehabilitation as to the structural soundness of any structures on the property and their suitability for rehabilitation;

(3) Estimated market value of the property in its current condition; after completion of the proposed construction, alteration, demolition or removal; after any changes recommended by the commission; and, in the case of a proposed demolition, after renovation of the existing property for continued use;

(4) In the case of a proposed demolition, an estimate from an architect, licensed residential builder, real estate consultant, appraiser or other real estate professional experienced in rehabilitation as to the economic feasibility of rehabilitation or reuse of the existing structure on the property;

(5) Amount paid for the property, the date of purchase and the party from whom purchased, including a description of the relationship, if any, between the owner of record or applicant and the person from whom the property was purchased, and any terms of financing between the seller and buyer;

(6) If the property is income producing, the annual gross income from the property for the previous two years; itemized operating and maintenance expenses for the previous two years; and depreciation deduction and annual cash flow before and after debt service, if any, during the same period;

(7) Remaining balance on any mortgage or other financing secured by the property and annual debt service, if any, for the previous two years;

(8) All appraisals obtained within the previous two years by the owner or applicant in connection with the purchase, financing or ownership of the property;

(9) Any listing of the property for sale or rent, and the price asked and offers received, if any, within the previous two years;

(10) Assessed value of the property according to the two most recent assessments;

(11) Real estate taxes for the previous two years;

(12) Form of ownership or operation of the property, whether sole proprietorship, for-profit or not-for-profit corporation, limited partnership, joint venture or other; and

(13) Any other information the owner chooses to provide.

(c) If any of the information is not reasonably available to the owner, cannot be obtained by the owner and/or may not be disclosed without a substantial adverse impact upon the owner, the owner may file with the commission a description of the information which cannot be obtained and describe the reasons why such information cannot be obtained and/or provided.

(d) The commission shall review all of the evidence and information required of an applicant for a certificate of economic hardship and make a determination whether the denial of a determination of appropriateness has deprived, or will deprive, the owner of the property of the reasonable use of, or economic return on, the

property. Failure of the commission to act within 60 calendar days after the date a complete application is received, unless the applicant and commission agree, in writing, upon an extension, shall be considered to constitute approval of the determination of appropriateness.

(e) Upon a finding by the commission that without approval of the proposed work all reasonable use of, or return from, a landmark or property within an historic district will be denied a property owner, the commission shall investigate plans and make recommendations to the city commission to allow for a reasonable use of, or return from, the property or to otherwise preserve the property. Such plans and recommendations may include, but are not limited to, authorization for alterations, construction or reconstruction not in strict conformance with applicable preservation standards, but consistent with the effectuation of the purposes of this article; presentations to the property owner of available tax incentives and development and preservation options; to the extent possible under then existing law, a reduction in real property taxes, financial assistance, building code modifications and/or changes in zoning regulations.

(f) If the commission has found that, without approval of the proposed work, the property cannot be put to a reasonable use or the owner cannot obtain a reasonable economic return from such property, then the commission shall issue a certificate of economic hardship approving the proposed work and provide a copy of such certificate to the chief building inspector. If the commission finds otherwise, it shall deny the application for the work and for a certificate of economic hardship, and shall notify the applicant, in writing, of the reasons for the denial and the applicant's right to appeal to the state historic preservation review board and the circuit court, and provide a copy of such notice to the chief building inspector.

(Ord. No. 02-01, § 1(5.316), 1-22-2002)

Sec. 34-42. Violations; penalties.

(a) No person shall perform any work on any resource regulated by this article, except pursuant to the standards and procedures of this article.

(b) No owner of any property listed in the historic register established pursuant to this article shall maintain any resource regulated by this article in a condition which violates the provisions of this article.

(c) Any person deemed to have violated the provisions of this article is responsible for a civil violation and may be fined not more than $5,000.00 for each violation. Violators may be ordered by a court of competent jurisdiction to pay the costs to restore or replicate the historic structure unlawfully constructed, added to, altered, moved, repaired, excavated or demolished.

(d) The city attorney is authorized to seek an order from a court of competent jurisdiction to prevent any violation of this article or to require that property which has been altered in violation of this article be restored.

(Ord. No. 02-01, § 1(5.312), 1-22-2002)

Secs. 34-43—34-60. Reserved.

DIVISION 2. HISTORIC DISTRICT COMMISSION[36]

[36]State law reference(s)—Historic district commission, MCL 399.204.

Sec. 34-61. Created.

In order to execute the purpose of this article, there is hereby created a commission to be referred to as the "Adrian Historic Commission," also known as the "State Street and Dennis Street Historic District Commission."

(Ord. No. 02-01, § 1(5.305(1)), 1-22-2002)

Sec. 34-62. Membership; compensation.

(a) The commission shall consist of seven members whose residences are located in the city. The members shall be appointed by the mayor for terms of office of three years. Members of the commission may be reappointed after their terms expire. The terms of office of the members shall begin as of the date of the passage of the ordinance from which this division is derived. A person appointed by the mayor for an unexpired term shall fill a vacancy occurring in the membership of the commission for any cause. The city commission shall fill any vacancy on the commission within 60 calendar days.

(b) The commission shall include a majority of members who have a clearly demonstrated interest or knowledge of historic preservation. At least four members shall come from a list of city residents submitted by the mayor. One member shall be an architect, who is a graduate of an accredited school of architecture and has two years of architectural experience or who is duly registered in the state, if the person resides in the city and is available for appointment, and three members who reside or own property which is located within the boundaries of the historic district. A vacancy on the commission must be filled within 60 calendar days.

(c) Members of the commission shall serve without compensation.

(Ord. No. 02-01, § 1(5.305(2)), 1-22-2002)

State law reference(s)—Commission membership, MCL 399.204.

Sec. 34-63. Duties and powers.

(a) It shall be the duty of the commission to review all plans for work on resources in an historic district, and no permit shall be granted until the commission has acted thereon as provided in this article.

(b) The commission shall pass only on exterior features of a resource and shall not consider interior arrangements, unless such arrangements affect the exterior, nor shall the commission deny applications, except in regard to the considerations as set forth in this article. An application for repair or alteration affecting exterior appearance of a resource, or for the work involved on a resource which the commission deems so valuable to the city, the state or the nation that the loss thereof will adversely affect the public purpose of the city, the state or the nation, the commission shall endeavor to work out an economically feasible plan for preservation of the resource with the owner.

(c) In reviewing plans, the commission shall follow the United States Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings, as set forth in 36 CFR 67. The commission shall also consider all of the following:

    (1) The historic or architectural value and significance of the resource and its relationship to the historic value of the surrounding area.

    (2) The relationship of any architectural features of the resource to the rest of the resource and to the surrounding area, and the general compatibility of the design, arrangement, texture and materials proposed to be used.

    (3) Other factors, such as aesthetic values, that the commission finds relevant.

(d) The commission shall permit work within an historic district through the issuance of a notice to proceed, if any of the following conditions prevail and the proposed work can be demonstrated, by a finding of the commission, to be necessary to substantially improve or correct any of the following conditions:

(1) The resource constitutes a hazard to the safety of the public or to the structure's occupants.

(2) The resource is a deterrent to a major improvement program that will be of substantial benefit to the community and the applicant proposing the work has obtained all necessary planning and zoning approvals, financing and environmental clearances.

(3) Retaining the resource will cause undue financial hardship to the owner when a governmental action, an act of God or other event beyond the owner's control created the hardship, and all feasible alternatives to eliminate the financial hardship, which may include offering the resource for sale at its fair market value or moving the resource to a vacant site within the historic district, have been attempted and exhausted by the owner.

(4) Retaining the resource is not in the interest of the majority of the community.

(e) The commission shall have the power to issue a certificate of appropriateness if it approves of the plan submitted to it for review.

(Ord. No. 02-01, § 1(5.305(3)), 1-22-2002)

State law reference(s)—Similar provisions, MCL 399.205.

Sec. 34-64. Officers; meetings; rules and records.

(a) The commission shall elect a chairman and vice-chairman from its membership, whose terms of office shall be fixed by the commission. The chairman shall preside over the commission and shall have the right to vote. The vice-chairman shall perform the duties of the chairman, in case of absence or disability of the chairman. The commission shall also select or elect a secretary, who need not be a member of the commission.

(b) The commission shall adopt its own rules of procedure and shall adopt design review standards and guidelines for resource treatment to carry out its duties.

(c) The commission shall keep a record of its resolutions, proceedings and actions. A writing prepared, owned, used, in the possession of, or retained by the commission in the performance of an official function shall be made available to the public in compliance with Public Act No. 442 of 1976 (MCL 15.231 et seq.).

(d) The business that the commission may perform shall be conducted at a public meeting of the commission held in compliance with Public Act No. 267 of 1976 (MCL 15.261 et seq.). Public notice of the time, date and place of the meeting shall be given in the manner required by such act. A meeting agenda shall be part of the notice and shall include a listing of each permit application to be reviewed or considered by the commission.

(e) At least four members of the commission shall constitute a quorum for the transaction of its business, which shall provide for the time and place of holding regular meetings. It shall provide for the calling of special meetings by the chairman or by at least two members of the commission. All meetings of the commission shall be open to the public and any person or a duly constituted representative shall be entitled to appear and be heard on any matter before the commission before it reaches its decision. Three consecutive unexcused absences shall be grounds to remove a member.

(f) The passage by the commission of any resolution, proceeding or action shall be by a majority vote of the members present at the meeting.

(Ord. No. 02-01, § 1(5.305(4)), 1-22-2002)

State law reference(s)—Similar provisions, MCL 399.205.

Sec. 34-65. Separate commissions.

As other historic districts are created, the city commission may create a separate commission for each district. The rules for the creation, duties and powers of the commission and other general rules shall be the same as for the State Street and Dennis Street Historic District Commission. Members of the State Street and Dennis Street Historic District Commission may sit on other historic district commissions.

(Ord. No. 02-01, § 1(5.305(5)), 1-22-2002)

Sec. 34-66. Appeals.

Any applicant aggrieved by a decision of the commission concerning a permit application may file an appeal of the decision with the state historic preservation review board within 60 days after the decision is furnished to the applicant as provided in Public Act No. 169 of 1970 (MCL 399.211 et seq.).

(Ord. No. 02-01, § 1(5.315), 1-22-2002)

State law reference(s)—Appeals, MCL 399.211.

Chapter 38 HUMAN RIGHTS[37]

ARTICLE I. IN GENERAL

Secs. 38-1—38-30. Reserved.

ARTICLE II. HUMAN RELATIONS COMMISSION

Sec. 38-31. Generally.

(a) It is hereby declared to be the policy of the city in the exercise of its police power for the protection of the public safety, public health and general welfare, the maintenance of peace and good government and the promotion of the city's trade, commerce and manufacturers, to promote and protect the right and opportunity of all persons to participate in the social, cultural and economic life of the city, free from restrictions because of race, color, creed, national origin or ancestry, sex, age, height, weight, familial status or physical limitation. In order to eliminate prejudice and discrimination, an instrumentality of government should be established through which the citizens of the city may be kept informed of developments in human relations; from which the mayor, city commission and city administrator may obtain advice and assistance in adopting such measures to keep peace and good order and harmony among the citizens of the city, and to bring about and maintain harmony and avoid intergroup tensions and to promote tolerance and goodwill and the ensured equality of treatment and opportunity to all persons regardless of race, color, creed, national origin or ancestry, sex, age, height, weight, familial status or physical limitation.

(b) There is hereby created and established a commission to be known as the "human relations commission," consisting of nine members to be appointed by the mayor, with the approval of the city commission. One of

[37]Cross reference(s)—Administration, ch. 2.

the members shall be designated by the mayor and chairman. The members of the human relations commission, as nearly as possible, shall be broadly representative of the community and include persons from the various ethnic, racial and religious groups. Such members shall serve without compensation. The city commission shall designate such meeting room as shall be available and provide such temporary assistance as the human relations commission shall request and the city commission shall find to be warranted. All appointments to the human relations commission shall be for a term of three years. In the event of death or resignation by any member, such member's successor shall be appointed to serve for the unexpired term.

(c) The human relations commission shall:

(1) Foster mutual understanding and respect among all racial, religious and nationality groups in the city; discourage discriminatory practices among any such group or any of its members; cooperate with city, state and federal agencies, as well as the nongovernmental organizations; and make such investigations and studies in the field of human relations as, in its judgment, will aid in effectuating its general purpose.

(2) Aid in securing and furnishing equal service to all residents of the city; when requested by the city commission or city administrator, aid in training city employees to use methods of dealing with intergroup relations, which develop respect for equal rights and result in equal treatment, without regard to race, color, creed, national origin or ancestry, sex, age, height, weight, familial status or physical limitation, assuring fair and equal treatment under the law to all citizens; aid in protecting the rights of all persons to enjoy public accommodations and facilities and to receive equal treatment from all holders of contracts or privileges from the city; and aid in maintaining equality or opportunity for employment and advancement in the city government.

(3) Study and investigate problems arising between groups in the city, which may result in tensions, discrimination or prejudice on account of race, color, creed, national origin or ancestry, sex, age, height, weight, familial status or physical limitation.

(4) Formulate and carry out programs of community education and information, with the object of discouraging and eliminating any such tensions, prejudice or discrimination.

(5) Investigate any complaints of discrimination, tensions and prejudice filed with, or referred, to it or which it may have investigated upon its own motion.

(6) Report to the city commission the result of its investigations and research as, in its judgment, will tend to minimize or eliminate prejudice, intolerance, race or area tensions and discrimination or which will promote, or tend to promote, goodwill.

(7) Endeavor to secure the cooperation of various racial, religious, nationality and ethnic groups, formal or informal groupings in the community, veterans organizations, labor organizations, business and industrial organizations, fraternal, benevolent or service groups in educational campaigns devoted to the need for eliminating group prejudice, racial or area tensions, intolerance and discrimination.

(8) Cooperate with other public governmental or private agencies in developing courses of instruction for presentation in public and/or private schools, public libraries or any other suitable place, showing and illustrating the contributions of various religious, nationality and ethnic groups to the culture, tradition and progress of the city, state and nation, and the further showing of deplorable effects and menace of prejudice, intolerance and discrimination and racial and area tensions.

(9) Cooperate with, and seek the cooperation of, federal, state, county and other cities in carrying out projects within their respective authorities to eliminate intergroup tensions and promote intergroup harmony.

(10) Prepare and submit reports of is activities to the city commission. At least one complete report shall be made annually on or before January 15.

(d) The human relations commission shall meet no less than once each quarter and shall adopt, by a majority rule, such rules as it shall deem expedient for the conduct of its business. The human relations commission shall elect such officers as it shall deem necessary. The chairman thereof shall appoint such committees as the rules of the human relations commission shall provide, and such other committees as shall be found necessary from time to time.

(e) The human relations commission shall receive and investigate complaints and initiate its own investigations of tensions, practices of discrimination and acts of prejudice against any person or group because of race, color, creed, national origin or ancestry, sex, age, height, weight, familial status or physical limitation, and may conduct private and public hearings with regard thereto, and carry on research and obtain factual data and conduct hearings to ascertain the status of treatment of racial, religious and ethnic groups in the city, and the best means of progressively improving human relations in the city.

(f) The obtaining of actual information by the human relations commission in the performance of its duties under this section is hereby declared to be necessary to its functions. If any person shall fail to cooperate with the human relations commission, or any committee or authorized representative thereof, in the exercise of its lawful functions and authority, the human relations commission may make its report thereof to the city commission.

(g) It is recognized that the statutes of the state, and the Charter and ordinances of the city have created certain offices, boards and commissions which are expressly charged with the management, discipline and supervision of specific departments, divisions and functions of the city. Nothing contained in this section shall be presumed to supersede or infringe upon the authority, powers and duties of the city commission or city departments, officials, divisions, boards or commissions, or to, in any way, relieve the city commission or any official, division, board or commission of any city department of its rights, obligations, duties and responsibilities under statutes of the state, the terms of the Charter or ordinances of the city, or under any law. The functions of the human relations commission shall be, therefore, primarily advisory in nature.

(h) The human relations commission shall annually submit its proposed budget for the subsequent fiscal year to the city administrator no later than January 15. The proposed budget shall be subject to the approval of the city commission.

(Ord. No. 02-01, § 1(1.190), 1-22-2002)

Secs. 38-32—38-80. Reserved.

ARTICLE III. DISCRIMINATION PROHIBITED[38]

Sec. 38-81. Intent, purpose and construction.

(a) It is the intent of the City of Adrian that no person be denied the equal protection of the laws; nor shall any person be denied the enjoyment of his or her civil rights or be discriminated against because of his or her

[38]Editor's note(s)—Ord. No. 14-004, § 1, adopted April 21, 2014, amended art. III in its entirety to read as herein set out. Former art. III, §§ 38-81—38-88, 38-111—38-118, pertained to housing discrimination, and derived from the 1972 Code, §§ 13.1—13.9.

actual or perceived race, color, religion, national origin, sex, age, height, weight, marital status, physical or mental disability, family status, sexual orientation, or gender identity or AIDS/HIV status.

(b) The prohibitions against discrimination as provided for in this chapter shall not be deemed preempted by federal or state law, but are intended to supplement state and federal civil rights law prohibiting discrimination in the areas of employment, public accommodations, and housing. Provided, however, this chapter shall be construed and applied in a manner consistent with First Amendment jurisprudence regarding the freedom of speech and exercise of religion.

(c) Nothing in this chapter shall require preferential treatment of any person or group on the basis of sexual orientation or gender identity.

(Ord. No. 14-004, § 1, 4-21-2014)

Sec. 38-82. Definitions.

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

Affected person means a person who has filed a complaint pursuant to below section 38-89 and who the city administrator, or his or her designee, has entered into a conciliation agreement pursuant to below section 38-90 as a result of the affected person's complaint.

Age means chronological age.

City administrator means the City Administrator of the City of Adrian.

Contractor means a person who by contract furnishes services, materials or supplies and has entered into the City of Adrian Professional Services Contract. "Contractor" does not include persons who are merely creditors or debtors of the city, such as those holding the city's notes or bonds or persons whose notes, bonds or stock is held by the city.

Discriminate means to make a decision, offer to make a decision or refrain from making a decision based in whole or in part on the actual or perceived race, color, religion, national origin, sex, age, height, weight, marital status, physical or mental disability, family status, sexual orientation, or gender identity, or AIDS/HIV status of another person.

(1) Discrimination based on sex includes sexual harassment, which means unwelcome sexual advances, request for sexual favors, and other verbal or physical conduct or communication of a sexual nature when:

   a. Submission to such conduct or communication is made a term or condition, either explicitly or implicitly, to obtain employment, public accommodations, or housing.

   b. Submission to or rejection of such conduct or communication by an individual is used as a factor in decisions affecting such individual's employment, public accommodations or housing.

   c. Such conduct or communication has the purpose or effect of substantially interfering with an individual's employment, public accommodations or housing, or creating an intimidating, hostile, or offensive employment, public accommodations, or housing environment.

(2) Discrimination based on actual or perceived physical or mental limitation includes discrimination because of the use by an individual of adaptive devices or aids.

Employer means any person employing one or more persons.

Employment agency means a person who undertakes to procure employees for an employer or procures opportunities for individuals to be employed by an employer.

Family includes either of the following:

(1) An individual who is pregnant; or

(2) Two or more individuals related by blood within three degrees of consanguinity, marriage, adoption, in a foster care relationship or legal custody relationship.

Family status means the state of being in a family.

Gender identity means a person's actual or perceived gender, including a person's self-image, appearance, expression, or behavior, whether or not that self-image, appearance, expression, or behavior is different from that traditionally associated with the person's biological sex as assigned at birth as being either female or male.

Housing facility means any dwelling unit or facility used or intended or designed to be used as the home, domicile or residence of one or more persons, including, but not limited to, a house, apartment, rooming house, housing cooperative, hotel, motel, tourist home, retirement home or nursing home.

Marital status means the state of being married, never married, divorced, or widowed.

Perceived refers to the perception of the person who acts, and not to the perception of the person for or against whom the action is taken.

Person includes an individual, association, partnership, agency, organization, or corporation, public or private, including all employees thereof as well as any natural person. The term, when applied to partnerships, associations, and corporations, includes members and officers.

Physical or mental disability means a determinable physical or mental characteristic resulting from disease, injury, congenital condition of birth, or functional disorder and is unrelated to one's ability to safely perform the work involved in jobs or positions available to such person for hire or promotion; or unrelated to one's ability to acquire, rent and maintain property; or unrelated to one's ability to utilize and benefit from the goods, services, activities, privileges and accommodations of a place of public accommodation. "Physical or mental disability" does not include any condition caused by the current illegal use of a controlled substance or the use of alcoholic liquor by an individual.

Place of public accommodation means an educational, governmental, health, entertainment, cultural, recreational, refreshment, transportation, financial institution, business or facility of any kind, whose goods, services, facilities, privileges, advantages or accommodations are extended, offered, sold, or otherwise made available to the public.

Religious organization means an organization, church, group, or body of communicants that is organized not for pecuniary profit that regularly gathers for worship and religious purposes, and includes a religious-based private school that is not organized for pecuniary profit.

Sexual orientation means male or female homosexuality, heterosexuality or bisexuality, whether by orientation or practice. Sexual orientation does not include the physical or sexual attraction to a minor by an adult.

(Ord. No. 14-004, § 1, 4-21-2014)

Sec. 38-83. Discriminatory housing practices.

Except as otherwise provided in this chapter:

(1) No person shall discriminate in leasing, selling or otherwise making available any housing facilities.

(2) No person shall discriminate in the terms, conditions, maintenance or repair in providing any housing facility.

(3) No person shall refuse to lend money for the purchase or repair of any real property or insure any real property solely because of the location in the city of such real property.

(4) No person shall promote real estate transactions by representing that changes are occurring or will occur in an area with respect to race, religion or national origin.

(5) No person shall place a sign or other display on any real property which indicates that the property is for sale or has been sold when it is not for sale or has not recently been sold.

(Ord. No. 14-004, § 1, 4-21-2014)

Sec. 38-84. Discriminatory public accommodation practices.

(a) Except as otherwise provided in this chapter, no person shall discriminate in making available full and equal access to all goods, services, activities, privileges, and accommodations of any place of public accommodation.

(b) Nothing in this chapter permits or requires access to any place of public accommodation for the purpose or intent of engaging in criminal conduct.

(c) Nothing in this chapter shall require the construction or provision of unisex, single-user restrooms, changing rooms, locker rooms, or shower facilities.

(Ord. No. 14-004, § 1, 4-21-2014)

Sec. 38-85. Discriminatory employment practices.

Except as otherwise provided in this chapter:

(1) No employer shall discriminate in the employment, compensation, work classifications conditions or terms, promotion or demotion, or termination of employment of any person.

(2) No employment agency shall discriminate in the procurement or recruitment of any person for possible employment with an employer.

(Ord. No. 14-004, § 1, 4-21-2014)

Sec. 38-86. Other prohibited practices.

(a) No person shall adopt, enforce or employ any policy or requirement, or publish, post or broadcast any advertisement, sign, or notice which discriminates or indicates discrimination in providing housing, employment or public accommodations.

(b) No person shall discriminate in the publication or distribution of advertising material, information or solicitation regarding housing, employment or public accommodations.

(c) No agent, broker, employment agency or any other intermediary shall discriminate in making referrals, listings or providing information with regard to housing, employment or public accommodations. A report of the conviction of any such person for a violation of this chapter shall be made to the applicable licensing or regulatory agency for such person or business.

(d) No person shall coerce, threaten or retaliate against a person for making a complaint or assisting in the investigation regarding a violation or alleged violation of this chapter, nor require, request, conspire with, assist or coerce another person to retaliate against a person for making a complaint or assisting in an investigation.

(e) No person shall conspire with, assist, coerce or request another person to discriminate in any manner prohibited by this chapter.

(Ord. No. 14-004, § 1, 4-21-2014)

Sec. 38-87. Nondiscrimination by city contractors.

(a) Contractors entering into the City of Adrian Professional Services Contract shall satisfy the nondiscrimination administrative policy adopted by the city commission in accordance with the guidelines of this section.

(b) All city contracts shall provide further that breach of the obligations not to discriminate shall be a material breach of the contract.

(c) In addition, the contractor shall be liable for any costs or expenses incurred by the city in obtaining from other sources the work and services to be rendered or performed or the goods or properties to be furnished or delivered to the city under contract.

(Ord. No. 14-004, § 1, 4-21-2014)

Sec. 38-88. Exceptions.

Notwithstanding anything contained in this chapter, the following practices shall not be violations of this chapter:

(1) For a religious organization to restrict the occupancy of any of its housing facilities or accommodations which are operated as a direct part of religious activities to persons of the denomination involved or to restrict employment opportunities for officers, religious instructors and clergy to persons of that denomination. It is also permissible for a religious organization to restrict employment opportunities, educational facilities, housing facilities, and homeless shelters or dormitories that are operated as a direct part of its religious activities to persons who are members of or who conform to the moral tenets of that religious organization.

(2) For the owner of an owner-occupied, one-family or two-family dwelling, or a housing facility or public accommodation facility, respectively, devoted entirely to the housing and accommodation of individuals of one sex, to restrict occupancy and use on the basis of sex.

(3) To limit occupancy in a housing project or to provide public accommodations or employment privileges or assistance to persons of low income, persons over 55 years of age or disabled persons.

(4) To engage in a bona fide effort to establish an affirmative action program to improve opportunities in employment for minorities and women consistent with applicable state and federal law.

(5) To discriminate based on a person's age when such discrimination is required by state, federal, or local law.

(6) To refuse to enter into a contract with an unemancipated minor.

(7) To refuse to admit to a place of public accommodation serving alcoholic beverages a person under the legal age for purchasing alcoholic beverages.

(8) To refuse to admit to a place persons under 18 years of age to a business providing entertainment or selling literature which the operator of said business deems unsuitable for minors.

(9) To provide discounts on products or service to students, or on the basis of age.

(10) To discriminate in any arrangement for the shared ownership, lease or residency of a dwelling unit.

(11) For a governmental institution to restrict any of its facilities or to restrict employment opportunities based on duly adopted institutional policies that conform to federal and state laws and regulations.

(12) To restrict membership in a private club that is not open to the public except to the extent that private clubs which permit members to invite guests on the premises are not exempted as it concerns a member's guest.

(13) To the employment of an individual by one's family.

(14) To the use of marital status or family status limitations in a health or pension plan if such limitations conform to the federal and state laws and regulations.

(15) To the rental of housing facilities in a building which contains dwelling units for not more than four families living independently of each other if the owner of the building or a member of the owner's family resides in one of the dwelling units, or to the rental of a room or rooms in a single-family dwelling by an individual if the lessor or a member of the lessor's family resides in the dwelling.

(Ord. No. 14-004, § 1, 4-21-2014)

Sec. 38-89. Information and investigation.

(a) Any person claiming a violation of this chapter shall file a signed, written complaint with the city administrator, or his or her designee, setting forth the details, including names, dates, witnesses and other factual matters relevant to the claim, within 180 days of the incident forming the basis of the complaint.

(b) No person shall provide false information to any authorized employee investigating a complaint regarding a violation of this chapter.

(c) In the course of investigation, the city administrator, or his or her designee, may request a person to produce books, papers, records or other documents which may be relevant to an alleged violation of this chapter. If said person does not comply with such request, the city attorney may apply to the Lenawee County Circuit Court for an order requiring production of said materials.

(d) Within 30 days of a written complaint being filed, the city administrator, or his or her designee, shall undertake an investigation of any complaint filed in accordance with this section alleging a violation of this chapter not currently recognized or proscribed by Michigan or federal anti-discrimination statutes, and cause all other complaints to be referred to an appropriate state or federal agency for review. After the completion of an investigation, the city administrator, or his or her designee, shall give written notice of the results of the investigation to the person who filed the complaint and the person accused of the violation. If the investigation establishes that a violation of this chapter occurred, the city administrator, or his or her designee, shall attempt to resolve the matter by conciliation and persuasion or refer the complaint to the city attorney for prosecution in a court of competent jurisdiction.

(Ord. No. 14-004, § 1, 4-21-2014)

Sec. 38-90. Conciliation agreements.

In cases involving alleged violations of this chapter, the city administrator, or his or her designee, may enter into agreements whereby persons agree to methods of terminating discrimination or to reverse the effects of past discrimination.

(Ord. No. 14-004, § 1, 4-21-2014)

Sec. 38-91. Injunctions.

The city attorney may commence a civil action to obtain injunctive relief to prevent discrimination prohibited by this chapter, to reverse the effects of such discrimination, or to enforce a conciliation agreement.

(Ord. No. 14-004, § 1, 4-21-2014)

Sec. 38-92. Prosecution.

(a) Prosecution for violation of this chapter may only be initiated by complaint of the affected person due to the alleged violation of a conciliation agreement made pursuant to above section 38-90, or by the city administrator, or his or her designee, on the basis of an investigation undertaken by the city administrator, or his or her designee.

(b) Violation of this chapter shall be prosecuted by the city attorney as a municipal civil infraction pursuant to the provisions of the Revised Judicature Act of 1961, MCL 600.101 et seq.

(Ord. No. 14-004, § 1, 4-21-2014)

Sec. 38-93. Penalties.

(a) A violation of any provision of this chapter is a municipal civil infraction punishable by a fine of not more than $500.00, plus all costs of the action. The court may issue and enforce any judgment, writ, or order necessary to enforce this chapter. This may include reinstatement, payment of lost wages, hiring and promotion, sale, exchange, lease or sublease of real property, admission to a place of public accommodation, and other relief deemed appropriate.

(b) Each day upon which a violation occurs shall constitute a separate and new violation.

(c) A violation proved to exist on a particular day shall be presumed to exist on each subsequent day unless it is proved that the violation no longer exists.

(d) Nothing contained in this chapter shall be construed to limit in any way the remedies, legal or equitable, which are available to the city or any person for the prevention or correction of discrimination.

(Ord. No. 14-004, § 1, 4-21-2014)

Chapter 42 LAW ENFORCEMENT[39]

ARTICLE I. IN GENERAL

Secs. 42-1—42-30. Reserved.

[39]Cross reference(s)—Administration, ch. 2; police chief's certificate, § 46-41; offenses and miscellaneous provisions, ch. 58; opposing or obstructing police, § 58-251; traffic and vehicles, ch. 90.

ARTICLE II. DEPARTMENT OF POLICE[40]

Sec. 42-31. Commanding officer.

The police department shall be headed by the chief of police who shall:

(1) Be the commanding officer of the police force;

(2) Direct the police work of the city; and

(3) Be responsible for the enforcement of law and order.

(Code 1972, § 1.71.00)

Sec. 42-32. Functions.

The police work of the city shall consist of the following functions:

(1) Operation of motor and foot patrol units for routine investigations and the general maintenance of law and order.

(2) Maintenance of the central complaint desk at the central police headquarters in the city hall, the maintaining and supervising of police records, criminal and noncriminal identification, property identification, custody of property and the operation of detention quarters.

(3) Investigation of crimes, elimination of illegal liquor traffic and vice, and the preparation of evidence for the prosecution of criminal cases and offenses in violation of the ordinances of the city where responsibility for enforcement is not vested in another department.

(4) Prevention and control of juvenile delinquency, the removal of crime hazards and the coordination of community agencies interested in crime prevention.

(5) Control of traffic, traffic education programs, school patrols and coordination of traffic violation prosecutions. The maintenance and erection of traffic signs and the painting of street and crosswalk lanes shall be a joint responsibility of the police department and the department of public works.

(Code 1972, § 1.72.00)

Sec. 42-33. Rules.

The chief of police may prescribe rules for the governing of police officers of the city, subject to approval by the city administrator, which shall be entered in a book of police department rules and orders, and may be amended or revoked by the police chief upon written notice to, and approval by, the city administrator. Such rules may establish one or more divisions within the police department, each of which divisions may be charged with performing one or more of the functions of the police department enumerated in section 42-32. Any such division shall be supervised by a qualified officer of the police department, who shall be responsible for the functions of the

[40]State law reference(s)—Law enforcement officer training standards, MCL 28.601 et seq.

police department assigned to such division. It shall be the duty of all members of the police force to comply with such rules and orders as may be adopted.

(Code 1972, § 1.73.00)

Sec. 42-34. Acting chief of police.

The chief of police shall not leave the city without notifying the city administrator, except for purposes due to emergencies. During periods of absence, disability or inability, for any cause, preventing the chief of police to perform the prescribed duties of such office, the city administrator shall designate or appoint some other member of the police department to act as chief of police during such period.

(Code 1972, § 1.74.00)

Sec. 42-35. Monthly reports.

The chief of police shall report to the city administrator monthly all arrests made by the police department, the disposition of persons arrested, the number of persons remaining in confinement for ordinance violations and such other information as the city administrator shall require.

(Code 1972, § 1.75.00)

Sec. 42-36. Special police officers.

The chief of police is authorized to appoint special police officers when, in his judgment, the emergency and necessity for such special police officers may exist, but such appointments shall not continue in effect for a period longer than ten days, unless confirmed by the city administrator.

(Code 1972, § 1.76.00)

Sec. 42-37. Police reserve.

(a) There is hereby established a police reserve, which shall consist of such personnel as shall be appointed by the chief of police as provided in this section and which shall function as set forth in this section.

(b) The police reserve shall be, and operate, under the direction of the police department, subject to, and in accordance with, such rules and regulations as shall be promulgated by the chief of police and approved by the city administrator.

(c) The chief of police shall prescribe and establish rules for appointment to, and service in, the police reserve, which, when approved by the city administrator, shall be entered in a book of police department rules and orders, and which shall include, but not be limited to, the following:

    (1) Minimum standards of physical, educational, mental and moral fitness in the police reserve.

    (2) Minimum training requirements in police and law enforcement skills in the police reserve.

    (3) Manner in which assignments to duty shall be made and the extent of the duties thereby assigned.

    (4) Manner in which command of the members of the police reserve shall be exercised.

    (5) Such other and additional regulations and restrictions as the chief of police shall deem necessary or appropriate for the efficient operation of the police reserve, its relationship to the operation of the police force and the protection of the city and the inhabitants thereof.

(d) All such rules and regulations shall be subject to the approval of the city administrator and may be amended or revoked from time to time with the approval of the city administrator.

(e) The police reserve shall at all times be under the direction of the police department and shall, in all respects, be responsible to the chief of police. No member of the police reserve shall at any time perform in any manner contrary to, or in violation of, the rules, regulations and restrictions established by the chief of police governing the functions and limitations of the police reserve.

(f) Subject to the limitations of all the provisions of this section and the rules, regulations and restrictions established by the chief of police, the police reserve shall perform the functions of the police department set forth in section 42-32.

(Code 1972, § 1.77.00)

Chapter 46 LICENSES, PERMITS AND MISCELLANEOUS BUSINESS REGULATIONS[41]

ARTICLE I. IN GENERAL

Sec. 46-1. Prohibited hours for peddling or solicitations.

It shall be unlawful for any person to solicit or peddle door-to-door between the hours of 9:00 p.m.—7:00 a.m. This section shall apply to commercial and noncommercial activities.

Sec. 46-2. Violations municipal civil infraction.

Unless stated otherwise in this chapter, a person who violates any of the provisions of this chapter is responsible for a municipal civil infraction.

(Code 1972, § 1.20(11)—(17))

Secs. 46-3—46-30. Reserved.

ARTICLE II. BUSINESS LICENSES

Sec. 46-31. Definitions.

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

[41]Cross reference(s)—Community development, ch. 18; taxation, ch. 82; telecommunications, ch. 86; utilities, ch. 94; OS-1 office service district, § 106-188; R-O residential office district, § 106-189; B-1 local business district, § 106-190; B-2 community business district, § 106-191; B-3 central business district, § 106-192; B-4 planned shopping center district, § 106-193; WH warehouse and wholesale district, § 106-194; ERO education-research-office district, § 106-195; E1 exclusive industrial district, § 106-196; I-1 light industrial district, § 106-197; I-2 general industrial district, § 106-198; conditions for specified uses subject to zoning exception permit, § 106-231 et seq.; bed and breakfast facilities, § 106-234.

Cause includes the doing or omitting of any act, or permitting any condition to exist in connection with any trade, profession, business or privilege for which a license or permit is granted under the provisions of this Code, or upon any premises or facilities used in connection therewith, which act, omission or condition is:

(1) Contrary to the health, safety or welfare of the public;

(2) Unlawful, irregular or fraudulent in nature;

(3) Unauthorized or beyond the scope of the license or permit granted; or

(4) Forbidden by the provisions of this Code or any duly established rule or regulation of the city applicable to the trade, profession, business or privilege for which the license or permit has been granted.

(Code 1972, § 7.18)

Cross reference(s)—Definitions generally, § 1-2.

Sec. 46-32. Required.

No person shall engage, or be engaged, in the operation, conduct or carrying on of any trade, profession, business or privilege for which any license is required by any provision of this Code without first obtaining a license from the city in the manner provided for in this article. Any person duly licensed on the effective date of the ordinance from which this article is derived shall be deemed licensed under this article for the balance of the current license year.

(Code 1972, § 7.1)

Sec. 46-33. Multiple businesses.

The granting of a license or permit to any person operating, conducting or carrying on any trade, profession, business or privilege which contains within itself, or is composed of, trades, professions, businesses or privileges which are required by this Code to be licensed, shall not relieve the person to whom such license or permit is granted from the necessity of securing individual licenses or permits for each trade, profession, business or privilege, except as specifically provided elsewhere in this Code.

(Code 1972, § 7.2)

Sec. 46-34. State licensed businesses.

The fact that a license or permit has been granted to any person by the state to engage in the operation, conduct or carrying on of any trade, profession, business or privilege shall not exempt such person from the necessity of securing a license or permit from the city if such license or permit is required by this Code.

(Code 1972, § 7.3)

Sec. 46-35. Application.

Unless otherwise provided in this Code, every person required to obtain a license from the city to engage in the operation, conduct or carrying on of any trade, profession, business or privilege shall make application for such license to the city clerk upon forms provided by the city clerk and shall state under oath or affirmation such facts as may be required for, or applicable to, the granting of such license. No person shall make any false statement or representation in connection with any application for a license under this Code.

(Code 1972, § 7.4)

Sec. 46-36. License year.

The license year applicable to annual licenses shall begin on May 1 of each year and shall terminate at midnight on April 30 of the following year. License applications for license renewals shall be accepted and licenses issued for a period of 15 days prior to the annual expiration date. In all cases where the provisions of this Code permit the issuance of licenses for periods of less than one year, the effective date of such licenses shall commence with the date of issuance thereof.

(Code 1972, § 7.5)

Sec. 46-37. Conditions for issuance.

No license or permit required by this Code shall be issued to any person who is required to have a license or permit from the state until such person shall submit evidence of such state license or permit and proof that all fees appertaining thereto have been paid. No license shall be granted to any applicant until such applicant has complied with all of the provisions of this Code applicable to the trade, profession, business or privilege for which the application for such license is made.

(Code 1972, § 7.6)

Sec. 46-38. Issuance when certification required.

No license shall be granted where the certification of any officer of the city is required prior to the issuance thereof, until such certification is made.

(Code 1972, § 7.7)

Sec. 46-39. Health officer's certificate.

In all cases where the certification of the health officer is required prior to the issuance of any license by the city clerk, such certification shall be based upon an actual inspection and a finding that the person making application, and the premises in which he proposes to conduct, or is conducting, the trade, professions, business or privilege, comply with all of the sanitary requirements of the state and the city.

(Code 1972, § 7.8)

Sec. 46-40. Fire chief's certificate.

In all cases where the certification of the fire chief is required prior to the issuance of any license by the city clerk, such certification shall be based upon an actual inspection and a finding that the premises in which the person making application for such license proposes to conduct, or is conducting, the trade, profession, business or privilege, comply with all of the fire regulations of the state and the city.

(Code 1972, § 7.9)

Cross reference(s)—Fire prevention and protection, ch. 26; law enforcement, ch. 42.

Sec. 46-41. Police chief's certificate.

In all cases where the certification of the chief of police is required prior to the issuance of any license by the city clerk, such certification shall be based upon a finding that the person making application for such license is of good moral character.

(Code 1972, § 7.10)

Sec. 46-42. Moral character.

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

Good moral character. means the propensity of the person to serve the public in the licensed area in a fair, honest and open manner.

(b) *Judgment of guilt.* A judgment of guilt is a criminal prosecution or a judgment in a civil action shall not be used in and of itself as proof of a person's lack of good moral character. It may be used as evidence in the determination, and when so used, the person shall be notified and permitted to rebut the evidence by showing that:

(1) At the current time, he has the ability to, and is likely to, serve the public in a fair, honest and open manner; and

(2) He is rehabilitated, or that the substance of the former offense is not reasonably related to the occupation or profession for which he seeks a business license or business permit.

(c) *Criminal records.* The following criminal records shall not be used, examined or requested by the city in a determination of good moral character when used as a requirement to obtain a business license or business permit:

(1) Records of an arrest not followed by a conviction.

(2) Records of a conviction which has been reversed or vacated, including the arrest records relevant to such conviction.

(3) Records of an arrest or conviction for a misdemeanor or a felony unrelated to the person's likelihood to serve the public in a fair, honest and open manner.

(4) Records of an arrest or conviction for a misdemeanor for the conviction of which a person may not be incarcerated in a jail or prison.

State law reference(s)—Moral character, MCL 338.41 et seq.

Sec. 46-43. Zoning compliance certificate.

In all cases where the carrying on of a trade, profession, business or privilege involves the use of any structure or land, a license shall not be issued until the director of community development issues a zoning compliance certificate. Such a certificate shall be issued only on a showing that the proposed use complies with chapter 106 of this Code.

(Code 1972, § 7.11)

Sec. 46-44. Bonds.

Where the provisions of this Code require that the applicant for any license or permit furnish a bond, such bond shall be furnished in an amount deemed adequate by the proper city officer or in the amount required, where the amount of such bond is specified in the schedule of fees and bonds set forth in section 46-56 or elsewhere in this Code, and the form of such bond shall be acceptable to the city attorney. In lieu of a bond, an applicant for a license or permit may furnish one or more policies of insurance in the same amounts and providing the same protection as called for in any such bond, and any such policies of insurance shall be approved as to substance by the city official issuing the license or permit and as to form by the city attorney.

(Code 1972, § 7.12)

Sec. 46-45. Late renewals.

All fees for the renewal of any license which are not paid at the time such fees shall be due shall be paid as late fees, with an additional 25 percent of the license fee required for such licenses under the provisions of section 46-56 for the first 15 days that such license fee remains unpaid; and thereafter, the license fee shall be as stipulated for such licenses under section 46-56, plus 50 percent of such fee.

(Code 1972, § 7.13)

Sec. 46-46. Right to issuance.

If the application for any license is approved by the proper officers of the city as provided in this Code, such license shall be granted and shall serve as a receipt for payment of the fee prescribed for such license.

(Code 1972, § 7.14)

Sec. 46-47. Fee payment required before issuance.

Upon or before granting a license or permit, the fee required by this Code for any such license or permit shall be paid at the office of the issuing authority prescribed in this Code.

(Code 1972, § 7.15)

Sec. 46-48. Exempt persons.

No license fee shall be required from any person who is exempt from such fee by state or federal law. Such persons shall comply with all other provisions of this article. The city clerk shall, in all such cases, issue to such persons licenses which are clearly marked as to the exemption and the reason for such exemption.

(Code 1972, § 7.16)

Sec. 46-49. Exhibition.

No licensee shall fail to carry any license issued in accordance with the provisions of this article upon his person at all times when engaged in the operation, conduct or carrying on of any trade, profession, business or privilege for which the license was granted, except that, where such trade, profession, business or privilege is operated, conducted or carried on at a fixed place or establishment, such license shall be exhibited at all times in a

conspicuous place in such person's place of business. Every licensee shall produce his license for examination when applying for a renewal thereof or when requested to do so by any city police officer or by any person representing the issuing authority.

(Code 1972, § 7.20)

Sec. 46-50. Display on vehicles and machines.

No licensee shall fail to conspicuously display on each vehicle or mechanical device or machine required to be licensed by this Code such tags or stickers as are furnished by the city clerk.

(Code 1972, § 7.21)

Sec. 46-51. Display of invalid licenses.

No person shall display any expired license or any license for which a duplicate has been issued.

(Code 1972, § 7.22)

Sec. 46-52. Transferability; misuse.

No license or permit issued under the provisions of this Code shall be transferable unless specifically authorized by the provisions of this Code. No licensee or permittee shall transfer, or attempt to transfer, his license or permit to another unless specifically authorized by the provisions of this Code, nor shall he make any improper use of the license or permit.

(Code 1972, § 7.23)

Sec. 46-53. Suspension and revocation.

Any license issued by the city may be suspended by the city administrator for cause, and any permit issued by the city may be suspended or revoked by the issuing authority for cause. The licensee shall have the right to a hearing before the city commission on any such action of the city administrator, provided, a written request for such hearing is filed with the city clerk within five days after receipt of such notice of such suspension. The city commission may confirm such suspension or revoke or reinstate any such license. The action taken by the city commission shall be final. Upon suspension or revocation of any license or permit, the fee for such license or permit shall not be refunded. Except as otherwise specifically provided in this Code, any licensee whose license has been revoked shall not be eligible to apply for a new license for the trade, profession, business or privilege for a period of one year after such revocation.

(Code 1972, § 7.17)

Sec. 46-54. Consideration of renewal applications.

Unless otherwise provided in this Code, an application for renewal of a license shall be considered in the same manner as an original application.

(Code 1972, § 7.19)

Sec. 46-55. Automatic revocation for misuse.

In addition to the general penalty provision set forth in section 1-11, any attempt by a licensee or permittee to transfer his license or permit to another, unless specifically authorized by the provisions of this Code, or to improperly use the license or permit, shall void the license or permit and result in the automatic revocation of such license or permit.

(Code 1972, § 7.24)

Sec. 46-56. Schedule established.

(a) The fee required to be paid, the amount of any bond required to be posted or insurance required to be carried to obtain any license to engage in the operation, conduct or carrying on of any of the trades, professions, businesses or privileges for which a license is required by the provisions of this Code shall be as follows:

(1) Amusement device:

a. Operator's license:

1. First machine150.00/year
2. Each additional machine:

i. per year15.00

ii. per day2.00

b. Owner's license:

1. First machine50.00/year
2. Each additional machine:

(i) per year15.00

(ii) per month2.00

(2) Animal show: (see "Circuses, shows, and exhibitions")

(3) Bankruptcy sale: (see "Closing-out sale")

(4) Bed and breakfast operations50.00/year

(5) Billiard room: (see "Pool room")

(6) Bowling alley (per alley)5.00/year

(7) Building permit: (see chapter 98)

(8) Closing-out sale50.00

(9) Coin machine: (see "Amusement device")

(10) Circuses, shows, and exhibitions:

a. Show50.00/day

b. Animal show10.00/day

c. Exhibition10.00/day

(11) Dance halls25.00/year

(12) Distressed merchandise sales: (see "Closing-out sales")

(13) Deposits: (see chapter 98)

(14) Electrical contractors: (see chapter 98)

(15) Master electricians: (see chapter 98)

(16) Journeyman electricians: (see chapter 98)

(17) Industrial electrical contractor: (see chapter 98)

(18) Insurance or bond:

a. Personal injury (one person)300,000.00

b. Personal injury (2 or more persons)300,000.00

c. Property damage100,000.00

(19) Exhibitions: (see Circuses, shows, and exhibitions)

(20) House trailers (1—21-day permit)25.00

(21) Junk dealer10.00/year

(22) Mechanical amusement device: (see "Amusement device")

(23) Reserved.

(24) Peddlers:

a. Annual permit75.00

b. Daily permit20.00

(25) Pool rooms (per table)5.00/year

(26) Roller stating: (see "Skating rinks")

(27) Sales: (see "Closing-out sales")

(28) Secondhand dealers: (see "Junk dealers")

(29) Shuffle board: (see "Amusement device")

(30) Skating rinks25.00/year

(31) Taxicabs (per vehicle)50.00/year

(32) Taxicab driver5.00/year

(33) Theaters25.00/year

(34) Transient merchant:

a. Annual fee75.00

b. Daily fee20.00

(b) No license shall be issued to any applicant unless he first pays to the city clerk the fee and posts a bond or evidence of insurance coverage in the amount required for the type of license desired. Industrial electrical contractors (see section 10-33) shall furnish an all perils or umbrella insurance policy in the minimum amount of $1,000,000.00.

(Code 1972, §§ 7.31, 7.33—7.38; Ord. No. 08-12, eff. 8-5-2008; Ord. No. 10-004, 6-7-2010)

Secs. 46-57—46-90. Reserved.

ARTICLE III. CIRCUSES, SHOWS AND EXHIBITIONS

Sec. 46-91. Show license.

No person shall conduct a circus or show, except in a theater licensed under the provisions of section 46-93, without first obtaining a license, which shall be known as a "show license."

(Code 1972, § 7.181)

Sec. 46-92. Animal show license; exhibition license.

(a) No person shall conduct any dog or pony show or menagerie without first obtaining a license, which shall be known as an "animal show license."

(b) No person shall conduct any panorama, exhibition of statuary or painting, or any other exhibition not otherwise licensed under this chapter and for which an admission fee is charged without first obtaining a license, which shall be known as an "exhibition license."

(c) The provisions of this section shall not be applicable to any fair held under the direct management and supervision of any recognized agricultural association or society, nonprofit association or corporation, at which agricultural or industrial products are principally exhibited.

(Code 1972, § 7.182)

Cross reference(s)—Animals, ch. 6.

Sec. 46-93. Theater license.

(a) No person shall conduct a moving picture show, vaudeville, opera house, theater or other place for the giving of plays and other theatrical exhibitions where an admission fee is charged without first obtaining a license, which shall be known as a "theater license."

(b) The requirements of this section shall not be applicable to exhibitions or shows given for charity or for the benefit of schools or benevolent, educational, fraternal or religious societies.

(Code 1972, § 7.183)

Secs. 46-94—46-120. Reserved.

ARTICLE IV. COIN-OPERATED AMUSEMENT DEVICES

DIVISION 1. GENERALLY

Sec. 46-121. Definitions.

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

Amusement device means any mechanical amusement device which, upon the insertion of a coin or slug, is operated, or may be operated, as a game, contest or amusement of any description, or which may be used for any game, contest or amusement, and any mechanical music device or machine producing melodious or harmonious music of any kind or description upon the insertion of a coin or slug, or when rented or leased for a monetary consideration and any table shuffleboard game played by driving pieces of metal or money to reach certain marks and which is, or is not, operated upon the insertion of a coin or slug for the purpose of scoring any game played thereon, or where money is received as a privilege fee.

Operator means any person who owns, installs or contracts to install any amusement device, the installation, use or operation of which is located in any place of business or amusement open to the public and neither owned, nor operated, by him.

Owner means any person who actually owns and has title to any amusement device and who receives all of the earnings from the operation of such device and who operates the device in a place of business owned or operated by him.

(Code 1972, § 7.131)

Cross reference(s)—Definitions generally, § 1-2.

Sec. 46-122. Operation restricted for persons under 18 years of age.

No person shall permit an amusement device, except a mechanical music device under his control or management or on premises under his control or management, to be operated during the hours of 8:00 a.m.—3:00 p.m., Monday—Friday, for the period commencing the first Tuesday after Labor Day through June 15 of each year by a person who shall not have obtained the age of 18 years.

(Code 1972, § 7.134(4))

Secs. 46-123—46-140. Reserved.

DIVISION 2. LICENSE

Sec. 46-141. Required.

No person shall engage in the business of operating any amusement device in any place of business or amusement to which the public has access without first obtaining a license as owner or operator. No such license shall be issued, except upon certification by the chief of police.

(Code 1972, § 7.132)

Sec. 46-142. Application; inspection and approval.

Every applicant for a license shall submit all amusement devices which he proposes to operate within the city to the inspection and approval of each such device by the chief of police. Written evidence of approval by the chief

of police shall be filed by the applicant with the application for his license. Such requirement shall not be applicable in the case of renewal licenses. Every application shall state that such amusement device will be operated for amusement only.

(Code 1972, § 7.133)

Sec. 46-143. Identification marks and numbers; numbered licenses and stickers.

(a) Every amusement device, the operation of which requires a license under this division, shall contain suitable identification marks and numbers, which shall be written by the city clerk upon a numbered license or sticker issued for such amusement device and such license or sticker shall be permanently affixed to such machine. A record of the issued licenses and stickers shall be kept by the city clerk.

(b) No person who is the owner of any amusement device shall permit the amusement device to be operated within the city without a license first having been obtained, nor without the license or sticker issued for such device being affixed thereto.

(c) No person shall permit any amusement device to be operated in any place of business owned by him or under his management and control without a license having first been obtained or without the sticker or license issued for such device being affixed thereto.

(Code 1972, § 7.134)

Secs. 46-144—46-170. Reserved.

ARTICLE V. JUNK DEALERS AND SECONDHAND GOODS DEALERS[42]

Sec. 46-171. Definitions.

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

Junk dealer and *secondhand dealer* mean any person whose principal business is purchasing, selling, exchanging, storing or receiving secondhand articles of any kind, cast iron, old iron, old steel, tool steel, aluminum, copper, brass, lead pipe or tools, and lighting and plumbing fixtures.

(Code 1972, § 7.121)

Cross reference(s)—Definitions generally, § 1-2.

Sec. 46-172. License.

(a) No person shall engage in the business of secondhand dealer or junk dealer without first obtaining a license. No such license shall be granted until the mayor shall find that the proposed business will not tend to create a hazard to the public health, unduly depreciate property in the area, retard the natural development of the area or be a violation of any provision of this Code.

[42]State law reference(s)—Junk dealers, MCL 445.401 et seq.

(b) Licenses issued under this section shall be issued by the mayor for a period of one year from the date of issuance unless sooner revoked for cause, and shall otherwise be subject to the provisions of Public Act No. 350 of 1917 (MCL 445.401 et seq.), in all respects. Except as otherwise provided in such act, the provisions of article II of this chapter shall be applicable to licenses issued under this section and the fee for such license shall be as prescribed in such article.

(Code 1972, §§ 7.122, 7.123)

Secs. 46-173—46-200. Reserved.

ARTICLE VI. PEDDLERS[43]

Sec. 46-201. Definitions.

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

Peddler includes any person traveling by foot, wagon, automotive vehicle or other conveyance from place-to-place, house-to-house or street-to-street, carrying, conveying or transporting goods, wares, merchandise, meats, fish, vegetables, fruits, garden trucks, farm products or provisions, offering and exposing such items for sale or making sales and delivering articles to purchasers, or who, without traveling from place-to-place, shall sell or offer the items for sale from a wagon, automotive vehicle or other vehicle or conveyance. Any person who solicits orders and, as a separate transaction, makes deliveries to purchasers as part of a scheme or design to evade the provisions of this article, shall be deemed to be a peddler. The term "peddler" shall include the terms, "hawker" and "huckster."

(Code 1972, § 7.141)

Cross reference(s)—Definitions generally, § 1-2.

Sec. 46-202. License required.

No person shall engage in the business of a peddler without first obtaining a license. No such license shall be granted, except upon certification of the chief of police.

(Code 1972, § 7.142)

Sec. 46-203. Fixed stands.

No licensee shall stop or remain in any one place upon any street, alley or public place for longer than is necessary to make a sale to a customer wishing to buy. Any peddler using a vehicle, when stopped, shall place his vehicle parallel to, and within 12 inches of, the curb, and shall depart from such place as soon as he has completed sales with customers actually present.

(Code 1972, § 7.143)

[43]Cross reference(s)—Streets, sidewalks and other public places, ch. 74.

Sec. 46-204. Unlawful practices.

No peddler shall shout or cry out his goods or merchandise, nor blow any horns, ring any bell or use any other similar device to attract the attention of the public.

(Code 1972, § 7.144)

Sec. 46-205. License defined.

Licenses for the sale of food, beverages, or other merchandise set forth above may be issued either on a daily basis, weekend basis or an annual basis. A daily license is defined as one extending over the period commencing at 8:00 a.m. and ending at 10:00 p.m. of any day. A week end license is defined as one extending over the period commencing at 8:00 a.m. and ending at 10:00 p.m. for each of the following days: Friday, Saturday and Sunday. An annual license is defined as one extending over the period commencing January 1 and ending December 31 of each year.

(Ord. No. 05-03, § 7.145, 3-7-2005)

Sec. 46-206. Fees for licenses.

The fees for licenses herein defined shall be set by resolution of the city commission and may be obtained from the city clerk.

(Ord. No. 05-03, § 7.146, 3-7-2005)

Sec. 46-207. Exemptions.

Nothing in the chapter shall apply to mobile food vending and associated activities, as provided for by article XII of this chapter.

(Ord. No. 21-006, § 1, 6-1-2021)

Secs. 46-208—46-230. Reserved.

ARTICLE VII. POOL ROOMS AND BOWLING ALLEYS

Sec. 46-231. Definitions.

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

Bowling alley means any place, open to the public, for bowling.

Pool room means any place, open to the public, for playing pool or billiards.

(Code 1972, § 7.161)

Cross reference(s)—Definitions generally, § 1-2.

Sec. 46-232. Public institutions excepted.

This article will not be applicable to bowling alleys or pool rooms operated and owned by public institutions.

(Code 1972, § 7.165)

Sec. 46-233. License required.

No person shall engage in the business of operating a pool room or bowling alley without first obtaining a license. No license shall be granted, except upon certification of the chief of police and unless a complete set of fingerprints of the applicant for such license are on file in the noncriminal identification file of the police department. Each license shall designate the number of pool or billiard tables or bowling alleys permitted under the license, and no licensee shall keep or maintain more tables or alleys than permitted by such license.

(Code 1972, § 7.162)

Sec. 46-234. Hours.

No person shall keep any pool room or bowling alley open between the hours of 2:00 a.m.—7:00 a.m.

(Code 1972, § 7.163)

Secs. 46-235—46-260. Reserved.

ARTICLE VIII. SKATING RINKS

Sec. 46-261. License required.

No person shall conduct, maintain or operate any place open to the public for ice skating or roller skating without first obtaining a license to operate such skating rink in the manner provided in article II of this chapter. No such license shall be granted, except upon certification of the chief of police and fire chief.

(Code 1972, § 7.176)

Secs. 46-262—46-290. Reserved.

ARTICLE IX. TAXICABS[44]

DIVISION 1. GENERALLY

[44]Cross reference(s)—Traffic and vehicles, ch. 90.

Sec. 46-291. Rules and regulations.

The city administrator is hereby empowered, subject to the approval by the city commission, to make such rules and regulations regarding the dress and conduct of taxicab drivers, and the maintenance and marking of taxicabs, as may be necessary in the interest of providing safe and orderly service to passengers, and no person shall fail to comply with any such rules or regulations. The city administrator may require periodic reports to be submitted by operators and drivers in order to assist in the enforcement of such rules and regulations or the terms of this article.

(Code 1972, § 7.99)

Sec. 46-292. Lost articles.

Every driver of a taxicab shall search the interior of such taxicab at the termination of each trip for any article of value which may have been left by a passenger in such taxicab. Any article found in the taxicab shall immediately be returned to the passenger owning the article, if such passenger shall be known, otherwise, the article shall be deposited with the owner of the taxicab at the conclusion of the driver's tour of duty. A report of the finding of such article shall be made to the chief of police by the owner of the taxicab within 24 hours after finding such article.

(Code 1972, § 7.95)

Sec. 46-293. Cruising.

No taxicab driver shall at any time cruise in search of passengers, and whenever a taxicab is not engaged by a customer, the driver shall proceed at once by the most direct route to the garage where the taxicab is housed or to the taxicab stand customarily occupied by such taxicab.

(Code 1972, § 7.96)

Sec. 46-294. Passengers.

No driver or owner of a taxicab shall refuse or neglect to convey any orderly person upon request by signal or telephone call, unless the taxicab is previously engaged. When a taxicab has been engaged by a passenger, no additional passengers shall be received in such taxicab, except with the express consent of the first passenger. No person other than passengers for hire, except employees or members of the immediate family of any person licensed under this article to engage in the business of operating a taxicab, shall be transported in the taxicab.

(Code 1972, § 7.97)

Sec. 46-295. Drinking intoxicating beverages while on duty.

No taxicab driver shall drink any intoxicating beverage while on duty.

(Code 1972, § 7.98)

Sec. 46-296. Fares and charges.

All fares and charges for the use of taxicabs shall be determined by resolution of the city commission following a hearing held by the city commission at a regular meeting. All taxicab licensees shall be notified by mail of any such hearing.

(Code 1972, § 7.88)

Secs. 46-297—46-320. Reserved.

DIVISION 2. LICENSE

Sec. 46-321. Taxicab license.

No person shall engage in the business of operating, or causing to be operated, any taxicab upon the streets, alleys or public ways of the city without having first obtaining a license for each such taxicab. No such license shall be granted, except upon certification of the chief of police and upon approval of the city commission. Upon application being made for any new taxicab license, as distinguished from any renewal thereof, the city commission shall first consider the question of whether public convenience and necessity require the operation of such taxicab. The city commission shall consider the number of taxicabs operating in the city and whether the demands of the public require additional taxicab service; traffic conditions on the streets of the city and whether the additional taxicab service will result in a greater hazard to the public; and such other relevant facts as the city commission may deem advisable. The judgment of the city commission on the question of public necessity and convenience shall be conclusive.

(Code 1972, § 7.81)

Sec. 46-322. Insurance and bonds.

(a) Before any such license is issued, the applicant shall furnish one or more policies of insurance, prepaid for at least the period of the license, issued by responsible insurance companies providing indemnity for the insured in the amounts specified in this subsection and agreeing to pay, within the limits of such amounts on behalf of the insured, all sums which the insured shall become obligated to pay by reason of the liability imposed upon the insured by law, for damages because of bodily injury, including death, at any time resulting therefrom or for damages to property, or both, sustained by any person other than the employees of the insured and caused by accident and arising out of the ownership, maintenance or use of the licensed taxicab. The minimum amount of such insurance coverage for any one licensed taxicab shall be as follows:

    (1) On account of injury to, or death of, any person in any one accident$300,000.00

    (2) On account of any one accident resulting in injury to, or death of, more than one person300,000.00

    (3) On account of damage to property in any one accident100,000.00

(b) In lieu of insurance as required by subsection (a) of this section, one or more corporate surety bonds may be furnished in the same amounts as such insurance, and the sufficiency of such bonds shall be approved by the city clerk.

(c) Every such insurance policy or bond shall contain a clause obligating the insurer or surety to give the city clerk at least ten days' written notice, by registered mail, before the cancellation, expiration, lapse or other termination of such insurance or bond or the withdrawal of surety from any such bond.

(Code 1972, §§ 7.82—7.84)

Sec. 46-323. Change in ownership; transfer to other person.

When the ownership of any taxicab shall change, whether by operation of law or otherwise, the taxicab license pertaining to such taxicab shall be automatically revoked. Any transfer, or attempt to transfer, of a taxicab license to any other person shall automatically revoke the license.

(Code 1972, § 7.86)

Sec. 46-324. Transfer between vehicles.

The owner of any licensed taxicab who desires to transfer such license to another vehicle owned by him shall make application to the city clerk on forms provided for such transfer, and shall state, under oath or affirmation, such facts as may be required for, or applicable to, such transfer. Upon approval of the city administrator, such transfer shall be granted.

(Code 1972, § 7.87)

Sec. 46-325. Cessation of operation.

In addition to the grounds for suspension and revocation of licenses as set forth in article II of this chapter, the fact that the owner shall cease to operate any taxicab for a period of 30 days without having obtained permission for cessation of such operation from the city administrator shall be grounds for suspension or revocation of the license for such taxicab.

(Code 1972, § 7.89)

Secs. 46-326—46-350. Reserved.

DIVISION 3. DRIVER'S PERMIT

Sec. 46-351. Required.

No person shall drive a taxicab on the streets of the city without first having obtained a taxicab driver's permit. No such permit shall be granted, except upon certification of the chief of police and the health officer, and unless a photograph and complete set of the fingerprints of the applicant are on file in the noncriminal identification file of the police department. Two photographic pictures of each applicant shall be furnished at the time of application, and the size and form of such pictures shall be prescribed by the city clerk. The license issued to a taxicab driver shall be conspicuously displayed on the inside of a taxicab operated by him so that it may be easily illuminated at night.

(Code 1972, § 7.90)

Sec. 46-352. Physical examination.

Each applicant for a taxicab driver's permit shall, at his own expense, be required to submit to a medical examination by a duly licensed physician of his own choosing, and the results of such examination shall be reduced

to writing by such physician on a form furnished by the city clerk. Such report of examination signed by the physician shall be attached to the application for a taxicab driver's permit.

(Code 1972, § 7.91)

Sec. 46-353. Renewal.

Upon any application for a taxicab driver's permit from a person who then holds such a permit, the physical examination required by section 46-352 shall not be required, unless no such examination shall have been had, and a report thereof furnished to the city, for a period of time longer than two years immediately preceding such application.

(Code 1972, § 7.93)

Sec. 46-354. Use or possession by other persons.

No person having a taxicab driver's permit shall allow any other person to use, or attempt to use, such permit, or the badge issued in connection therewith, for any purpose. No person shall use or have in his possession while operating a taxicab in the city any taxicab driver's permit or badge which has been issued to any other person.

(Code 1972, § 7.94)

Secs. 46-355—46-390. Reserved.

ARTICLE X. TRANSIENT MERCHANTS[45]

DIVISION 1. GENERALLY

Sec. 46-391. Definitions.

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

Temporary business means every person engaged in the retail sale and delivery of goods, wares or merchandise, unless such person's goods, wares or merchandise shall have been assessed for taxation in the city during the current year.

(Code 1972, § 7.152)

Cross reference(s)—Definitions generally, § 1-2.

Secs. 46-392—46-410. Reserved.

[45]Cross reference(s)—Streets, sidewalks and other public places, ch. 74.

DIVISION 2. LICENSE

Sec. 46-411. Required.

No person shall engage in the temporary business of selling goods, wares or merchandise at retail within the city from any lot, premises, building, room or structure, including railroad cars, without first obtaining a license. No such license shall be granted, except upon certification of the chief of police and city treasurer.

(Code 1972, § 7.151)

Sec. 46-412. Indebtedness to the city.

No license shall be granted to any person owing any personal property taxes or other indebtedness to the city, or who contemplates using any personal property in the operation of such business upon which personal property taxes are owed.

(Code 1972, § 7.153)

Sec. 46-413. Benefit sales.

Any person selling, or offering for sale, any goods, wares or merchandise on behalf of, and solely for the benefit of, any recognized charitable or religious purpose, shall, after meeting all other requirements, be granted a license without payment of the fee required by section 46-56.

(Code 1972, § 7.154)

Secs. 46-414—46-499. Reserved.

ARTICLE XI. COMMERCIAL MEDICAL MARIHUANA FACILITIES AND ADULT USE ESTABLISHMENTS

DIVISION 1. GENERALLY

Sec. 46-500. Legislative intent.

The purpose of this article is to implement the provisions of the Michigan Marihuana Facilities Licensing Act, Public Act 281 of 2016, and the Michigan Regulation and Taxation Act Initiated Law 1 of 2018, which authorizes the licensing and regulation of commercial medical marihuana facilities or commercial adult use establishments; affords the city the option to allow commercial medical marihuana facilities or commercial adult use establishments; and the authority to regulate commercial medical marihuana facilities or commercial use establishments by requiring a permit and compliance with requirements as provided in this article, in order to maintain the public health, safety and welfare of the public.

Nothing in this article is intended to grant immunity from criminal or civil prosecution, penalty, or sanction for the cultivation, manufacture, possession, use, sale, or distribution of marihuana, in any form, that is not in compliance with the Michigan Medical Marihuana Act, Initiated Law of 2008, MCL 333.26421 et seq.; the Michigan Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq.; the Michigan Marihuana Tracking Act, MCL 333.27901 et seq.; the Michigan Regulation and Taxation of Marihuana Act MCL 333.27951 et seq.; and all other applicable rules promulgated by the State of Michigan.

As of the effective date of this article, marihuana remains classified as a Schedule 1 controlled substance under the Federal Controlled Substances Act, 21 U.S.C. § 801 et seq., which makes it unlawful to manufacture, distribute, or dispense marihuana, or possess marihuana with the intent to manufacture, distribute, or dispense marihuana. Nothing in this article is intended to grant immunity from any criminal prosecution under federal laws.

(Ord. No. 17-035, 12-13-2017; Ord. No. 18-009, 6-7-2018; Ord. No. 19-001, 6-3-2019)

Sec. 46-501. Definitions.

For the purpose of this article the following words, terms, and phrases shall have the meanings ascribed to them in this section, except when the context clearly indicates a different meaning.

Any term defined by the Michigan Medical Marihuana Act, MCL 333.2621 et seq., shall have the definition given in the Michigan Medical Marihuana Act.

Any term defined by the Michigan Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq., shall have the definition given in the Michigan Medical Marihuana Facilities Licensing Act.

Any term defined by the Michigan Medical Marihuana Tracking Act, MCL 333.27901 et seq., shall have the definition given in the Michigan Medical Marihuana Tracking Act.

Any term defined by the Michigan Regulation and Taxation of Marihuana Act, MCL 333.27951 et seq., shall have the definition given in the Michigan Regulation and Taxation of Marihuana Act.

Adult use means recreational marihuana as defined in the Michigan Regulation and Taxation of Marihuana Act.

City means the City of Adrian.

Commercial marihuana facility means all types of medical or recreational facilities.

Department means the Michigan State Department of Licensing and Regulatory Affairs or any authorized designated Michigan agency authorized to regulate, issue or administer a Michigan license for a commercial medical marihuana facility.

Enclosed building means a combination of materials forming a structure affording a facility or shelter for use or occupancy by individuals or property in which a proper ventilation system allows for all windows, entrances, and exits to safely remain closed, with the exceptions of normal entry and exit of the building for business purposes, and safety or emergency purposes i.e. fire. Building includes a part or parts of the building and all equipment in the building. A building shall not be construed to mean a building incidental to the use for agricultural purposes of the land on which the building is located.

Grower or *grower facility* means a commercial entity that cultivates, dries, trims, or cures and packages marihuana for sale to a processor or provisioning center. Grower facilities are divided into classes: class A facility—up to 500 plants; class B facility—up to 1,000 plants; class C facility—up to 1,500 plants, and excess grower—expansion of grower who already holds five adult use class C grower licenses.

License means a current, valid license for a commercial medical marihuana facility issued by the State of Michigan.

Licensee means a person holding a current, valid Michigan license for a commercial medical marihuana facility.

Marihuana means that term as defined in Section 7106 of the Public Health Code, 1978 PA 368, MCL 333.7106.

Marihuana plant(s) means any plant of the species Cannabis sativa L.

Medical marihuana means that term as defined in the Public Health Code, MCL 333.1101 et seq.; the Michigan Medical Marihuana Act, MCL 333.26421 et seq.; the Michigan Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq.; and the Michigan Medical Marihuana Tracking Act, MCL 333.27901 et seq.

Medical marihuana facility(s) means any facility, establishment and/or center at a specific location which is licensed under this chapter to operate under the Michigan Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq., including a provisioning center, grower, processor, safety compliance facility, and secure transporter. The term does not include or apply to a "primary caregiver" or "caregiver" as the term is defined in the Michigan Medical Marihuana Act, MCL 333.26421 et seq.

Permit means a current, valid permit for a commercial marihuana facility issued pursuant to this article, granted to a permit holder valid for a specific permitted premises and a specific permitted property.

Permit holder means the person that holds a current, valid permit under this article.

Permitted premises means the particular building or buildings within which the permit holder will be authorized to conduct the facility's activities pursuant to the permit.

Permitted property means the real property comprised of the lot, parcel or other designated unit of real property upon which the permitted premises is situated.

Person means a natural person, company, partnership, profit or non-profit corporation, limited liability company, or any joint venture for a common purpose.

Processor or *processor facility* means a commercial entity that purchases marihuana from a grower and that extracts resin from the marihuana or creates a marihuana-infused product for sale and transfer in packaged form to a provisioning center.

Provisioning center or *retail establishment* means a commercial entity that purchases marihuana from a grower or processor and sells, supplies, or provides marihuana to registered qualifying patients, directly or through the patients' registered primary caregivers. Provisioning center or retail establishment includes any commercial property where marihuana is sold at retail to registered qualifying patients or registered primary caregivers. The term does not include or apply to a non-commercial location used by a primary caregiver to assist a qualifying patient connected to the caregiver through the department's marihuana registration process in accordance with the MMMA.

Recreational marihuana means that term as defined in the Public Health Code, MCL 333.1101 et seq. and Michigan Regulation and Taxation of Marihuana Act, MCL 333.27951 et seq.

Recreational marihuana facility(s) means any facility, establishment and/or center at a specific location which is licensed under this chapter to operate under the Michigan Regulation and Taxation of Marihuana Act, MCL 333.27951 et seq., including a provisioning center, grower, excess grower, processor, safety compliance facility, secure transporter, marihuana event organizer, temporary marihuana event, and designated consumption establishment.

Safety compliance facility means a commercial entity that receives marihuana from a medical marihuana facility or registered primary caregiver, tests it for contaminants and for tetrahydrocannabinol and other cannabinoids, returns the test results, and may return the marihuana to the medical marihuana facility.

School (as defined in MCL 257.627a) means an educational institution operated by a local school district or by a private, denominational, or parochial organization. School does not include either of the following:

(1) An educational institution that the department of education determines has its entire student population in residence at the institution.

(2) An educational institution to which all students are transported in motor vehicles.

Secure transporter means a commercial entity that stores medical marihuana and transports medical marihuana between medical marihuana facilities for a fee.

(Ord. No. 17-035, 12-13-2017; Ord. No. 18-009, 6-7-2018; Ord. No. 19-001, 6-3-2019; Ord. No. 20-002, 2-3-2020)

DIVISION 2. PERMITS

Sec. 46-502. Generally.

(a) No person shall operate a commercial marihuana facility, establishment or other business which requires state licensure, in the city without first obtaining a permit from the city clerk. Further, any permit application approved pursuant to this article should not be effective and no marihuana facility, establishment, or other business which requires state licensure may operate unless said operation is pursuant to a license or approval issued under the authorized state licensing agency.

(b) The issuance of any permit or renewal permit pursuant to this article shall not confer any vested rights, property or other right, duty, privilege or interest in a permit of any kind or nature whatsoever including, but not limited to, any claim of entitlement or reasonable expectation of subsequent renewal on the applicant or permit holder and shall remain valid only for one year immediately following its approval.

(c) A permit holder may transfer a permit issued under this article to a different location upon receiving approval from the city commission. In order to request approval to transfer a permit location, the permit holder must make a written request to the city clerk, indicating the current permit location and the proposed permit location. Upon receiving the written request, the city clerk shall refer a copy of the written request to each of the following for their approval: the fire department, the building inspection department, the police department, the zoning administrator, and the city treasurer. Prior to final approval of transfer the permit holder must submit an updated application and any supporting documents. No permit transfer shall be recommended for approval unless each individual department gives written approval that the permit holder and the proposed permit location meet the standards identified in this article, including but not limited to section 46-505, and the city clerk has determined the proposed location meets the requirements of section 46-505.

(d) A permit holder may transfer a valid permit issued under this article to a new individual or entity upon obtaining approval from the city commission. A request for transfer of a valid permit to a new individual or entity must be made in writing, to the city clerk. The permit holder must provide documentation from the state agency indicating the state license may be transferred. Upon receiving the written request the city clerk shall consider the request as a new application for a permit and the procedures set forth in section 46-505 shall be followed including submission of the non-refundable permit application fee. Application fees are non-transferable.

(e) A permit holder must submit to the city a copy of their valid state license within 180 days of issuance of the permit under this article. Failure to provide such proof may result in suspension or revocation of the permit.

(f) If a permit holder has not obtained a valid state license at the end of 180 days, they may request an extension of time on a form provided by the city clerk. The city clerk may require additional/supplemental information to confirm the reasons for delay. Failure to provide the required information may result in denial

of extension. Extensions will be granted or denied by the city clerk. The granting of an extension shall not exceed 120 days or the expiration date of the current permit.

(g) If the facility is a new build/construction and State licensing has not been issued within 180 days, the permit holder may request a form from the city clerk to apply for building and/or fire inspection waivers. A waiver will be granted or denied by the city clerk. The granting of a waiver shall not exceed one year or the expiration date of the current permit.

(h) To the extent permissible under law, all information submitted in conjunction with an application for a permit or permit renewal required by this article is confidential and exempt from disclosure under the Michigan Freedom of Information Act, 1976 PA 442, MCL 15.231 et seq., including the trade secrets or commercial or financial information exemptions available under Section 13(f) of the Michigan Freedom of Information Act. Furthermore, no personal or medical information concerning the applicant shall be submitted to the medical marihuana commission.

(Ord. No. 17-035, 12-13-2017; Ord. No. 18-009, 6-7-2018; Ord. No. 19-001, 6-3-2019)

Sec. 46-503. Authorization and prohibition of commercial marihuana facilities/establishments in the city.

(a) The following types of commercial medical marihuana facilities are authorized to operate in the city:

(1) Growers: class A, B, and C.

(2) Marihuana processor.

(3) Marihuana provisioning center.

(4) Marihuana secure transporter.

(5) Marihuana safety compliance facility.

(b) The following types of commercial adult-use marihuana establishments are authorized to operate in the city:

(1) Growers: class A, B, and C and excess growers.

(2) Marihuana processor.

(3) Marihuana retailer.

(4) Marihuana secure transporter.

(5) Marihuana safety compliance facility.

(c) The following types of commercial adult-use marihuana establishments and/or license holders are prohibited from operating in the city:

(1) Marihuana microbusinesses.

(2) Marihuana event organizers.

(3) Temporary marihuana events.

(4) Designated consumption establishments.

(Ord. No. 17-035, 12-13-2017; Ord. No. 19-013, 10-7-2019)

Sec. 46-504. Number of facilities authorized by city.

(a) Growers:

(1) Class A: unlimited.

(2) Class B: unlimited.

(3) Class C: unlimited

Excess grower: Total of four permits, single and/or dual purpose, in the east and west industrial overlay districts combined. Specifically two excess grower permits in the east overlay and two excess grower permits in the west overlay.

(b) Processors: unlimited.

(c) Provisioning centers and retail establishments: unlimited, pursuant to state and local zoning regulations, maximum of ten permits, single and/or dual purpose, issued within the B-1 and B-2 districts combined, all other permits to be issued within the industrial overlay districts.

(d) Safety compliance facilities: unlimited.

(e) Secure transporters: unlimited.

(Ord. No. 17-035, 12-13-2017; Ord. No. 18-009, 4-16-2018; Ord. No. 19-013, 10-7-2019; Ord. No. 20-002, 2-3-2020)

Sec. 46-505. Requirements for permit application submission.

(a) Every marihuana facility, establishment, or other business in the city shall be subject to the terms and provisions set forth in this article. No person shall operate a marihuana facility, establishment, or other business in the city without a current, valid permit issued by the city pursuant to the provisions of this article. The permit requirements set forth in this article shall be in addition to, not in lieu of any other licensing and/or permitting requirements imposed by any other federal, state, or local law.

(b) Applications for permits shall be made annually. Each complete application for a permit or permits required by this article shall be made on forms provided by the city clerk.

(c) Every applicant for a marihuana facility, establishment, or other business permit shall complete and file the application form provided by the city clerk's office. Any application missing information in any required field will be deemed incomplete and is subject to denial of the permit by the city clerk. Each question in the application must be answered in its entirety and all the information requested and required by this article must be submitted with the application. Failure to comply with these rules and the application requirements in this article is grounds for denial of the application. An application for a commercial marihuana facility permit shall contain all of the following:

(1) Current documentation from the State of Michigan showing approved pre-qualification status for any state required commercial marihuana license or a copy of a valid state required commercial marihuana license.

(2) If the applicant is an individual, the applicant's name, date of birth, physical address, email, one or more phone numbers, including emergency contact information, and a copy of a valid unexpired driver's license or state ID for the applicant. Acceptable ID will be issued by the state in accordance with the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq., the Michigan Regulation and Taxation of Marihuana Act MCL 333.27951 et seq.; and all other applicable rules promulgated by the State of Michigan.

(3) If the applicant is not an individual, the names, dates of birth, physical addresses, email addresses, and one or more phone numbers of each stakeholder of the applicant, including designation of a stakeholder as an emergency contact person and contact information for the emergency contact person, a copy of a valid unexpired driver's license or state ID for each applicant or stakeholder of the applicant. Acceptable ID will be issued by the state in accordance with the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq., the Michigan Regulation and Taxation of Marihuana Act MCL 333.27951 et seq.; and all other applicable rules promulgated by the State of Michigan.

Additionally, if the applicant is a limited liability company, articles of incorporation of organization, internal revenue service SS-4 EIN confirmation letter, and the operating agreement or bylaws of the applicant, are required.

(4) The name and address of the proposed commercial marihuana facility and any additional contact information deemed necessary by the city clerk including name, address, and telephone number of the owner(s) of all real property where the facility is located.

(5) One of the following: (a) proof of ownership of the entire premises wherein the commercial marihuana facility is to be operated; or (b) a notarized statement from the property owner for use of the premises in a manner requiring licensure under this article along with a copy of any lease for the premises.

(6) A signed release shall be provided, on a form included with the application, permitting the city police department to perform a criminal background check to ascertain whether any person named on the application has been convicted of any disqualifying felony or any controlled-substance-related misdemeanor under Michigan law or the law of any other state or the United States.

(7) A signed acknowledgement that the applicant is aware and understands that all matters related to marihuana, growing, cultivation, possession, dispensing, testing, safety compliance, transporting, distribution, and use are currently subject to state laws, rules and regulations, and that the approval or granting of a permit hereunder does not exonerate or exculpate the applicant from abiding by the provisions and requirements and penalties associated with those laws, rules and regulations or exposure to any penalties associated therewith; and further the applicant waives and forever releases any claim, demand, action, legal redress or recourse against the city, its elected and appointed officials and its employees and agents for any claims, damages, liabilities, causes of action, and attorney fees that applicant may incur as a result of a violation by applicant, its officials, members, partners, shareholders, employees and agents, of those laws, rules and regulations and hereby waives and assumes the risk of any such claims and damages and lack of recourse against the city, its elected and appointed officials, employees, attorneys, and agents.

(8) A signed acknowledgement that all cultivation must be performed in an enclosed building.

(9) An affidavit that neither the applicant nor any stakeholder of the applicant is in default to the city, specifically that the applicant or stakeholder of the applicant has not failed to pay any property taxes, special assessments, fines, fees or other financial obligation to the city.

(10) For each permit type the following documentation is required:

a. Proof of a surety bond in the amount of $100,000.00 with the city listed as the obligee to guarantee the performance by applicant of the terms, conditions and obligations of this article in a manner and surety approved by the city attorney; or, in the alternative,

b. Proof of creation of an escrow account as follows:

1. The account must be provided by a state or federally regulated financial institution or other financial institution approved by the city attorney based upon an objective assessment of the institution's financial stability; and

2. The account must be for the benefit of the city to guarantee performance by licensee in compliance with this article and applicable law; and

3. The account must be in the amount of $20,000.00 and in a form prescribed by the city attorney.

(11) Proof of an insurance policy covering each facility and naming the city, its elected and appointed officials, employees, and agents, as additional insured parties, available for the payment of any damages arising out of an act or omission of the applicant or its stakeholders, agents, employees, or subcontractors, in the amount of (a) at least $1,000,000.00 for property damage; (b) at least $1,000,000.00 for injury to one person; and (c) at least $2,000,000.00 for injury to two or more persons resulting from the same occurrence. The insurance policy underwriter must have a minimum A.M. Best Company insurance ranking of B+, consistent with state law. The policy shall provide that the city shall be notified by the insurance carrier 30 days in advance of any cancellation.

(12) Any other information deemed by the city to be required for consideration of a permit.

(d) All applications shall be accompanied by a non-refundable permit application fee for each permit type. The renewal fee is established to defray the costs of the administration of this article and is set by resolution of the city commission.

(Ord. No. 17-035, 12-13-2017; Ord. No. 18-009, 4-16-2018; Ord. No. 18-009, 6-7-2018; Ord. No. 19-001, 6-3-2019; Ord. No. 20-002, 2-3-2020)

Sec. 46-506. Requirements for application for renewal of annual permit.

(a) A completed application for a renewal permit must be received by the city clerk no later than 90 days prior to the expiration of the current permit. Pending applications for annual renewal or amendments of existing permits shall be reviewed, and granted or denied by the city commission prior to new permit applications being considered.

(b) Applications for renewal of permits shall be made annually. Each complete application for a permit or permits required by this article shall be made on forms provided by the city clerk and must meet all requirements of section 46-505.

(1) Applications for renewal of permits issued in 2018 only shall qualify for an exception to subsection 46-505(c)(1).

(c) All renewal applications shall be accompanied by a non-refundable permit application fee for each permit type. The renewal fee is established to defray the costs of the administration of this article, and is set by resolution of the city commission.

(Ord. No. 19-001, 6-3-2019; Ord. No. 20-002, 2-3-2020)

Editor's note(s)—See note at § 46-507.

Sec. 46-507. Issuance or denial of new or renewal permit.

(a) Upon submission of an applicant's completed application, including all required information and documentation, the city clerk shall accept the application and assign it a sequential number based on the date and time the application was accepted and refer a copy of the application to each of the following for their approval: the fire department, the building inspection department, the police department, the zoning administrator, the city treasurer, and the legal department.

(b) A permit means only that the applicant has submitted a valid application for a marihuana facility, establishment, or other business permit, and that the applicant shall not locate or operate a marihuana facility without obtaining all other permits and approvals required by all other applicable ordinances and regulations of the city, as well as, all statutes and regulations of the State of Michigan including but not limited to the Public Health Code, MCL 333.1101 et seq.; the Michigan Medical Marihuana Act, MCL 333.26421 et seq.; the Michigan Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq.; the Michigan Medical Marihuana Tracking Act, MCL 333.27901 et seq.; the Michigan Regulation and Taxation of Marihuana Act, MCL 333.27951 et seq., and all other applicable rules promulgated by the State of Michigan.

(c) A permit is valid only for the permit holder and location identified on the permit and may only be transferred by approval of the city commission pursuant to subsections 46-502(c) and (d) of this article.

(d) The permit shall be prominently displayed at the permitted premises in a location where it can be easily viewed by the public, law enforcement and administrative authorities.

(e) The city clerk shall not recommend a permit for approval unless all of the following conditions have been met:

(1) The fire department and building department have inspected the proposed location for compliance with all laws for which they are charged with enforcement and for compliance with this article.

(2) The zoning administrator has confirmed that the proposed location complies with the zoning code and issues a zoning compliance permit and zoning exception permit.

(3) The city treasurer has confirmed that the applicant and the proposed location are not in default to the city.

(4) The police department has determined that the applicant has met the requirements of this article with respect to the background check and security plan.

(5) The legal department has determined that the applicant has satisfied the requirements of this article with respect to submission of all required documents and completeness of the application.

(6) All additional information deemed by the city to be required for consideration of a permit.

(f) The city clerk shall not recommend a permit for renewal unless all of the following additional conditions have been met:

(1) The applicant possesses the necessary state license or approvals, including those issued pursuant to all applicable state and local laws, rules, or ordinances.

(2) The applicant has operated the marihuana facility, establishment or other business in accordance with the conditions and requirements of this article.

(3) The marihuana facility, establishment, or other business has not been declared a public nuisance.

(4) The applicant is operating the marihuana facility, establishment or other business in accordance with federal, state, and local laws and regulations.

(g) If written approval is given by each individual, department, or entity in subsection (e), the city clerk shall recommend the permit or renewal of an annual permit to the city commission for approval.

(h) A permit will lapse and be void if such other required permits, valid state licensing, and approvals are not diligently pursued to completion, but in any event no later than 180 days after the permit is issued.

(i) Any applicant for a commercial marihuana facility, establishment or other business permit whose building is not yet in existence at the time of city commission approval shall have one year immediately following the date of approval to complete construction of the building, in accordance with applicable zoning ordinances,

building codes and other applicable state or local laws, rules or regulations, and to commence business operations.

(j) Within 90 days of receipt of a complete application and all required fees, all inspections, review and processing of the application shall be completed, and the city clerk shall make a recommendation to the city commission to approve or deny the marihuana facility permit.

(k) The city commission shall approve or deny a permit within 120 days of receipt of the completed application and fees. The processing time may be extended upon written notice by the city for good cause, and any failure to meet the required processing time shall not result in the automatic grant of the permit. No permit is valid until final approval of the city commission.

(l) The city has no obligation to process or approve any incomplete application. Any time period provided under this article shall not commence until the city receives a completed application, as determined by the city clerk. A determination of a complete application shall not prohibit the city from requiring supplemental information. The city may delay an application while additional information is requested including, but not limited to, requests for additional disclosures and documentation to be furnished to the city clerk.

(m) If more qualified applications are received than the number of permits allowed for provisioning centers or retails establishments in the B-1 and B-2 districts under this article, the city commission may review and amend this article as it determines advisable.

(n) If applicant fails to comply with this article, a permit may be denied as provided under this article. In addition to failing to comply with this article, a permit may be denied for the following reasons:

(1) The applicant made a material misrepresentation on the application.

(2) The applicant fails to correct any deficiencies in the application or supply additional required information.

(3) The applicant fails to satisfy compliance with the municipality, state law, or this article.

(4) The applicant is operating a commercial marihuana facility without a current, valid permit.

Any denial of a permit shall be in writing and shall state the reason for the denial.

(o) Denial of permit by the City Commission may be appealed to the circuit court of this state.

(Ord. No. 17-035, 12-13-2017; Ord. No. 18-009, 4-16-2018; Ord. No. 18-009, 6-7-2018; Ord. No. 19-001, 6-3-2019; Ord. No. 20-002, 2-3-2020)

Editor's note(s)—Ord. No. 19-001, adopted June 3, 2019, added a new § 46-506 and subsequently renumbered former § 46-506 as § 46-507.

Sec. 46-508. Conduct of permit holder.

(a) Each permit holder shall, as a condition of obtaining and maintaining a permit, agree to comply at all times with applicable local and state building, zoning, fire, health and sanitation statutes, ordinances and regulations.

(b) The premises shall be operated and maintained at all times consistent with responsible business practices and so that no excessive demands will be placed upon public health or safety services, nor any excessive risk of harm to the public health, safety or sanitation.

(c) Permit holder shall immediately notify the city clerk and update as required the information provided on the application and the permit. Further, the permit holder shall notify the city clerk, within ten business days, of any other change in the information required by this article or that may materially affect the state license or the permit. Failure to do so may result in suspension or revocation of the permit.

(d) An applicant or permit holder has a duty to notify the city clerk in writing within ten business days of any pending criminal charge, and any criminal conviction or other offense, including but not limited to any violation of building, fire, or zoning codes, the Michigan Medical Marihuana Act (MCL 333.26421 et seq.), Medical Marihuana Facilities Licensing Act (MCL 333.27101 et seq.), Michigan Medical Marihuana Tracking Act, (MCL 333.27901 et seq.), Michigan Regulation and Taxation of Marihuana Act, (MCL 333.27951 et seq.), and all other applicable rules promulgated by the State of Michigan, committed by the applicant, permit holder, any owner, principal, officer, director, manager or employee relating to the cultivation, processing, manufacture, storage, sale, distribution, testing or consumption of any form of marihuana within ten days of the event.

(e) The permit holder may not operate any other commercial marihuana facility in the permitted premises or on the permitted property, or in its name at any other location within the city without first obtaining a separate permit.

(f) A signed acknowledgement of the permit holder's intent to acquire and maintain a valid marihuana facility license from the State of Michigan is a condition for issuance and maintenance of a marihuana facility permit under this article. In the event of a lapse in the state issued medical marihuana facility license, for any reason, the applicant may not continue operation of any marihuana facility in the City of Adrian, unless and until a valid state license is reinstated or obtained.

(g) Failure to comply with the requirements contained in this article is a civil infraction.

(Ord. No. 17-035, 12-13-2017; Ord. No. 19-001, 6-3-2019; Ord. No. 20-002, 2-3-2020)

Editor's note(s)—Ord. No. 19-001, adopted June 3, 2019, renumbered § 46-507 as § 46-508.

Sec. 46-509. Operational requirements.

A commercial marihuana facility issued a permit under this article and operating in the city shall at all times comply with the following operational requirements, which the city commission may review and amend from time to time as it determines reasonable.

(1) Commercial marihuana facilities shall comply with the zoning code, the building code, and the property maintenance code at all times.

(2) The facility must hold a valid local permit and the state required commercial marihuana facility license for the type of commercial marihuana facility carried out at the permitted property.

(3) Each commercial marihuana facility shall be operated from the permitted premises on the permitted property. No commercial marihuana facility shall be permitted to operate from a moveable, mobile or transitory location, except for a permitted and licensed secure transporter when engaged in the lawful transport of marihuana.

(4) No person under the age of 18 shall be permitted to enter into the permitted premises without a parent or legal guardian.

(5) Commercial marihuana facilities shall be closed for business and no sale or other distribution of marihuana in any form shall occur upon the premises or be delivered from the premises between the hours of 9:00 p.m. and 7:00 a.m.

(6) Permit holders shall at all times maintain a security system that meets state law requirements, and shall also include:

a. Security surveillance cameras installed to monitor all entrances, along with the interior and exterior of the permitted premises;

b. Burglary alarm systems which are professionally monitored and operated 24 hours a day, seven days a week;

c. A locking safe permanently affixed to the permitted premises that shall store all marihuana and cash remaining at the facility overnight;

d. All marihuana in whatever form stored at the permitted premises shall be kept in a secure manner and shall not be visible from outside the permitted premises, nor shall it be grown, processed, exchanged, displayed or dispensed outside the permitted premises;

e. All security recordings and documentation shall be preserved for at least 48 hours by the permit holder and made available to law enforcement upon request for inspection.

(7) No commercial provisioning center shall be located within 1,000 feet of any of the following uses:

a. A school, public or private, including pre-school through college or within 250 feet of any of the following uses:

1. A church or house of worship located in a residential district.

2. A park or playground.

3. A state licensed day-care facility as defined in the City of Adrian Zoning Ordinance, definition(s) 2.46.

4. A facility that provides substance abuse disorder services as defined by MCL 330.6230S.

(8) The amount of marihuana on the permitted property and under the control of the permit holder, owner or operator of the facility shall not exceed the amount permitted by the state license.

(9) The marihuana offered for sale and distribution must be packaged and labeled in accordance with state law. Provisioning centers are prohibited from selling, soliciting or receiving orders for marihuana or marihuana products over the internet.

(10) No pictures, photographs, drawings, or other depictions of marihuana or marihuana paraphernalia shall appear on the outside of any permitted premises nor be visible outside of the permitted premises on the permitted property. The words "marihuana," "cannabis" and any other words used or intended to convey the presence or availability of marihuana shall not appear on the outside of the permitted premises nor be visible outside of the permitted premises on the permitted property.

(11) The sale, consumption, or use of alcohol or tobacco products on the permitted premises is prohibited. Smoking or consumption of controlled substances, including marihuana, on the permitted premises is prohibited.

(12) All activities of commercial marihuana facilities, including without limitation, distribution, growth, cultivation, or the sale of marihuana, and all other related activity permitted under the permit holder's license or permit must occur indoors. The facility's operation and design shall minimize any impact to adjacent uses, including the control of any odor by maintaining and operating an air filtration system so that no odor is detectable outside the permitted premises.

(13) A patient may not grow his or her own marihuana at a commercial marihuana facility.

(14) No person operating a facility shall provide or otherwise make available marihuana to any person who is not legally authorized to receive marihuana under state law.

(15) All necessary building, electrical, plumbing and mechanical permits must be obtained for any part of the permitted premises in which electrical, wiring, lighting or watering devices that support the cultivation, growing, harvesting or testing of marihuana are located.

(16) The permit holder, owner and operator of the facility shall use lawful methods in controlling waste or by-products from any activities allowed under the license or permit.

(17) Marihuana may be transported by a secure transporter within the city under this article, and to effectuate its purpose, only:

a. By persons who are otherwise authorized by state law to possess marihuana for commercial purposes;

b. In a manner consistent with all applicable state laws and rules, as amended;

c. In a secure manner designed to prevent the loss of the marihuana;

d. No vehicle used for transportation or delivery of marihuana under this article shall have for markings the words "marihuana," "cannabis," or any similar words; pictures or other renderings of the marihuana plant; advertisements for marihuana or for its sale, transfer, cultivation, delivery, transportation or manufacture, or any other word, phrase or symbol indicating or tending to indicate that the vehicle is transporting marihuana.

e. No vehicle may be used for the ongoing or continuous storage of marihuana, but may only be used incidental to, and in furtherance of, the transportation of marihuana.

(18) The city commission may impose such reasonable terms and conditions on a commercial medical marihuana facility special use as may be necessary to protect the public health, safety and welfare, and to obtain compliance with the requirements of this article and applicable law.

(19) No facility shall be operated in a manner creating noise, dust, vibration, glare, fumes, or odors beyond the boundaries of the property on which the facility is operated; or creating any other nuisance that hinders the public health, safety and welfare of the residents of the City of Adrian.

(Ord. No. 17-035, 12-13-2017; Ord. No. 18-009, 4-16-2018; Ord. No. 19-001, 6-3-2019; Ord. No. 20-002, 2-3-2020)

Editor's note(s)—Ord. No. 19-001, adopted June 3, 2019, renumbered § 46-508 as § 46-509.

Sec. 46-510. Effective permit; suspension; daily violation.

(a) Acceptance of the permit constitutes consent by the permit holder and its owners, officers, managers, agents and employees for any state, federal or local law enforcement to conduct random and unannounced examinations of the facility and all articles of property in that facility at any time to ensure compliance with this article and any other local regulations.

(b) The city may require an applicant or permit holder of a marihuana facility, establishment, or other business to produce documents, records, or any other material pertinent to the investigation of an application or alleged violation of this article. Failure to provide the required material may be grounds for application denial or permit revocation.

(c) Issuance of a permit does not prohibit prosecution by the federal government for violation of its laws or prosecution by state authorities for violations of the Act or other violations not protected by the Act.

(d) Compliance with city ordinances and state statutes is a condition of maintenance of a permit and a permit may be suspended for failure to comply with any of the provisions of this article. The city administrator may suspend the permit for failure to comply. Appeals of an administrative suspension must be made in writing, to the attention of the city clerk, within 30 days after the suspension notice has been served on the permit holder or posted on the permitted premises. Appeals shall be heard by the city commission at the next regularly scheduled meeting after receipt of the written appeal.

(e) Suspension of a permit is not an exclusive remedy and the penalty provisions of this article are not intended to foreclose any other remedy or sanction that might be available to, or imposed by the city, including criminal prosecution.

(f) In addition to any other remedies, the city may institute proceedings for injunction, mandamus, abatement or other appropriate remedies to prevent, enjoin, abate or remove any violations of this article. The rights and remedies provided herein are civil in nature. The imposition of a fine shall not exempt the violator from compliance with the provisions of this article.

(Ord. No. 17-035, 12-13-2017; Ord. No. 19-001, 6-3-2019)

Editor's note(s)—Ord. No. 19-001, adopted June 3, 2019, renumbered § 46-509 as § 46-510.

Sec. 46-511. Permit revocation; bases for revocation or denial; appeal of permit revocation or denial.

(a) Any permit issued under this article may be recommended for revocation by the city clerk to the city commission if the city clerk finds and determines that grounds for revocation exist. Any grounds for revocation must be provided to the permit holder at least ten days prior to the date of the city commission meeting at which the recommendation for revocation will be heard. Notice of the meeting shall be sent by first class mail to the mailing address given on the permit application or any updated mailing address provided to the city clerk in writing subsequent to the filing of an application.

(b) A permit applied for or issued may be denied or revoked on any basis provided under this article including the following:

(1) A material violation of any provision of this article, including, but not limited to, the failure to submit a complete application under section 46-505; or

(2) Any conviction of a disqualifying felony by the permit holder, stakeholder, or any person holding an ownership interest in the permit; or

(3) Commission of fraud or misrepresentation or the making of a false statement by the applicant, permit holder, or any stakeholder of the applicant or permit holder while engaging in any activity for which this article requires a permit; or

(4) Failure to obtain, maintain or renew a permit issued by the city clerk pursuant to this article; or

(5) Failure of the permit holder or the marihuana facility, establishment or other business to obtain or maintain a license or approval from the state pursuant to the state or other laws; or

(6) The marihuana facility, establishment or other business is determined by the city to have become a public nuisance or otherwise is operating in a manner detrimental to the public health, safety or welfare.

(c) The denial of an application or revocation of a permit by the city commission shall be final for purposes of judicial review.

(Ord. No. 19-001, 6-3-2019)

Editor's note(s)—Ord. No. 19-001, adopted June 3, 2019, added a new § 46-511 and subsequently renumbered former § 46-511 as § 46-514.

Sec. 46-512. Violations municipal civil infraction.

Any person and/or entity in violation of any provision of this article or failure to comply with any of the requirements of this article, including the operation of a marihuana facility, establishment, or other business without a permit issued pursuant to this article, is responsible for a municipal civil infraction violation. The city shall assess fines and abatement costs of each violation together with all remedies available under MCL 600.8701 et seq. Increased civil fines may be imposed for a repeat violation. As used in this section "repeat violation" shall mean a second or any subsequent infraction of the same requirement or provision committed by a person or establishment within any 12-month period. Each day a violation continues, including each day that a person shall operate a medical marihuana facility without a permit or assist in the operation of a medical marijuana facility without a valid permit in effect for that property, shall constitute a separate offense. Upon the third offense in any 12-month period, a recommendation for permit denial or revocation may be made to the city commission. Fines for each offense shall be as set forth in section 2-373 of the Adrian City Code.

(Ord. No. 19-001, 6-3-2019)

Sec. 46-513. Fees for permits.

The fees for the permit herein defined shall be set by resolution of the city commission. The fee shall defray the costs incurred by the city for inspection, administration and enforcement of this article and shall not exceed any limitations imposed by Michigan law.

(Ord. No. 17-035, 12-13-2017; Ord. No. 19-001, 6-3-2019)

Editor's note(s)—Ord. No. 19-001, adopted June 3, 2019, renumbered § 46-510 as § 46-513.

Sec. 46-514. Severability.

The provisions of this article are hereby declared severable. If any part of this article is declared invalid for any reason by a court of competent jurisdiction, that declaration does not affect or impair the validity of all other provisions that are not subject to that declaration.

(Ord. No. 17-035, 12-13-2017; Ord. No. 19-001, 6-3-2019)

Note(s)—See editor's note at end of § 46-511.

Secs. 46-515—46-599. Reserved.

ARTICLE XII. MOBILE FOOD VENDING

Sec. 46-600. Intent.

In the interest of encouraging mobile food vendors who add to the vibrancy and desirability of the City of Adrian, while providing a framework under which such businesses operate, this article is established.

(Ord. No. 21-006, § 2, 6-1-2021)

Sec. 46-601. Definitions.

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

Mobile food vending shall mean vending, serving, or offering for sale, food, beverages, and/or related merchandise from a mobile food vending unit which meets the definition of a food service establishment under Public Act 92 of 2000, as amended, which may include the ancillary sales of branded items consistent with the food, such as tee shirts that bears the name of the organization engaged in mobile food vending, or other, similar merchandise.

Mobile food vending unit shall mean any motorized or non-motorized car, cart, stand, trailer, vehicle, or other device designed to be portable and not permanently attached to the ground from which food, beverages, and/or related merchandise is vended, served, or offered for sale.

Operate shall mean all activities associated with the conduct of business, including set up and take down as well as actual hours where the mobile vending unit is open for business.

Special event shall mean any event operated on city property or the public rights-of-way, pursuant to an authorizing resolution of the city commission.

Vendor shall mean any person, firm, partnership, association, corporation, company, or organization of any kind engaged in the business of mobile food vending; if more than one individual is operating a single mobile food vending unit, then it shall mean all individuals operating such single unit.

(Ord. No. 21-006, § 2, 6-1-2021)

Sec. 46-602. Permit required; duration; non-transferability.

(a) It shall be unlawful for any person, firm, partnership, association, corporation, company, or organization of any kind to engage in mobile food vending within the corporate limits of the city without a permit issued, pursuant to the chapter. The city clerk shall prescribe the form of such permits and the application therefor. A permit, once obtained, shall be prominently displayed on the mobile food vending unit that it authorizes.

(b) Permits issued under this chapter shall be valid for the time period for which they are issued, but no longer than a calendar year. Such permits shall be non-transferable.

(Ord. No. 21-006, § 2, 6-1-2021)

Sec. 46-603. Application; fee.

(a) Every vendor desiring to engage in mobile food vending shall make a written application to the city clerk for a permit under this chapter. The applicant shall truthfully state, in full, all information requested by the city clerk and be accompanied by a fee established by resolution of the city commission. Additionally, the applicant shall provide all documentation, such as insurance, as required by the city.

(b) Fees for an application made under this chapter and for a permit issued under this chapter shall be charged at the time of application. The fee shall be as established by resolution of the city commission. Different fees may be established depending upon the character of the permit sought, e.g. for public versus private property and based upon proximity to downtown. No fee shall be charged to an honorably discharged veteran of the United States Military who is a resident of the State of Michigan and submits official documentation evidencing such status.

(c) A current food service license issued by Lenawee County is required to be maintained as a condition of any permit under this chapter.

(d) No mobile food vending unit may serve alcoholic beverages or other intoxicants.

(Ord. No. 21-006, § 2, 6-1-2021)

Sec. 46-604. Standards.

Any vendor engaging in mobile food vending shall comply with the following standards:

(1) Appropriate waste receptacles for public use shall be provided at the site of the unit and all litter, debris and other waste attributable to or generated by the operation shall be collected and properly disposed of off-site each day. Gray water may not be dumped on the public street. Spills of food or byproducts shall be cleaned up not less than once every four hours.

(2) If operating on city-owned or controlled property, a vendor may only locate on such property as established in a resolution adopted by the city commission. If parked on public streets, assuming such a location is authorized by city commission resolution, vendors shall conform to all applicable parking regulations.

(3) No vendor may operate on public property within one block of a special event without written authorization from the event sponsor. The city commission may authorize special events that include mobile food vending as a part of that event.

(4) No vendor may use any flashing or blinking lights, string lights, or strobe lights; all exterior lights over 60 watts shall contain opaque, hood shields to direct the illumination downward.

(5) No vendor may use loud music, amplification devices or "crying out" or any other audible methods to gain attention which causes a disruption or safety hazard as determined by the city.

(6) Vendors shall comply with the city's noise ordinance, zoning ordinance, and all other city ordinances and all applicable federal, state, and county regulations.

(7) Notwithstanding anything to the contrary in the sign ordinance, a mobile food vendor may have such signs as are permanently affixed to the unit and one portable sign that is no greater than six square feet in area, with no dimension greater than three feet and no height (with legs) greater than four feet, located within five feet of the unit; and under no circumstances placed upon the sidewalk or so as to impede pedestrian and/or vehicular traffic. No signs used in connection with a unit may be animated, flash, blink, or move, and any illumination shall comply with the lighting standards above.

(8) Within residential areas, a mobile food vendor may only operate between the hours of 9:00 a.m. and 9:00 p.m.; and in commercial areas, a mobile food vendor may only operate between the hours of 7:00 a.m. and 12:00 a.m.; provided, however, that on private property within a commercial area, a mobile food vendor may operate between the hours of 7:00 a.m. and 2:00 a.m. Other restrictions regarding hours of operation may be established by resolution of the city commission.

(9) When operating on public property, no mobile food vending unit may be left unattended for more than two hours; and any mobile food vending unit not in operation shall be removed between the hours of 11:00 p.m. and 7:00 a.m. in commercial areas and 9:00 p.m. to 9:00 a.m. in residential areas, unless the mobile food vending unit is participating in a special event. Any mobile food vending unit left unattended, contrary to the section, is subject to impoundment at the owner's expense. This subsection does not apply to private property.

(10) No vendor shall represent that the granting of a permit under this article is an endorsement by the city.

(11) A vendor shall not utilize any electricity or power without the prior written authorization of the power customer; no power cable or similar device shall be extended at or across any public street, alley, or sidewalk except in a safe manner.

(12) No mobile food vending unit shall use external bollards, seating or other equipment not contained within the unit when parked on public streets, rights-of-way, of city property. When extended, awnings for mobile food vending units shall have a minimum clearance of seven feet between the ground level and the lowest point of the awning or support structure.

(13) Mobile food vending units, if allowed on public streets, shall not hinder the lawful parking or operation of other vehicles. If operating on city-owned or controlled property, they may only locate on such property as established in a resolution adopted by the city commission.

(14) A mobile food vending unit shall not operate on private property without first obtaining written consent to operate from the property owner and/or party lawfully in control thereof.

(15) Mobile vending units shall not be parked on public property within 100 feet of an existing, permanently-established restaurant or food service business, during the hours when such establishment is open to the public for business, unless the vendor is affiliated with that business or otherwise has their permission to do so.

(Ord. No. 21-006, § 2, 6-1-2021)

Sec. 46-605. Enforcement.

(a) The city clerk may revoke the permit of any vendor who ceases to meet any requirements of this chapter or violates any other federal, state, county, or local regulation, or who has made a false statement on their application, or who operates in a manner that is adverse to the protection of the public health, safety and welfare, pursuant to the procedure set forth herein.

(b) If the city clerk believes that a vendor is acting contrary to this chapter or the conditions of that vendor's permit, or if a written complaint is filed with the city clerk alleging a vendor has violated the provisions of this chapter, the city clerk shall promptly send notice, by first class mail, postage fully prepaid, of such alleged violations, or a copy of such written complaint, to the vendor, at the address provided in the vendor's application, together with a notice that an investigation will be made as to the truth of the allegations. The vendor shall be invited to respond to the allegations or complaint within not more than ten days of the date of said notice. If the city clerk, after reviewing all relevant material, finds, by a preponderance of the evidence, that a violation has occurred, the vendor's permit shall be immediately revoked and notice of such revocation shall be promptly sent to the vendor as provided for herein. A vendor may not reapply for a mobile food vending permit for one year following revocation.

(c) The police chief and sworn officers of the police department, or such other officials as designated by the city administrator, are authorized to issue and serve civil infraction citations with respect to a violation of this chapter pursuant to Michigan law. Citations shall be in such form as determined by the city attorney and shall be in conformity with all statutory requirements.

(d) A party who violates any of the provisions of this chapter is responsible for a Municipal Civil Infraction. Each day such violation continues shall be considered a separate offense.

(Ord. No. 21-006, § 2, 6-1-2021)

Sec. 46-606. Appeals.

When a permit is denied or revoked by the city clerk, the vendor may appeal to and have a hearing before the city commission within 20 days of the date notice of revocation or denial was mailed. The city shall notify the aggrieved party of the date and time that a hearing will be held on the appeal, and shall make a written determination within 20 days of the date of the hearing, after presentation by the aggrieved party and investigation by city staff, as to whether or not the grounds for denial or revocation are true. If the city commission determines that such grounds are supported by a preponderance of the evidence, the action of city clerk shall be sustained, and the applicant may appeal the city commission's decision to a court of competent jurisdiction.

(Ord. No. 21-006, § 2, 6-1-2021)

Chapter 50 MANUFACTURED HOMES AND TRAILERS[46]

ARTICLE I. IN GENERAL

Secs. 50-1—50-30. Reserved.

ARTICLE II. HOUSE TRAILERS[47]

Sec. 50-31. Definitions.

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

House trailer means any vehicle used, or intended for use, as a dwelling, regardless of whether such vehicle is self-propelling or is moved by other agencies.

(Code 1972, § 6.21)

Cross reference(s)—Definitions generally, § 1-2.

Sec. 50-32. Overnight parking on public property.

No person shall park overnight, or permit the overnight parking of, any house trailer upon any public highway, street, alley, park or other public place within the city.

(Code 1972, § 6.21(1))

[46]Cross reference(s)—Buildings and building regulations, ch. 10; environment, ch. 22; health and sanitation, ch. 30; solid waste, ch. 66; streets, sidewalks and other public places, ch. 74; subdivisions and other divisions of land, ch. 78; utilities, ch. 94; vegetation, ch. 98; waterways, ch. 102; zoning, ch. 106; RM-H residential mobile home district, § 106-187; mobile home standards, § 106-396.

[47]State law reference(s)—Mobile homes and mobile home parks, MCL 125.2301 et seq.; campgrounds, MCL 333.12501 et seq.

Sec. 50-33. Parking on private property.

No person shall park, or permit the parking of, a house trailer for occupancy on any private property within the city, except in an authorized trailer camp licensed as such by the state, provided that a permit for the occupancy of a house trailer on a residential lot may be granted by the chief of police upon application of the occupant of such house trailer within 24 hours after the parking of such house trailer. No such permit shall be granted:

(1) For a period in excess of three weeks, nor more often than once in six months for the same lot or parcel of land;

(2) Unless the lot to be occupied by such house trailer has a dwelling thereon, the occupant of which has agreed in writing, filed with the chief of police, to furnish the occupants of the house trailer with running water and toilet facilities;

(3) If any charge is to be made, directly or indirectly, for the parking of such house trailer or the furnishing of any service or facility by the owner or occupant of the premises on which such house trailer is parked.

(Code 1972, § 6.21(2))

Sec. 50-34. Violations; municipal civil infraction.

A person who violates any of the provisions of this article is responsible for a municipal civil infraction.

(Code 1972, § 1.20(9))

Chapter 54 NUISANCES[48]

Sec. 54-1. Definitions; prohibitions.

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

Public nuisance means whatever annoys, injures or endangers the safety, health, comfort or repose of the public; offends public decency; interferes with, obstructs or renders dangerous any street, highway, navigable lake or stream; or in any way renders the public insecure in life or property.

(b) *Unlawful act.* No person shall commit, create or maintain any nuisance. A person who commits, creates or maintains a nuisance is responsible for a municipal civil infraction.

(Code 1972, § 9.1)

Cross reference(s)—Definitions generally, § 1-2.

[48]State law reference(s)—Public nuisances, MCL 600.3801 et seq.; nuisance abatement, MCL 600.2940.

Sec. 54-2. Structures where controlled substances and/or drug paraphernalia found.

(a) *Findings.* The city hereby determines that whenever the use, sale, furnishing, giving or possession of controlled substances or drug paraphernalia occurs on any property, the result is increased criminal activity in the neighborhood surrounding the property, increased pedestrian and/or vehicular traffic in the surrounding neighborhood and disruption of the peace and quiet of residents living in the neighborhood surrounding the property, thereby creating a public nuisance.

(b) *Declaration of public nuisance; public hearings; notice.*

(1) Whenever the use, sale, furnishing, giving or possession of controlled substances or drug paraphernalia occurs on any property, the city commission may, by resolution, declare such property a public nuisance. Prior to such declaration, notice shall be given to the owner, a public hearing shall be held and a recommendation shall be submitted from the appropriate department.

(2) Notice to the property owner of the public hearing shall consist of either personal service or certified or registered U.S. mail, return receipt requested, to the owner in whose name the property appears upon the last local tax assessment roll. Notice to the owner shall occur at least 14 calendar days prior to the date of the public hearing.

(c) *Abatement; costs.*

(1) If the city commission determines that a property is a public nuisance, then, in addition to any other remedies available to the city in law or equity, the city commission, by resolution, may:

a. Authorize the department of engineering and public works to prohibit the occupancy of the property by either padlocking a portion of the property or boarding up the property, whichever is appropriate, for a period of up to one year from the date the city commission adopted the resolution; and/or

b. Determine that the owner shall be liable for the full cost and expense of any and all city employees utilized to padlock or board up the property, including any and all employees utilized to remove padlocks and/or boarding devices, as well as the full cost and expense of any and all police officers involved in each drug related activity, including arrests and drug raids on the property. Such costs shall be assessed against the property.

(2) If the city commission determines that property which is the subject of the public hearing is, according to current court documents, the subject of eviction proceedings, the city commission may take the matter under advisement and withhold declaration of the property as a public nuisance until such time as evidence is submitted to the clerk that the eviction proceedings have been completed, terminated or otherwise resolved.

(d) *Persuasive presumption of a public nuisance.* It shall be a persuasive presumption that a property is a public nuisance if the following criteria are met:

(1) Controlled substances and/or narcotic paraphernalia are used, sold, furnished, given or possessed on the property, or the property has been raided by the police and controlled substances and/or drug paraphernalia are found by the police.

(2) A letter has been sent to the property owner informing the owner that controlled substances and/or drug paraphernalia have been found by the police at the property. The letter must inform the owner of potential consequences if a similar activity occurs at the property. The letter shall either be sent by certified or registered, return receipt requested, U.S. mail, or personally served on the property owner in whose name the property appears upon the last local tax assessment roll.

(3) Controlled substances and/or narcotic paraphernalia are sold, furnished, given or possessed on the property again within 365 days from the date that such controlled substances and/or narcotic paraphernalia were first sold, furnished, given or possessed on the property, or the same property is raided again within 365 days from the date of the first raid, and controlled substances and/or narcotic paraphernalia are found in the raid.

(Code 1972, § 9.39(a—d))

Sec. 54-3. Noxious odors.

(a) No person shall create, establish, cause, maintain or permit the continued existence of, or permit the creation, establishment, causation or maintenance on property owned or controlled by him of, any noxious, obnoxious, offensive or nauseous odor or smell which disturbs the public peace or endangers the public health, safety or welfare.

(b) Any person who owns or is in control of any material or substance, whether solid, liquid or gas, which he knows, or has reasonable cause to believe, to have a noxious, obnoxious, offensive or nauseous odor or smell, shall not intentionally cause or permit such material or substance to disturb the public peace or endanger the public health, safety or welfare.

(c) A person who violates any of the provisions of this section is responsible for a municipal civil infraction.

(Code 1972, §§ 1.20(21), 9.28)

Sec. 54-4. Storage of dismantled, partially dismantled, inoperable, and unregistered motor vehicles or parts thereof.

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

Dismantled or partially dismantled motor vehicle means any motor vehicle from which some part which is ordinarily a component of such motor vehicle has been removed or is missing.

Inoperable motor vehicle means any motor vehicle which, by reason of dismantling, lack of repair, or other cause, is incapable of being propelled under its own power.

Unregistered motor vehicle means any vehicle not bearing a valid and current license plate.

(b) *Storage restrictions.* It is unlawful for any person to store or place, or permit to be stored or placed, a dismantled, partially dismantled, inoperable, or unregistered motor vehicle or any parts thereof, on any parcel of land in the city, platted or unplatted, or any street adjacent thereto, unless either such motor vehicle or parts thereof shall be kept in a wholly enclosed garage or other wholly enclosed structure, or unless the owner or occupant of such parcel of land is licensed by the city as a secondhand dealer or junk dealer, provided that, any bona fide owner or occupant of any parcel of land may store one such vehicle on such parcel of land for a period of time not to exceed a total of 48 hours, if such vehicle is registered in his name.

(c) *Public nuisance declared.* The presence of a dismantled, partially dismantled, inoperable, or unregistered motor vehicle, or parts thereof, on any parcel of land in violation of the terms of this section is hereby declared to be a public nuisance.

(d) *Nuisance abatement.* Whenever the city or its officials and agents determines that a dismantled, partially dismantled, inoperable or unregistered motor vehicle or parts thereof have been parked on private property, a written notice of violation shall be issued. The city inspectors are authorized to enter the subject property

to post written notice. Such written notice shall be posted conspicuously on the vehicle, and shall direct the owner to cease storing such vehicle and remove it to proper storage or disposal location. The notice shall further state that failure to comply with the terms of the notice shall result in confiscation of the violating vehicle or parts of such vehicle by the city. The owner of the vehicle or the real estate upon which it is parked, will have ten days from the date of receiving such notice to either remove the vehicle or file an appeal to the city administrator. The city is hereby authorized to remove any such motor vehicle, or parts or tires of such vehicle, found to be in violation of the conditions of this section, after the ten day period has elapsed, provided that an appeal has not been filed. This provision does not prohibit the city from also issuing a municipal civil infraction citation to either the owner of the vehicle or the real estate on which it is parked, or both.

(e) *Costs of removal and storage; notice; disposal.* Any dismantled, partially dismantled, inoperable or unregistered motor vehicle or parts thereof, removed from any premises in the city pursuant to this section, may be held by the city until claimed by the owner. The claiming owner shall pay to the city costs of removal and storage. Upon removal of the vehicle or parts, the city shall immediately send written notice to the last known address of the owner of such vehicle or parts or, if the owner's address is unknown, to the owner of the land such vehicle or parts were removed from. This notice shall inform the owner that the owner has ten days from the date of mailing of the notice in which to reclaim the property, and that should the owner fail to do so within the time limit, then the city shall declare any motor vehicle so seized to be abandoned and shall dispose of the vehicle in accordance with the provisions of the Michigan Vehicle Code relating to the disposal of abandoned vehicles. Any costs, expenses, or other fees incurred by the city in enforcing this section shall be collected as a special assessment against the premises as provided in section 70-12.

(f) *Violations.* A person who violates any of the provisions of this section is responsible for a municipal civil infraction.

(Code 1972, §§ 1.20(24), 9.110, 9.111, 9.113; Ord. No. 06-10, 8-7-2006)

Sec. 54-5. Outdoor wood-burning furnaces.

(a) *Purpose.* This section is intended to promote the public health, safety and welfare and to safeguard the health, living-conditions, safety and welfare of the citizens of Adrian due to the air pollution, and other dangers and nuisances caused from outdoor wood-burning or wood-fired furnaces.

(b) *Applicability.* This section applies to all outdoor wood-burning or wood-fired furnaces. This section does not apply to furnaces that operate by burning corn.

(c) *Definitions.* For purposes of this section, "outdoor wood-burning furnace" shall mean any device or structure that:

(1) Is designed, intended, or used to provide heat and/or hot water to any residence or other structure.

(2) Operates by the burning of wood or other solid fuel.

(3) Is not located within a residential structure.

(4) This section does not prohibit the burning of corn.

(d) *Conflicts.* This section shall not be construed as an exemption or exception to any other provisions of these Codified Ordinances, including the Building Code, Mechanical Code, Fire Code, Property Maintenance Code, or any other code or ordinance. In the event of a conflict between the provisions of this section and any other ordinance or other provisions of the law, the more restrictive provision shall apply.

(e) *Existing uses.* This section shall not apply to any free-standing wood-burning furnace that was installed, connected, and operating as of the effective date of this section under the required permits. However, this

section shall not be deemed as specific authorization for the use of any pre-existing free-standing wood-burning furnace and shall not be deemed to bar, limit, or otherwise affect the rights of any person to take private legal action regarding damage to nuisance caused by the use of a free-standing wood-burning furnace.

(f) *Prohibition.* It shall be unlawful to install or operate a free-standing wood burning furnace, and to cause or permit the installation or operation of a free-standing wood burning furnace within the city.

(g) *Declaration of a public nuisance.* Any wood burning furnace meeting the definitions of this section installed or operated in violation of this section is declared to be a public nuisance per se.

(h) *Violations.* A person who violates any of the provisions of this article is responsible for a municipal civil infraction.

(Ord. No. 06-20, 12-18-2006)

Chapter 58 OFFENSES AND MISCELLANEOUS PROVISIONS[49]

ARTICLE I. IN GENERAL

Sec. 58-1. Illegal businesses and occupations.

No person shall:

(1) Attend, frequent, operate, or be present at, or be an occupant or inmate of any place where prostitution, gambling, the illegal sale of intoxicating liquor, sale or production of controlled substances or any other illegal business or occupation is permitted or conducted.

(2) Attend, frequent, operate, be present at, or be an occupant or inmate of any place where controlled substances are known or should be known to be present on the premises.

(3) Engage in prostitution, gambling, the illegal sale of intoxicating liquor, the sale or production of controlled substances, or any other illegal business or occupation.

(Code 1972, § 9.62(20, (21); Ord. No. 06-18, 11-6-2006)

State law reference(s)—Similar provisions, MCL 750.167(1)(d), 750.167(1)(i), 750.167(1)(j).

Sec. 58-2. Soliciting for illegal or immoral purposes.

No person shall solicit or accost any person for the purpose of inducing the commission of any illegal or immoral act.

(Code 1972, § 9.62(22))

[49]Cross reference(s)—Law enforcement, ch. 42; traffic and vehicles, ch. 90.

Sec. 58-3. Transporting persons to illegal activities.

No person shall knowingly transport any person to a place where any illegal activity is allowed for the purpose of enabling the person transported to engage in such activity.

(Code 1972, § 9.62(38))

Sec. 58-4. Billposting.

(a) No person shall attach, place, paint, write, stamp or paste any sign, advertisement or any other matter upon any lamppost, electric light, railway, telegraph or telephone pole, shade tree, fire hydrant or on anything within any park. Public officers posting any notice required or permitted by law shall be excepted from the provisions of this section.

(b) No person shall attach, place, paint, write stamp or paste any sign, advertisement or other matter upon any house, wall, fence, gate, post or tree without first having obtained the written permission of the owner or occupant of the premises, and having complied with all provisions of this Code pertaining thereto.

(c) A person who violates any of the provisions of this section is responsible for a municipal civil infraction.

(Code 1972, §§ 1.20(21), 9.18, 9.19)

Sec. 58-5. Handbills and circulars.

(a) No person shall distribute handbills, cards or posters on sidewalks to persons not willing to accept such material. No person shall place handbills, cards or posters on motor vehicles unless they are placed so that they will not be blown about or scattered by the elements.

(b) A person who violates any of the provisions of this section is responsible for a municipal civil infraction.

(Code 1972, §§ 1.20(21), 9.20)

Sec. 58-6. State law; offenses; civil infractions.

(a) Every act prohibited by state law, except those acts designated as civil infractions, is hereby prohibited under this section, and whoever violates the provisions of that section of the state law within the city shall be guilty of a misdemeanor.

(b) Every act prohibited by state law as a civil infraction is hereby prohibited, and whoever violates the provisions of that section of the state law within the city is responsible for a civil infraction under this section, punishable as provided in the applicable section of the state law.

(Ord. No. 07-14, 10-1-07, eff. 10-16-07)

Secs. 58-7—58-40. Reserved.

ARTICLE II. OFFENSES AGAINST THE PERSON

Sec. 58-41. Assault and battery.

No person shall commit an assault or an assault and battery on any person.

(Code 1972, § 9.62(1))

State law reference(s)—Assaults, MCL 750.81 et seq.

Sec. 58-42. Voyeurism.

(a) No person shall peep into an occupied dwelling of another person or go upon the land of another person with the intent to peep into an occupied dwelling of another person.

(b) No person shall peep into an area where an occupant of the area reasonably can be expected to disrobe, including restrooms, baths, showers and dressing rooms, without the consent of the other person.

(Code 1972, § 9.62(5))

State law reference(s)—Window peepers, MCL 750.167(1)(c).

Secs. 58-43—58-70. Reserved.

ARTICLE III. OFFENSES INVOLVING PROPERTY RIGHTS

Sec. 58-71. Retail fraud.

A person who does any of the following in a store or in the immediate vicinity thereof shall be guilty of the offense of retail fraud:

(1) While a store is open to the public, steals property in the store that is offered for sale.

(2) While a store is open to the public, alters, transfers, removes and replaces, conceals or otherwise misrepresents the price at which property is offered for sale with the intent not to pay for the property or to pay any less than the price at which the property is offered for sale.

(3) With intent to defraud, obtains, or attempts to obtain, money or property from the store as a refund or exchange for property that was not paid for and belongs to the store.

(Code 1972, § 9.160)

State law reference(s)—Retail fraud, MCL 750.356d.

Sec. 58-72. Malicious mischief.

No person shall willfully 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, parking meter or shade tree belonging to the city or located in the public places of the city, or mark or post handbills on, or in any manner mar the walls of, any public building or fence, tree or pole within the city, or damage, destroy, take or meddle with any property belonging to the city, or remove any property belonging to the city from the building or place where it may be kept, placed or stored, without proper authority.

(Code 1972, § 9.62(31))

State law reference(s)—Malicious mischief, MCL 750.377a et seq.

Sec. 58-73. Trespass.

No person shall willfully enter upon the lands or premises of another without lawful authority after having been forbidden to do so by the owner or occupant thereof or the agent or servant of the owner or occupant thereof, or remain upon the land or premises of another without lawful authority after being notified to depart therefrom by the owner or occupant thereof or the agent or servant of the owner or occupant thereof.

(Code 1972, § 9.62(28))

State law reference(s)—Trespass, MCL 750.546 et seq.

Sec. 58-74. Entry onto another's property at night.

No person shall willfully enter upon the lands or premises of any person in the nighttime without authority or permission of the owner of such premises.

(Code 1972, § 9.62(29))

State law reference(s)—Trespass, MCL 750.546 et seq.

Sec. 58-75. Operation of motor vehicles in unauthorized areas.

No person shall drive or operate any motor vehicle, including, but not limited to, automobiles, motorcycles, motorized bicycles, snowmobiles, motorscooters, trail bikes, trucks or tractors, on property owned by another person, corporation, school, college or unit of government, in areas on such property not specifically designated for use as roadways, driveways or parking lots, without first having obtained permission of the owner or occupant thereof or the authorized servant or agent of the owner or occupant thereof.

(Code 1972, § 9.62(34))

Cross reference(s)—Traffic and vehicles, ch. 90.

Sec. 58-76. Tampering with cable television systems.

No person shall:

(1) Make any connection, whether physically, electrically, acoustically, inductively or otherwise, with any part of the franchised cable television system within the city for the purpose of enabling himself or others to receive any television signal, radio signal picture, program or sound, which connection has not been authorized by the owner of the cable television system.

(2) Tamper with, remove or injure any cable, wire or equipment used for distribution of television signals, radio signals, pictures, programs or sound without the consent of the owner thereof.

(Code 1972, § 9.62(32), (33))

State law reference(s)—Unauthorized use of telecommunications services, MCL 750.540g, 750.540h; cutting wires or cable, MCL 750.540.

Secs. 58-77—58-110. Reserved.

ARTICLE IV. OFFENSES INVOLVING PUBLIC SAFETY

Sec. 58-111. Discharge of weapons.

No person shall discharge any firearm, air rifle, air pistol or bow and arrow in the city, except when in connection with a regularly scheduled educational or training program under adequate supervision.

(Code 1972, § 9.62(3))

Sec. 58-112. Fireworks.

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

Consumer fireworks means 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. Consumer fireworks do not include low-impact fireworks.

Display fireworks means large fireworks devices that are explosive materials intended for use in fireworks displays and designed to produce visible or audible effects by combustion, deflagration, or detonation, as provided in 27 CFR 555.11, 49 CFR 172, and APA standard 87-1, 4.1.

Firework or *fireworks* means any composition or device, except for a starting pistol, a flare gun, or a flare, designated for the purpose of producing a visible or audible effect by combustion, deflagration, or detonation. Fireworks consist of consumer fireworks, low-impact fireworks, articles pyrotechnic, display fireworks, and special effects.

Low-impact fireworks means ground and handheld sparkling devices as that phrase is defined under APA standard 87-1, 3.1, 3.1.1.1 to 3.1.18, and 3.5.

Novelties means 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:

(1) Toy plastic or paper caps for toy pistols in sheets, strips, rolls, or individual caps containing not more than .25 of a grain of explosive content per cap, in packages labeled to indicate the maximum explosive content per cup.

(2) Toy pistols, toy cannons, toy canes, toy trick noisemakers, and toy guns in which toy caps as described in subparagraph (1) are used, that are constructed so that the hand cannot come in contact with the cap when in place for the explosion, and that are not designed to break apart or be separated so as to form a missile by the explosion.

(3) Flitter sparklers in paper tubes not exceeding 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 at any time other than permitted hours, as listed below consistent with Section 7.(1) and (2) of Public Act 635 of 2018. Ignition, discharge and use of consumer fireworks is permitted within the city on the following days after 11:00 a.m.:

a. December 31 until 1:00 a.m. on January 1.

b. The Saturday and Sunday immediately preceding Memorial Day: from 11:00 a.m. until 11:45 p.m. on each of those days.

c. June 29 to July 4: from 11:00 a.m. until 11:45 p.m. on each of those days.

d. July 5, if that date is a Friday or Saturday: from 11:00 a.m. until 11:45 p.m.

e. The Saturday and Sunday immediately preceding Labor Day: from 11:00 a.m. until 11:45 p.m. on each of those days.

(2) No person shall ignite, discharge or use consumer fireworks within the city while under the influence of alcohol, a controlled substance, or a combination of alcohol and a controlled substance at any time.

(3) No person under the age of 18 shall ignite, discharge or use consumer fireworks within the city at any time.

(4) No person shall recklessly endanger the life, health, safety or well-being of any person by the ignition, discharge, or use of consumer fireworks.

(c) *Enforcement.*

(1) A violation of this section is a civil infraction punishable by a fine of $1,000.00 for each violation. In accordance with Michigan Public Act 635 of 2018, $500.00 of this fine will be remitted to the Adrian Police Department for enforcement of this section.

(2) In addition to a civil infraction, fines and penalties within the Michigan Fireworks Safety Act may be imposed.

(3) Following final disposition of a finding of responsibility for violating this section, the city may dispose of or destroy any consumer fireworks retained as evidence in that prosecution.

(Code 1972, § 9.62(4); Ord. No. 12-006, 9-17-2012; Ord. No. 14-006, 5-19-2014; Ord. No. 19-002, 6-17-2019)

State law reference(s)—Authority to prohibit discharge of firearms preserved, MCL 123.1104.

Sec. 58-113. Jostling others.

No person shall jostle or roughly crowd persons in any street, alley, park or public building.

(Code 1972, § 9.62(16))

State law reference(s)—Similar provisions, MCL 750.167(1)(l).

Sec. 58-114. Abandoned refrigerators.

(a) It shall be unlawful for any person to leave outside of any building or dwelling, in a place accessible to children, any abandoned, unattended or discarded icebox, refrigerator or any other container of any kind which has an airtight door or lock which may not be released for opening from the inside of such icebox, refrigerator or container.

(b) It shall be unlawful for any person to leave outside of any building or dwelling, in a place accessible to children, any abandoned, unattended or discarded icebox, refrigerator or any other container of any kind which has an airtight, snaplock or other device, without first removing the snaplock or doors from the icebox, refrigerator or container.

(Code 1972, §§ 9.31, 9.32)

State law reference(s)—Abandoned iceboxes, MCL 750.493d.

Secs. 58-115—58-140. Reserved.

ARTICLE V. OFFENSES INVOLVING PUBLIC PEACE AND ORDER

Sec. 58-141. Unlawful assembly.

No person shall collect or stand in crowds, or arrange, encourage or abet the collection of persons in crowds, for illegal or mischievous purposes in any public place.

(Code 1972, § 9.62(15))

Sec. 58-142. Disturbing the peace.

No person shall:

(1) Disturb the public peace and quiet by loud or boisterous conduct;

(2) Permit or suffer any place occupied or controlled by him to be a resort of noisy, boisterous or disorderly persons.

(Code 1972, § 9.62(25), (26))

Sec. 58-143. Disturbances, fights or quarrels.

No person shall engage in any disturbance, fight or quarrel in a public place.

(Code 1972, § 9.62(14))

Sec. 58-144. Obstructing public places.

(a) No person shall:

(1) Conduct himself on any street or sidewalk or in any park or public building or in any other public place so as to obstruct the free and uninterrupted passage of the public;

(2) Obstruct the free and uninterrupted passage of the public on any street, roadway, sidewalk or alleyway, for any purpose, by:

a. Collecting in groups;

b. Playing any game; or

c. Erecting, placing or maintaining any barrier or object, except such barrier or object may be erected, placed or maintained when necessary for the safety of passersby in connection with the building, erection, modification or demolition of any building or by prior written consent of the chief of police, upon showing that the barrier or object is required by other ordinances or is necessary to protect public safety.

(b) A person shall not erect, construct, place or maintain any bumps, fences, gates, chains, bars, pipes, wood or metal horses or any other type of obstruction in or on any street within the boundaries of the city. As used in this subsection, the term "street" means any roadway accessible to the public for vehicular traffic, including,

but not limited to, private streets or access lanes, as well as all public streets and highways within the boundaries of the city. A person who violates any of the provisions of this subsection is responsible for a municipal civil infraction.

(Code 1972, §§ 1.20(23), 9.62(17), (18), 9.91(17))

Cross reference(s)—Streets, sidewalks and other public places, ch. 74.

Sec. 58-145. Improper language.

No person shall utter language in any public place if it is reasonably foreseeable that such utterance will provoke an immediate breach of the peace.

(Code 1972, § 9.62(8))

Sec. 58-146. Public intoxication.

No person shall be under the influence of any narcotic drug or be intoxicated in a public place and either directly endanger the safety of another person or property, or act in a manner that causes a public disturbance.

(Code 1972, § 9.62(2))

State law reference(s)—Similar provisions, MCL 750.167(1)(e); local public intoxication ordinances, MCL 333.6523.

Sec. 58-147. Begging and soliciting alms.

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

Accosting means approaching or speaking to a person in such a manner as would cause a reasonable person to fear imminent bodily harm or the commission of a criminal act upon his person or upon property in his immediate possession.

Ask, beg or *solicit* means and includes, without limitation, the spoken, written or printed word, or such other acts as are conducted in furtherance of the purpose of obtaining alms.

Forcing oneself upon the company of another means continuing to request, beg or solicit alms from a person after that person has made a negative response, blocking the passage of the individual addressed or otherwise engaging in conduct which could reasonably be construed as intended to compel or force a person to accede to demands.

(b) *Unlawful acts.* It shall be unlawful for any person to solicit money or other things of value:

(1) On private property, if the owner, tenant or lawful occupant has asked the person not to solicit on the property or has posted a sign clearly indicating that solicitations are not welcome on the property;

(2) Within 15 feet of the entrance to, or exit from, any public toilet facility;

(3) Within 15 feet of an automatic teller machine, provided that, when an automated teller machine is located within an automated teller machine facility, such distance shall be measured from the entrance or exit of the automated teller machine facility;

(4) Within 15 feet of any pay telephone, provided that, when a pay telephone is located within a telephone booth or other facility, such distance shall be measured from the entrance or exit of the telephone booth or facility;

(5) In any public transportation vehicle, bus or subway station, or within 15 feet of any bus stop or taxistand;

(6) From any operator of a motor vehicle that is in traffic on a public street; provided, however, that this subsection shall not apply to services rendered in connection with emergency repairs requested by the owner or passenger of such vehicle;

(7) From any person who is waiting in line for entry to any building, public or private, including, but not limited to, any residence, business or athletic facility;

(8) Within 15 feet of the entrance to, or exit from, a building, public or private, including, but not limited to, any residence, business or athletic facility;

(9) By accosting another; or

(10) By forcing oneself upon the company of another.

(Code 1972, § 9.62(6))

Cross reference(s)—Streets, sidewalks and other public places, ch. 74.

Sec. 58-148. Curfew of underage persons.

(a) It is unlawful for any person under the age of 13 years to be in any public place between the hours of 9:00 p.m. and 6:00 a.m. It is unlawful for any person who is 13 years of age or older and less than 16 years of age to be in any public place between the hours of 10:00 p.m. and 6:00 a.m. It is unlawful for any person who is 16 years of age or older, and less than 18 years of age to be in any public place between the hours of 12:00 midnight and 6:00 a.m.

(b) It is a defense to prosecution under subsection (a) of this section that the person was:

(1) Accompanied by the person's parent or guardian or an adult designated by the person's parent or guardian;

(2) On an errand at the direction of the person's parent or guardian or an adult designated by the person's parent or guardian, without any detour or stop;

(3) In a motor vehicle involved in interstate travel;

(4) Engaged in an employment activity, or going to or returning from an employment activity, without any detour or stop;

(5) Involved in an emergency. For the purposes of this subsection, the term "emergency" means an unforeseen combination of circumstances or the resulting state that calls for immediate action. Such term includes, but is not limited to, a fire, natural disaster or automobile accident, or any situation requiring immediate action to prevent serious bodily injury or loss of life;

(6) Attending an official school, religious or other recreational activity supervised by adults and sponsored by the city, a civic organization or another similar entity that takes responsibility for the person, or going to or returning home from, without any detour or stop, an official school, religious or other recreational activity supervised by adults and sponsored by the city, a civic organization or another similar entity that takes responsibility for the person;

(7) Exercising First Amendment rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech and the right of assembly; or

(8) Married or had been married or had disabilities of minority removed in accordance with law.

(c) No person shall assist, aid, abet, allow, permit or encourage any person to violate subsection (a) of this section.

(Code 1972, §§ 9.400—9.403)

State law reference(s)—Curfew, MCL 722.751 et seq.

Sec. 58-149. Noise.

(a) *Unlawful acts.* Each of the following acts is declared unlawful and prohibited, but such enumeration shall not be deemed to be exclusive:

(1) *Animal and bird noises.* The keeping of any animal or bird which, by causing frequent or long continued noise, shall disturb the comfort or repose of any person.

(2) *Construction noises.* The erection, including excavating, demolition, alteration or repair of any building, and the excavation of streets and highways, except between the hours of 7:00 a.m.—6:00 p.m. on weekdays, unless a permit shall first be obtained from the city administrator. Such a permit shall be granted in the case of a bona fide emergency.

(3) *Engine exhausts.* The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine or motor vehicle, except through a muffler or other device which effectively prevents loud or explosive noises therefrom.

(4) *Handling merchandise.* The creation of a loud and excessive noise in connection with loading or unloading any vehicle or the opening and destruction of bales, boxes, crates and containers.

(5) *Blowers.* The discharge into the open air of air from any noise-creating blower or power fan unless the noise from such blower or fan is sufficiently muffled to deaden such noise.

(6) *Hawking.* The hawking of goods, merchandise or newspapers in a loud and boisterous manner.

(7) *Horns and signal devices.* The sounding of any horn or signal device on any automobile, motorcycle, bus or other vehicle while such vehicle is not in motion, except as a danger signal if another vehicle is approaching apparently out of control, or to give warning of intent to get under motion, of if in motion, only as a danger signal after or as brakes are being applied and deceleration of the vehicle is intended; the creation of any reasonably loud or harsh sound by means of any such signal device; and the sounding of such device for any unnecessary and unreasonable period of time.

(8) *Radios and musical instruments.* The playing of any radio, television set, phonograph or any musical instrument in such a manner or with such volume, particularly during the hours between 11:00 p.m.—7:00 a.m., or at any time or place so as to annoy or disturb the quiet, comfort or repose of persons in any office, dwelling, hotel or other type of residence, or of any persons in the vicinity.

(9) *Shouting and whistling.* Yelling, shouting, hooting, whistling, singing or making any other loud noise on the public street between the hours of 11:00 p.m.—7:00 a.m., or the making of any such noise at any time so as to annoy or disturb the quiet, comfort or repose of persons in any school, place of worship, office, dwelling, hotel or other type of residence, or any persons in the vicinity.

(10) *Whistles and sirens.* The blowing of any whistle or siren, except to give notice of the time to begin or stop work or as a warning of fire or danger.

(11) *Refuse collection.* The collection of "refuse," as such term is defined in section 66-1, except between the house of 7:00 a.m.—10:00 p.m.

(12) *Electronically amplified sound systems.* A person operating or in control of a parked or moving motor vehicle, including motorcycles and mopeds, operating, or permitting the operation of, an electronically

amplified sound system in or about the vehicle so as to produce sound that is clearly audible at a distance of 50 feet from the vehicle between the hours of 7:00 a.m.—11:00 p.m., or clearly audible at a distance of 25 feet from the vehicle between the hours of 11:00 p.m.—7:00 a.m.

(b) *Exceptions.* The provisions of subsection (a) of this section do not apply to:

(1) *Emergency vehicles.* Any police or fire vehicle or any ambulance, while engaged in emergency business.

(2) *Highway maintenance and construction.* Excavations or repairs of bridges, streets or highways by or on behalf of the city or the state, during the night, when the public safety, welfare and convenience renders it impossible to perform such work during the day.

(c) *Violations.* A person who violates any of the provisions of this section is responsible for a municipal civil infraction.

(Code 1972, §§ 1.20(21), 9.25, 9.26)

Secs. 58-150—58-180. Reserved.

ARTICLE VI. OFFENSES INVOLVING PUBLIC MORALS

DIVISION 1. GENERALLY

Sec. 58-181. Public nudity.

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

Public nudity means knowingly or intentionally displaying, in a public place, or for payment or promise of payment, by any person, including, but not limited to, payment or promise of payment of an admission fee, any individual's genitals or anus with less than a fully opaque covering, or a female individual's breast with less than a fully opaque covering of the nipple and areola. A mother's breastfeeding of her baby does not, under any circumstances, constitute nudity, irrespective of whether or not the nipple is covered during or incidental to such feeding.

(b) *Unlawful act.* It is unlawful for any person to commit an act of public nudity.

(Code 1972, § 9.62(7))

State law reference(s)—Authority to prohibit public nudity, MCL 117.5h.

Sec. 58-182. Obscene conduct.

No person shall engage in any obscene conduct in any public place.

(Code 1972, § 9.62(10))

Sec. 58-183. Indecent exposure.

No person shall make any immoral exhibition or indecent exposure of his person in a public place.

(Code 1972, § 9.62(11))

State law reference(s)—Indecent exposure, MCL 750.335a.

Sec. 58-184. Gambling.

No person shall keep or maintain a gaming room, gaming table or any policy or pool ticket used for gaming; or knowingly suffer a gaming room, gaming table or any policy or pool ticket to be kept, maintained, played or sold on any premises occupied or controlled by such person.

(Code 1972, § 9.62(24))

State law reference(s)—Gambling, MCL 750.301 et seq.

Sec. 58-185. Prostitution.

No person shall engage in any act of prostitution.

(Code 1972, § 9.62(18))

State law reference(s)—Prostitution, MCL 750.448 et seq.

Sec. 58-186. Public consumption or possession of alcoholic liquor.

No person shall consume any alcoholic liquor or possess any open or unsealed container of alcoholic liquor on any street, alley, public sidewalk or public parking area within the OS-1 office service district, B-1 local business district, B-2 community business district, B-3 central business district and B-4 planned shopping center district, as such districts are defined and designated on the official zoning map of the city. This section shall not apply to any properly established "social district."

(Code 1972, § 9.62(36); Ord. No. 20-005, 9-8-2020)

Sec. 58-187. Open house parties.

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

Alcoholic beverage means an alcoholic liquor as defined in section 105 of Public Act No. 58 of 1998 (MCL 436.1105).

Allow means to give permission for, or approval of, possession or consumption of an alcoholic beverage or controlled substance by any of the following means:

(1) In writing;

(2) One or more oral statements;

(3) Any form of conduct, including a failure to take corrective action, that would cause a reasonable person to believe that permission or approval has been given.

Control over any premises, residence or other real property means the authority to regulate, direct, restrain, superintend, control or govern the conduct of other individuals on or within the premises, residence or other real property, and includes, but is not limited to, a possessory right.

Controlled substance means the same as the definition given for such term in section 7104 of the Public Health Code (MCL 333.7104).

Corrective action means any of the following:

(1) Making a prompt demand that the minor or other individual depart from the premises, residence or other real property, or refrain from the unlawful possession or consumption of the alcoholic beverage or controlled substance on or within the premises, residence or other real property, and taking additional action described in subsection (2) and (3) of this definition if the minor or other individual does not comply with the request.

(2) Making a prompt report of the unlawful possession or consumption of an alcoholic beverage or controlled substance to a law enforcement agency having jurisdiction over the violation.

(3) Making a prompt report of the unlawful possession or consumption of an alcoholic beverage or controlled substance to another person having a greater degree of authority or control over the conduct of persons on or within the premises, residence or other real property.

Minor means an individual less than 21 years of age.

Premises means a permanent or temporary place of assembly, other than a residence, including, but not limited to, any of the following:

(1) Meeting hall, meeting room or conference room.

(2) Public or private park.

Residence means a permanent or temporary place of dwelling, including, but not limited to, any of the following:

(1) House, apartment, condominium or mobile home.

(2) Cottage, cabin, trailer or tent.

(3) Motel unit, hotel unit or bed and breakfast unit.

Social gathering means an assembly of two or more individuals, for any purpose, unless all of the individuals attending the assembly are members of the same household or immediate family.

(b) *Responsibility of person having control over premises.* Except as otherwise provided in subsection (c) of this section, an owner, tenant or other person having control over any premises, residence or other real property shall not do any of the following:

(1) Knowingly allow a minor to consume or possess an alcoholic beverage at a social gathering on or within the premises, residence or other real property.

(2) Knowingly allow any individual to consume or possess a controlled substance at a social gathering on or within the premises, residence or other real property.

(c) *Exception.* This section does not apply to the use, consumption or possession of a controlled substance by an individual pursuant to a lawful prescription, or to the use, consumption or possession of an alcoholic beverage by a minor for religious purposes.

(d) *Rebuttable presumption.* Evidence of all of the following gives rise to a rebuttable presumption that the defendant allowed the consumption or possession of an alcoholic beverage or controlled substance on or within a premises, residence or other real property in violation of this section:

(1) The defendant had control over the premises, residence or other real property;

(2) The defendant knew that a minor was consuming or in possession of an alcoholic beverage or knew that an individual was consuming or in possession of a controlled substance at a social gathering on or within the premises, residence or other real property;

(3) The defendant failed to take corrective action.

(e) *Authorization to sell or furnish alcoholic beverages to minors.* This section does not authorize selling or furnishing an alcoholic beverage to a minor.

(f) *Violations; penalties.* A penalty for a violation of this section shall be in addition to any penalty that may be imposed for any other offense arising from the same conduct.

(Code 1972, §§ 9.120—9.123)

State law reference(s)—Similar provisions, MCL 750.141a.

Sec. 58-188. Possession or consumption of alcoholic liquor by underage persons; false identification.

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

Alcoholic beverage means an alcoholic liquor as defined in section 105 of Public Act No. 58 of 1988 (MCL 436.1105).

Commission means the state liquor control commission.

Minor means a person who is less than 21 years of age.

(b) *Purchase, consumption and possession restricted.* A minor shall not purchase or attempt to purchase an alcoholic beverage, consume or attempt to consume an alcoholic beverage, or possess or attempt to possess an alcoholic beverage, except as provided in this section. A minor who violates this subsection is responsible for a civil infraction or guilty of a misdemeanor as follows:

(1) For the first violation, the minor is responsible for a civil infraction and shall be fined not more than $100.00. The court may order a minor under this subdivision to participate in substance abuse disorder services as defined in section 6230 of the Public Health Code, 1978 PA 368, MCL 333.6230, and designated by the administrator of the office of substance abuse services, and may order the minor to perform community service and to undergo substance abuse screening and assessment at his or her own expense as described in subsection (d). A minor may be found responsible or admit responsibility only once under this section.

(2) If a violation of subsection (b) occurs after one prior judgment, the minor is guilty of a misdemeanor. A misdemeanor under this subdivision is punishable by imprisonment for not more than 30 days if the court finds that the minor violated an order of probation, failed to successfully complete any treatment, screening or community service ordered by the court, or failed to pay any fine for that conviction or juvenile adjudication, or by a fine of not more than $200.00, or both. A court may order a minor under this subdivision to participate in substance use disorder services as defined in section 6230 or the Public Health Code, 1978 PA 368, MCL 333.6230, and designated by the administrator of the office of substance abuse services, to perform community service, and to undergo substance abuse screening and assessment at his or her own expense as described in subsection (d).

(3) If a violation of this subsection occurs after two or more prior judgments, the minor is guilty of a misdemeanor. A misdemeanor under this subdivision is punishable by imprisonment for not more than 60 days, if the court finds that the minor violated an order of probation, failed to successfully complete any treatment, screening or community service ordered by the court, or failed to pay any fine for that conviction or juvenile adjudication, or by a fine of not more than $500.00, or both, as applicable. A court may order a minor under this subdivision to participate in substance use disorder services as defined in section 6230 of the Public Health Code, 1978 PA 368, MCL 333.6230, and designated by the administrator of the office of substance abuse service, and to undergo substance abuse screening and assessment at his or her own expense as described in subsection (d).

(c) *Fraudulent identification.* A person who furnishes fraudulent identification to a minor or, notwithstanding subsection (b) of this section, a minor who uses fraudulent identification to purchase an alcoholic beverage, is guilty of a misdemeanor.

(d) *Screening and assessment.* The court may order the person convicted of violating subsection (b) of this section to undergo screening and assessment by a person or agency as designated by the substance abuse coordinating agency as defined in section 6103 of the Public Health Code (MCL 333.6103) in order to determine whether the person is likely to benefit from rehabilitative services, including alcohol or drug education and alcohol or drug treatment programs.

(e) *Suspension of operator's or chauffeur's license.* The secretary of state shall suspend the operator's or chauffeur's license of an individual convicted of violating subsection (b) or (c) of this section as provided in section 319 of the Michigan Vehicle Code (MCL 257.319).

(f) *Preliminary chemical breath analysis.* A peace officer who has reasonable cause to believe a minor has consumed alcoholic liquor or has any bodily alcohol content may request that individual to submit to a preliminary chemical breath analysis. If a minor does not consent to a chemical breath analysis, the analysis shall not be administered without a court order, but a peace officer may seek to obtain a court order. The results of a preliminary chemical breath analysis or other acceptable blood alcohol test are admissible in a civil infraction proceeding or criminal prosecution to determine if the minor has consumed or possessed alcoholic liquor or had any bodily alcohol content.

(g) *Notification of parent, custodian and guardian.* A law enforcement agency, upon determining that a person less than 18 years of age who is not emancipated under Public Act No. 293 of 1968 (MCL 722.1 et seq.) allegedly consumed, possessed, purchased or attempted to consume, possess or purchase an alcoholic beverage in violation of subsection (b) of this section, shall notify the parent, custodian or guardian of the minor as to the nature of the violation if the name of a parent, guardian or custodian is reasonably ascertainable by the law enforcement agency. The notice required by this subsection shall be made not later than 48 hours after the law enforcement agency determines that the person who allegedly violated subsection (b) of this section is less than 18 years of age and not emancipated under Public Act No. 293 of 1968 (MCL 722.1 et seq.). The notice may be made by any means reasonably calculated to give prompt actual notice, including, but not limited to, notice in person, by telephone or by first class mail. If an individual less than 17 years of age is incarcerated for violating subsection (b) of this section, his parents or legal guardian shall be notified immediately as provided in this subsection.

(h) *Possession during regular working hours.* This section does not prohibit a minor from possessing an alcoholic beverage during regular working hours and in the course of his employment if employed by a person licensed by Public Act No. 58 of 1998 (MCL 436.1101 et seq.), by the commission or by an agent of the commission, if the alcoholic beverage is not possessed for his personal consumption.

(i) *Vendor's liability.* This section does not limit the civil or criminal liability of the vendor or the vendor's clerk, servant, agent or employee for a violation of this section or Public Act No. 58 of 1998 (MCL 436.1101 et seq.).

(j) *Consumption for educational purposes.* The consumption of an alcoholic beverage by a minor who is enrolled in a course offered by an accredited post-secondary educational institution in an academic building of the institution under the supervision of a faculty member is not prohibited by this section if the purpose of the consumption is solely educational and is a requirement of the course.

(k) *Consumption of sacramental wine.* The consumption by a minor of sacramental wine in connection with religious services at a church, synagogue or temple is not prohibited by this section.

(l) *Undercover operations.* Subsection (b) of this section does not apply to a minor who participates in either or both of the following:

(1) An undercover operation in which the minor purchases or receives an alcoholic beverage under the direction of the minor's employer and with the prior approval of the local prosecutor's office as part of an employer-sponsored internal enforcement action.

(2) An undercover operation in which the minor purchases or receives an alcoholic beverage under the direction of the state police, the commission or a local police agency as part of an enforcement action unless the initial or contemporaneous purchase or receipt of an alcoholic beverage by the minor was not under the direction of the state police, the commission or the local police agency and was not part of the undercover operation.

(m) *Recruitment of minors for participation in undercover operations at the scene of violations.* The state police, the commission or a local police agency shall not recruit, or attempt to recruit, a minor for participation in an undercover operation at the scene of a violation of subsection (b) of this section, section 703(1) of Public Act No. 58 of 1998 (MCL 436.1703(1)), section 801(2) of Public Act No. 58 of 1998 (MCL 436.1801(2)) or section 701(1) of Public Act No. 58 of 1998 (MCL 436.1701(1)).

(n) *[Voluntary treatment.]* A minor who has consumed alcoholic liquor and who voluntarily presents himself or herself to a health facility or agency for treatment or for observation including, but not limited to, medical examination and treatment for any condition arising from consumption of alcohol is not considered to be in violation of this section. This also applies to a minor who accompanies an individual who has consumed alcoholic liquor and who voluntarily presents himself or herself to a health facility or agency for medical examination or treatment for any condition arising from the consumption of alcohol.

(o) *[Affirmative defense.]* In a prosecution for a violation of this section, it is an affirmative defense that the minor consumed the alcoholic liquor in a venue or location where that consumption is legal.

(p) *[Definitions.]* As used in this section:

(1) *Any bodily alcohol content* means either an alcohol content of 0.02 grams or more per milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine; or any presence of alcohol within a person's body resulting from consumption of alcoholic liquor, other than consumption as part of a generally recognized religious service or ceremony.

(2) *Emergency medical services personnel* means that term as defined in section 20904 of the Public Health Code, 1978 P.A. 368, MCL 333.20904.

(3) *Health facility* or *agency* means that term as defined in section 20106 of the Public Health Code, 1978 P.A. 368, MCL 333.20106.

(Code 1972, §§ 9.300, 9.301; Ord. No. 17-026, 10-16-2017)

State law reference(s)—Similar provisions, MCL 436.1703.

Secs. 58-189—58-210. Reserved.

DIVISION 2. DRUG PARAPHERNALIA[50]

[50]State law reference(s)—Drug paraphernalia, MCL 333.7451 et seq.

Sec. 58-211. Definitions.

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

Drug paraphernalia means any equipment, product, material or combination of equipment, products or materials which is specifically designed for use in planting; propagating; cultivating; growing; harvesting; manufacturing; compounding; converting; producing; processing; preparing; testing; analyzing; packaging; repackaging; storing; containing; concealing; injecting, ingesting, inhaling or otherwise introducing into the human body a controlled substance, including, but not limited to, all of the following:

(1) An isomerization device specifically designed for use in increasing the potency of any species of plant which is a controlled substance.

(2) Testing equipment specifically designed for use in identifying or analyzing the strength, effectiveness or purity of a controlled substance.

(3) A weight scale or balance specifically designed for use in weighing or measuring a controlled substance.

(4) A dilutent or adulterant, including, but not limited to, quinine hydrochloride, mannitol, mannite, dextrose and lactose specifically designed for use with a controlled substance.

(5) A separation gin or sifter specifically designed for use in removing twigs and seeds from, or in otherwise cleaning or refining, marijuana.

(6) An object specifically designed for use in ingesting, inhaling or otherwise introducing marijuana, cocaine, hashish or hashish oil into the human body.

(7) A kit specifically designed for use in planting, propagating, cultivating, growing or harvesting any species of plant which is a controlled substance or from which a controlled substance can be derived.

(8) A kit specifically designed for use in manufacturing, compounding, converting, producing, processing or preparing controlled substances.

(9) A device, commonly known as a cocaine kit, that is specifically designed for use in ingesting, inhaling or otherwise introducing controlled substances into the human body, and which consists of at least a razor blade and a mirror.

(10) A device, commonly known as a bullet, that is specifically designed to deliver a measured amount of controlled substances to the user.

(11) A device, commonly known as a snorter, that is specifically designed to carry a small amount of controlled substances to the user's nose.

(12) A device, commonly known as an automotive safe, that is specifically designed to carry and conceal a controlled substance in an automobile, including, but not limited to, a can used for brake fluid, oil or carburetor cleaner which contains a compartment for carrying and concealing controlled substances.

(13) A spoon, with or without a chain attached, that has a small diameter bowl and that is specifically designed for use in ingesting, inhaling or otherwise introducing controlled substances into the human body.

(Code 1972, § 9.500)

Cross reference(s)—Definitions generally, § 1-2.

State law reference(s)—Similar provisions, MCL 333.7451.

Sec. 58-212. Exemptions.

The provisions of this division do not apply to any of the following:

(1) An object sold, or offered for sale, to a person licensed under article 15 of the Public Health Code (MCL 333.16101 et seq.) or under the Occupational Code (MCL 339.101 et seq.), or an intern, trainee, apprentice or assistant in a profession licensed under such article 15 or under such act for use in that profession.

(2) An object sold, or offered for sale, to any hospital, sanitarium, clinical laboratory or other health care institution, including a penal, correctional or juvenile detention facility for use in that institution.

(3) An object sold, or offered for sale, to a dealer in medical, dental, surgical or pharmaceutical supplies.

(4) Equipment, a product or material which may be used in the preparation or smoking of tobacco or herbs other than a controlled substance.

(5) A blender, bowl, container, spoon or mixing device not specifically designed for a use described in section 58-211.

(6) A hypodermic syringe or needle sold, or offered for sale, for the purpose of injecting or otherwise treating livestock or other animals.

(7) An object sold, offered for sale or given away by a state or local governmental agency or by a person specifically authorized by a state or local governmental agency to prevent the transmission of infectious agents.

(Code 1972, § 9.505)

State law reference(s)—Similar provisions, MCL 333.7457.

Sec. 58-213. Possession.

It is unlawful for any person to use, or possess with the intent to use, drug paraphernalia.

(Code 1972, § 9.502)

Sec. 58-214. Advertisement.

It is unlawful for any person to place any advertisement in any newspaper, magazine, handbill or other publication distributed in the city, the purpose of which advertisement, in whole or in part, is to promote the sale of any object designed or intended for use as drug paraphernalia.

(Code 1972, § 9.504)

Sec. 58-215. Sale prohibited; notice; compliance.

(a) Subject to subsection (b) of this section, a person shall not sell, or offer for sale, drug paraphernalia, knowing that the drug paraphernalia will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce a controlled substance into the human body.

(b) Before a person is arrested for a violation of subsection (a) of this section, the city attorney shall notify the person in writing, not less than two business days before such person is to be arrested, that the person is in

possession of a specific, defined material that has been determined by the city attorney to be drug paraphernalia. The notice also shall request that the person refrain from selling, or offering for sale, the material, and shall state that if the person complies with the notice, no arrest will be made for a violation of subsection (a) of this section.

(c) If a person complies with a notice sent under subsection (b) of this section, the compliance is a complete defense for the person against a prosecution under this section as long as the compliance continues.

(Code 1972, § 9.503)

State law reference(s)—Similar provisions, MCL 333.7453.

Sec. 58-216. Manufacture.

It is unlawful for any person to manufacture, with the intent to deliver or sell, drug paraphernalia.

(Code 1972, § 9.503)

Sec. 58-217. Declaratory judgments.

(a) A person who has received a notice under section 58-215(b) may commence an action for a declaratory judgment to obtain an adjudication of the legality of the intended sale or offer to sell. The city attorney shall be made the defendant to an action commenced under this subsection.

(b) If a declaratory judgment has been issued pursuant to subsection (a) of this section, stating that the sale or offer to sell of specified material does not violate section 58-215, the declaration judgment is a complete defense for the person obtaining such a judgment against a prosecution under section 58-215.

State law reference(s)—Similar provisions, MCL 333.7459.

Secs. 58-218—58-250. Reserved.

ARTICLE VII. OFFENSES INVOLVING ADMINISTRATION OF GOVERNMENT

Sec. 58-251. Opposing or obstructing police.

No person shall obstruct, resist, hinder or oppose any member of the police force or any peace officer in the discharge of his duties as such.

(Code 1972, § 9.62(27))

Cross reference(s)—Law enforcement, ch. 42.

State law reference(s)—Obstruction of police officer, MCL 750.479.

Secs. 58-252—58-280. Reserved.

ARTICLE VIII. OFFENSES INVOLVING SCHOOLS

Sec. 58-281. Definitions.

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

School includes any school or college, whether elementary, secondary, advanced or for preschool, mentally handicapped or physically handicapped individuals, or whether public, private or parochial.

School premises includes all lands and grounds owned by a school, whether or not occupied by a building, together with all lands and grounds surrounding the school buildings, including any paths, walkways, drives or parking areas used in connection or incidental thereto.

(Code 1972, § 9.63)

Cross reference(s)—Definitions generally, § 1-2.

Sec. 58-282. Interference.

No person shall disturb or interfere in any manner with the orderly conduct of classes or other school sanctioned activity conducted in or on any school premises, including, but not limited to, interference through the operation of a motor vehicle.

(Code 1972, § 9.64(1))

Sec. 58-283. Trespass.

(a) No person shall enter upon school premises during the regular school hours or during any school sponsored activity unless such person first receives written permission from an authorized agent of the school or has received a specific invitation to be in or on such premises, specifying the time, location and person, if any, to which to report.

(b) Subsection (a) of this section shall not apply to any regularly enrolled student in good standing, not under expulsion, teacher, parent or guardian of a student, regular delivery men making deliveries of goods or supplies to the school, police or public safety officers, or other employees of the school.

(c) No person shall willfully enter upon school premises at any time without lawful authority after having been forbidden to do so by an authorized agent of the school, or remain upon the school premises after being notified to depart from such premises by an authorized agent of the school.

(Code 1972, § 9.64(2), (3))

Sec. 58-284. Damaging school property.

No person shall damage, destroy or deface any school building, equipment, teaching supplies or equipment, or other school property located in or on any school premises, including, but not limited to, any trees, shrubbery, lawn, flowers or fences.

(Code 1972, § 9.64(4))

Sec. 58-285. Threats, intimidation, coercion or force.

(a) No person shall:

(1) Cause, or attempt to cause, by threats, intimidation, coercion or force, any student:

a. Not to attend a program or class of instruction previously scheduled for such student.

b. To interfere with school activities or business.

(2) Cause, or attempt to cause, by counsel, inducement, enticement, invitation, encouragement, intimidation or threat of physical force, any student under 16 years of age to:

a. Fail to attend a scheduled program or class of instruction or other school activity for which attendance for such student is required by the school; or

b. Interfere with school sanctioned activities or business.

(b) Subsection (a)(2) of this section does not apply to any parent or guardian of any child with respect to such child.

(Code 1972, § 9.64(5), (6))

Sec. 58-286. Alcoholic liquor.

No person shall consume, or attempt to consume, alcoholic liquor, or possess, or attempt to possess, alcoholic liquor in a school or on school premises; provided, however, that this section shall not apply to school premises owned by a college.

(Code 1972, § 9.64)

Sec. 58-287. Parental responsibility.

(a) A parent or guardian having physical custody of a minor child shall require the minor child to attend regular school sessions and to forbid the minor child to be absent from class without parental or school permission.

(b) A parent or guardian having physical custody of a minor child shall ensure that the minor child arrives at school on time and does not have excessive tardies. Excessive tardiness is defined as arriving to school late on over 20 percent of the school days.

(c) A violation of this section is a misdemeanor punishable by not more than 90 days in jail or a fine of up to $500.00, or both.

(Ord. No. 12-002, Opt. II, 8-2-2012)

Secs. 58-288—58-300. Reserved.

ARTICLE IX. CHECK FRAUD[51]

[51]Editor's note(s)—Ord. No. 08-18, adopted December 15, 2008, set out provisions intended for use as art. IX, §§ 58-300—58-303. At the editor's discretion, these provisions have been included as §§ 58-301—58-304. See also the Code Comparative Table.

Sec. 58-301. Definitions.

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

Credit means an arrangement or understanding with the bank or depository, for the payment of such check, draft or order, in full, upon the presentation thereof for payment.

(Ord. No. 08-18, 12-15-2008)

Sec. 58-302. Drawing on insufficient funds.

(a) A person shall not make, draw, utter, or deliver any check, draft, or other order for the payment of money, to apply on account or otherwise, upon any bank or other depository with intent to defraud, and knowing at the time of the making, drawing, uttering, or delivering that the maker or drawer does not have sufficient funds in or credit with the bank or other depository to pay the check, draft, or order in full upon its presentation.

(b) A person who violates this section is guilty of a misdemeanor punishable by not more than 93 days in jail or a fine of not more than $500.00, or both.

(Ord. No. 08-18, 12-15-2008)

Sec. 58-303. Evidence of intent to defraud.

As against the maker or drawer thereof, the making, drawing, uttering, or delivering of a check, draft, or order, payment of which is refused by the drawee, when presented in the usual course of business, shall be prima facie evidence of intent to defraud and of knowledge of insufficient funds in or credit with such bank or other depository, provided such maker or drawer shall not have paid the drawee thereof the amount due thereon, together with all costs and protest fees, within five days after receiving notice that such check, draft or order has not been paid by the drawee.

(Ord. No. 08-18, 12-15-2008)

Sec. 58-304. Notice of protest as evidence of intent to defraud.

Where such check, draft, or order is protested on the ground of insufficiency of funds of credit, the notice of protest thereof shall be admissible as proof of presentation, non-payment in protest, and shall be prima facie evidence of intent to defraud, and of knowledge of insufficient funds or credit with such bank or other depository.

(Ord. No. 08-18, 12-15-2008)

Secs. 58-305—58-400. Reserved.

ARTICLE X. FALSE ALARM

Sec. 58-401. Purpose.

It is the purpose of this article to discourage and recoup expenses incurred for city emergency services due to false alarms which cause the city to incur unnecessary expenses and cause a threat to the health, safety and welfare of city residents by diverting emergency personnel and equipment to sites where no legitimate need exists, thereby creating a risk that the emergency service provider will take a longer amount of time, or be unable to respond to a legitimate call. This article has become necessary due to the proliferation of private fire, carbon monoxide and intruder alarms, and the corresponding increase in false alarms due to defective, malfunctioning, overly sensitive, improperly installed or improperly used equipment, or equipment which triggers an alarm when no legitimate hazard exists.

(Ord. No. 14-008, 6-16-2014)

Sec. 58-402. Definitions.

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

Alarm user means any person who owns, possesses, controls or otherwise exercises dominion over a premises or property which has an alarm system, or who regularly supervises the operation of any business on a premises or property which has an alarm system or on whose behalf the alarm system is maintained. Owners or users of alarm systems within or on vehicles shall not be included; provided, however, when an alarm system in or on a vehicle is connected, either by wire, signal, or other means with an alarm system in or on a premises or property, the person owning or using such vehicle alarm system is an alarm user. A person owns, possesses or controls a premises or property if he is the grantee under a deed, the purchaser under a land contract or a tenant of the property.

Emergency services includes any service provided by but not limited to firefighter vehicles and personnel, rescue vehicles and personnel, ambulance vehicles and personnel, and police vehicles and personnel.

Excessive false alarms shall mean a third or subsequent false alarm to which city emergency services personnel responds at the same location in any 12-month period.

False alarm shall be defined as any alarm signal emitted by an alarm system to emergency services which does not result from criminal activity for which the alarm system was intended; or in the case of a fire alarm, any alarm signal emitted by an alarm system which does not result from a fire or potential fire condition.

Medical alert devices shall mean personal alarm devices used to notify emergency services of a medical emergency.

(Ord. No. 14-008, 6-16-2014; Ord. No. 21-005, 3-29-2021)

Sec. 58-403. Nuisance.

All excessive false alarms from the same location are hereby declared to be a public nuisance.

(Ord. No. 14-008, 6-16-2014)

Sec. 58-404. Excessive false alarm fees.

For each excessive false alarm to which city emergency services personnel responds, the alarm user shall be charged and shall pay to the city an excessive false alarm fee in such an amount as shall, from time to time, be established by resolution of the city commission.

(Ord. No. 14-008, 6-16-2014)

Sec. 58-405. Exceptions.

False alarms caused by any of the following described extenuating circumstances shall not constitute false alarms or excessive false alarms for which a fee is to be charged and paid:

(1) False alarms caused by storm conditions;

(2) False alarms activated by persons working on an alarm system, provided that prior notification of the date and time of day during which such work is to be performed has been provided to the city police and/or fire departments;

(3) False alarms activated by disruption or disturbance of telephone company facilities or motor vehicle and utility pole accidents;

(4) False alarms recorded within the first 14 days after installation;

(5) False alarms involving county or other municipal buildings, grounds and/or property;

(6) False alarms from medical alert devices.

(Ord. No. 14-008, 6-16-2014)

Sec. 58-406. Billing procedures.

(a) Not more than ten business days following the end of the month in which an excessive false alarm occurred and to which city emergency personnel has responded, the city police chief or his designee or the city fire chief or his designee shall submit to the finance department such information as may be necessary in order to enable the city to prepare and submit to the alarm user an invoice for an excessive false alarm fee. The invoice for the excess false alarm fee shall also serve as notification of the violation.

(b) An invoice prepared pursuant to subsection (a) above shall demand full payment of the excessive false alarm fee within 30 days of the date of such invoice. For any amounts that remain unpaid after 30 days from the date of such invoice, the city shall impose a late charge penalty of ten percent of the amount of the invoice.

(Ord. No. 14-008, 6-16-2014)

Sec. 58-407. Appeal.

Within 20 days of the date of notification of the violation, the alarm user may submit to the fire chief or chief of police any evidence and documentation that one of the exceptions applies. The fire chief or chief of police shall make a determination as to applicability of any exception and notify the alarm user within five days.

(Ord. No. 14-008, 6-16-2014)

Sec. 58-408. Violation as civil infraction.

A violation of this article section constitutes a municipal civil infraction, punishable by a fine of $150.00 for a first offense and a fine of $250.00 each additional offense.

(Ord. No. 14-008, 6-16-2014)

Chapter 62 PARKS AND RECREATION[52]

ARTICLE I. IN GENERAL

Sec. 62-1. Definitions.

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

Director means the director of parks and recreation of the city.

(Code 1972, § 3.1)

Cross reference(s)—Definitions generally, § 1-2.

Sec. 62-2. Department of parks and recreation.

(a) The department of parks and recreation shall be headed by the director of parks and recreation, who shall perform administrative and professional direction in planning, developing, and administering a municipal recreation and parks program. The director of parks and recreation will utilize a variety of methods to determine recreation needs, interests, and facilities required to provide such services to the community.

(b) The department of parks and recreation shall perform, but not be limited to, the following functions:

(1) Plan, create, and supervise recreation facilities and equipment under the direction of the city administrator.

(2) Be responsible for the control and regulation of tree planting, planning, development, management of boulevards, parks, and cemeteries, and other beautification projects including but not limited to those involving city hall property, parking lots, and riverfront properties.

(3) Respond to citizen complaints and inquiries concerning department programs.

(4) Make recommendations for land acquisition and capital improvements, as well as prepare for and make grant applications.

(5) Coordinate yearround indoor and outdoor recreational programs and events.

(6) Communicate with the public through a variety of means to announce recreational programs.

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[52]Cross reference(s)—Environment, ch. 22; streets, sidewalks and other public places, ch. 74; vegetation, ch. 98; waterways, ch. 102.

State law reference(s)—Authority to operate system of public recreation, MCL 123.51 et seq.

(7) Perform such other tasks related to parks and recreation as may be required to implement programs for all age groups.

(Code 1972, §§ 1.109.00, 1.110.00)

Secs. 62-3—62-30. Reserved.

ARTICLE II. CONDUCT IN PARKS

Sec. 62-31. Scope.

The provisions of this article apply to parks and recreational facilities owned or operated by the city.

Sec. 62-32. Additional rules and regulations.

The city administrator is hereby empowered to make additional rules and regulations, subject to the approval of the city commission, relating to the conduct and use of parks and public grounds, the use of any facility located in or on such parks and public grounds, the establishment of rental fees for the use of any facility, and the protection of public property and the safety, health, morals and welfare of the public. Any violation of any such made and approved regulation shall constitute a violation of this section.

(Code 1972, § 3.8)

Sec. 62-33. Injury to park property.

No person shall obstruct any walk or drive in any public park or playground, nor injure, mar or damage in any manner any monument, ornament, fence, bridge, seat, tree, fountain, shrub, flower, playground equipment, fireplace or other public property within, or pertaining to, any park or playground. Violations of this section are a misdemeanor.

(Code 1972, § 3.2)

State law reference(s)—Malicious mischief, MCL 750.377a et seq.

Sec. 62-34. Waste containers; littering.

(a) No person shall place or deposit any garbage, glass, tin can, paper or miscellaneous waste in any park or playground, except in containers provided for such purpose.

(b) Trash deposited in park waste containers shall be from park use only. It is prohibited to deposit trash from off premises in park waste containers.

(Code 1972, § 3.3)

State law reference(s)—Littering, MCL 324.8901 et seq.

Sec. 62-35. Ball games.

No person shall engage in baseball, football, softball throwing or other violent or rough exercise or play in any public park or other public place, except in such areas or spaces designated by the director for such exercise or play.

(Code 1972, § 3.4)

Sec. 62-36. Picnics.

Picnics may be held in such parts of any park as shall be designated by the director for such purpose, subject to any rules or regulations pertaining thereto.

(Code 1972, § 3.5)

Sec. 62-37. Fires.

No person shall kindle or build fires in any park or playground, except in fireplaces, grills, or stoves provided for such purpose. Upon leaving such fire, it shall be the duty of the person last using the fire to see that the fire is extinguished.

(Code 1972, § 3.6)

Sec. 62-38. Driving and parking vehicles.

No person shall drive or park any vehicle in any park or playground, except in spaces set aside and designated by the director as parking areas. Driving and parking on all streets and public ways within any park or bordering on any park shall be subject to all of the provisions of chapter 90 of this Code generally regulating traffic and to such additional rules and regulations as the city administrator shall adopt pursuant to this article.

(Code 1972, § 3.7)

Cross reference(s)—Traffic and vehicles, ch. 90.

Sec. 62-39. Food and beverages; special events.

(a) No person shall, bring, have in his possession, use or consume any alcoholic beverage of any kind in any public park or public playground in the city unless the possession, use, or consumption of alcoholic beverages is in conjunction with a special event permit as set forth in subsection (e).

(b) No person shall sell, or offer for sale, any food, beverage or other type of merchandise in any park or area adjacent to, or within 100 yards of any entrance to, or boundary of, any park within the corporate limits of the city without a permit to do so issued by the city department of parks and recreation.

(c) Permits for the sale of food, beverages, or other merchandise set forth above may be issued either on a daily basis, weekend basis, or annual basis. A daily permit is defined as one extending over the period commencing at 8:00 a.m. and ending at 10:00 p.m. of any day. A weekend permit is defined as one extending over the period commencing at 8:00 a.m. and ending at 10:00 p.m. for each of the following days: Friday, Saturday and Sunday. An annual permit is defined as one extending over the period commencing May 1 and ending September 15 of each year.

(d) The permits defined in subsection (c) of this section shall be issued by the director of parks and recreation, subject to the regulations provided in this section. For the purpose of regulating the sale of food, beverages and other merchandise in the parks in an orderly manner, enabling the director to maintain the parks in a clean and attractive condition and in a manner which will not endanger or offend the public health and welfare, the director is empowered to issue and enforce such regulations in connection with the issuance and use of the permits as may be necessary to accomplish such purposes. Any violation of a regulation so issued shall constitute a violation of this section.

(e) Special event permits may be issued by the city administrator to allow activities in a public park, not otherwise permitted by this Code, to include camping, after hours activities, and the consumption, possession, or use of alcohol in a public park by individuals attending special events hosted in a public park. A person or organization seeking a special event permit must comply with the following requirements:

(1) The application for a special event permit must be submitted at least 60 days prior to the date of the event with all required documentation. The city administrator may waive the notice requirement at his/her discretion if all other conditions have been met.

(2) The applicant must present proof of appropriate approval from the State of Michigan Liquor Control Commission if required. It is the applicant's responsibility to determine what is required by the liquor control commission and to obtain the necessary approval. If approval is not required by the liquor control commission the applicant must provide documentation to establish that approval is not required.

(3) The applicant must provide a description of the special event including the planned activities, number of guests or participants, whether any security will be provided.

(4) The applicant must provide a picture or drawing of the planned event area with the specific dimensions of the event area clearly marked.

(5) The applicant will sign a release and indemnification agreement agreeing to release and hold harmless the city from any and all liability associated with this event.

(6) The applicant will provide proof of liability insurance coverage for the special event that names the City of Adrian as an insured party. The coverage amount shall be for no less than $1,000,000.00.

(7) The application shall be reviewed by appropriate staff as determined by the city administrator.

(8) The applicant will provide any additional information requested by the city administrator that may be needed to determine whether the permit will be granted.

(9) The applicant shall pay a permit fee in the amount established by resolution of the city commission before the permit will be issued. The permit fee may be waived by the city administrator for charity events run by nonprofit groups.

(f) The fees for permits herein defined shall be set by resolution of the city commission and may be obtained from the city clerk.

(Code 1972, § 3.9; Ord. No. 05-02, 3-7-2005; Ord. No. 17-025, 8-21-2017; Ord. No. 20-006, 9-21-2020)

Sec. 62-40. Use of parks.

(a) No person shall loiter, be or remain in or upon any public park, public parking lot, public trail, or public playground in the city between the hours of sunset to sunrise without having a license to do so issued, in writing, by the director. Such license shall be granted upon a showing that there will be compliance with all other laws and ordinances and a further showing that public peace and public safety will not be endangered.

The foregoing notwithstanding, nothing herein shall be construed as prohibiting a person from using a trail in a fashion that involves continuous movement along that trail regardless of the time of day.

(b) No parade, procession, exercise, event or other activity calculated to attract, or which does, in fact, attract, more than 30 persons shall be permitted within any public park or public playground in the city unless such activity is sponsored or scheduled by the director or a permit for such activity has been issued, in writing, by the director. Such permit shall be granted upon a showing that there will be compliance with all other laws and ordinances, a showing that the activity will not unduly interfere with the right of others to make reasonable use of the parks and a further showing that public peace and public safety will not be endangered. Any person who shall sponsor, engage in, participate in or attend any such parade, procession, exercise, event or other activity shall be deemed to be in violation of this article.

(Code 1972, § 3.10; Ord. No. 20-006, 9-21-2020)

Sec. 62-41. Violations; municipal civil infraction.

Unless stated otherwise in this article, a person who violates any of the provisions of this article is responsible for a municipal civil infraction.

(Code 1972, § 1.20(4))

Sec. 62-42. Fishing regulations—Burr Ponds Park.

(a) *Purpose.* This section is intended to establish regulations for the recreational use of Burr Ponds Park with regard to fishing and other water activity.

(b) *Applicability.* This section applies to the waters within the park boundary of Burr Ponds Park.

(c) *Definitions.* For purposes of this section, "fishing" shall mean any device or activity that:

(1) Is designed, intended, or used to obtain fish from a body of water.

(d) *Conflicts.* This section shall not be construed as an exemption or exception to holding a legally obtained fishing license if required by state law.

(e) *Specific regulations.*

(1) Ice fishing shall be prohibited.

(2) The fishing is intended to be catch and release only. Provisions will be made from time to time to hold contests or events which may allow for the taking of fish as determined by the parks and recreation director.

(3) A person who violates any of the provisions of this section is responsible for a municipal civil infraction.

(4) The city parks and recreation department shall post signs indicating the above.

(Ord. No. 07-22, 12-3-07, eff. 12-18-07)

Sec. 62-43. Water use regulations—Burr Ponds Park.

(a) No person, firm or corporation shall launch any watercraft onto the waters of Burr Ponds Park. However, a city-owned boat or city-authorized maintenance boat may be launched to perform any necessary maintenance.

(b) The term "watercraft" includes any type of object capable of transporting people including but not limited to catamarans, sailboats, paddleboats, rowboats, rafts, tubes, floats, kayaks, or canoes.

(c) Swimming shall be prohibited in the waters of Burr Ponds Park.

(d) A person who violates any of the provisions of this article is responsible for a municipal civil infraction.

(Ord. No. 07-22, 12-3-07, eff. 12-18-07)

Sec. 62-44. Camping.

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

Camp means to reside, sleep overnight, inhabit and/or dwell temporarily or longer with or without shelter.

Reside or *dwell* includes, but is not limited to, activities such as eating, sleeping and/or the storage of personal property.

Shelter includes, but is not limited to, a tent, tarpaulin, lean-to, sleeping bag, bedroll, blankets or any other form of protection from the elements other than clothing the individual is wearing.

(b) *Public property*. It shall be unlawful and constitute a nuisance for any person to camp or establish shelter upon a public park without the express written consent of an authorized official of the public entity having ownership, management, or control of such property.

(c) *Violation.* A person who violates any of the provisions of this section is responsible for a municipal civil infraction.

(Ord. No. 20-006, 9-21-2020)

Chapter 66 SOLID WASTE[53]

ARTICLE I. IN GENERAL[54]

Sec. 66-1. Purpose and intent.

(a) It is the intent of the city commission that this chapter be liberally construed for the purpose of providing a sanitary and satisfactory method of preparation, collection and disposal of solid waste and recyclable materials, as well as the maintenance of public and private property in a clean, orderly and sanitary condition, for the health, safety and welfare of the community, and to provide for a reasonable system of

[53]Cross reference(s)—Buildings and building regulations, ch. 10; environment, ch. 22; health and sanitation, ch. 30; manufactured homes and trailers, ch. 50; utilities, ch. 94.

State law reference(s)—Solid waste management, MCL 324.11501 et seq.; solid waste management programs, MCL 324.11508; hazardous waste management, MCL 324.11101 et seq.

[54]Editor's note(s)—Ord. No. 10-009, adopted Nov. 15, 2010, repealed the former Arts. I and II, §§ 66-1—66-5 and 66-41—66-45, and enacted new Arts. I—III as set out herein. The former Arts. I and II pertained to similar subject matter and derived from Code 1972; Ord. No. 06-09, adopted June 19, 2006; and Ord. No. 08-11, adopted July 21, 2008.

user fees to defray the cost incurred by the city in collecting and administering waste removal and recycling programs.

(b) The city administrator is hereby authorized to make such rules and regulations as, from time to time, appear to be necessary to carry out this intent provided, however, that such rules are not in direct conflict with this Code or the laws of the state.

(Ord. No. 10-009, 11-15-2010)

Sec. 66-2. Definitions.

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

Bag (refuse bag) means a polyethylene or similar plastic bag designed to store refuse and secured in a manner to prevent spillage, leakage or other release of its contents by the use of wire, string or ties appropriate for this purpose. The total weight of a bag and its contents shall not exceed 50 pounds.

Brush means yard wastes such as shrub clippings, twigs, tree trimmings and branches. Such term shall not include tree stumps, Christmas trees or roots.

Bulk items shall include, but shall not be limited to, furniture, mattresses, box springs, storm doors, windows, metal furniture, toilets, bathtubs, sinks, carpets and pads, fencing, properly bundled building materials, stoves, washers, dryers, refrigerators (certified Freon-free), air conditioners (certified Freon-free), televisions, other similar household items and appliances, and other said items that weigh more than 50 pounds when placed in a plastic bag no larger than three feet in height and or width.

City contractor shall mean a person or legal entity with whom the city has entered into a contract for the collection, transportation and disposal of refuse from residential premises within the city.

Commercial-industrial means any use of a property, other than a residential use.

Department means the department of engineering of the city.

Engineer means the city engineer.

Garbage means all waste animal, fish, fowl, fruit or vegetable matter incidental to the use, preparation and storage of food for human consumption. This term does not include food-processing wastes from canneries, slaughterhouses, packinghouses or similar industries, which shall be classified as industrial refuse or hazardous waste.

Hazardous waste means any material that has been identified by state or federal regulations to be unsuitable for disposal in a type II sanitary landfill.

Owner means the person whose name is on file with the city assessor for taxation purposes.

Recyclable means items that have been identified by the city engineer as material that can be accepted by local recycling programs including, but not limited to, certain glass, aluminum, steel, certain varieties of paper and certain plastics.

Refuse means rubbish or garbage, or any combination thereof, as defined in this section.

Residential includes dwellings occupied by single-family units, duplexes, condominiums, apartments of four units or less, and shall not include motels, hotels, limited care facilities, hospitals, transitional homes, adult foster care homes, nursing homes, halfway houses, licensed mobile or manufactured home parks, campgrounds or any other property used for commercial purposes.

Rubbish means miscellaneous waste material resulting from housekeeping, including items such as boxes, magazines, tin or aluminum cans, bottles, glassware, dishes, rags, paper discarded clothing and plastics. It shall not include hazardous waste, motor oil, pesticides, insecticides, tires, auto parts, yard clippings or liquids of any kind.

Yard clippings means leaves, grass clippings, sticks and twigs less than one-fourth-inch in diameter, and vegetable or other garden debris. Such term does not include stumps, agricultural waste, animal waste, roots, Christmas trees, sewage, sludge or garbage.

(Ord. No. 10-009, 11-15-2010)

Sec. 66-3. Penalties.

(a) *General penalty.* Whenever, in this chapter or in any rule, regulation or order promulgated or made under authority of any provision of this chapter, or under authority of state law, an act is prohibited, or whenever the doing of any act is required or the failure to do any act is declared to be unlawful, where no specific penalty is otherwise provided, whoever violates or fails to comply with any such provision shall be responsible for a municipal civil infraction. A separate offense shall be deemed committed each day during or on which a violation or noncompliance occurs or continues.

(b) *Expenses; equitable remedies.* The imposition of any penalty provided for in this section shall be in addition to any expense levied for a violation of or noncompliance with a provision of this chapter, or a rule, regulation or order promulgated or made under authority of either, or of a state law, and shall be in addition to any equitable remedy provided by a provision of this chapter, or provided by state law, including the enforced removal of prohibited conditions.

(Ord. No. 10-009, 11-15-2010)

Sec. 66-4. Responsibilities of owners.

(a) Every owner of any premises in the city is required to have refuse removed and disposed of in accordance with this chapter and in accordance with all rules and regulations promulgated under this chapter. The city shall provide for certain refuse removal services for residential premises and there shall be paid to the city charges specified by the city commission for such services. Every owner of residential premises shall be responsible for the storage, collection and disposal of refuse on and from the premises, as authorized, required and as prohibited by this chapter, or federal, state or local laws, rules and regulations.

(b) It shall be the duty of every occupant of property and the owner of such property to, at all times, maintain the premises occupied or owned by such person in a clean and orderly condition, permitting no deposit or accumulation of garbage, rubbish or refuse upon such premises, unless stored or accumulated as permitted by this chapter.

(c) No owner, occupant, tenant or lessee of any building, structure, property or premises in the city shall store, collect, transport or dispose of any refuse, garbage, rubbish or other rejected, unwanted or discharged waste materials, except in compliance with this chapter and applicable state, federal and local laws, rules and regulations.

(d) No person in charge of a residential dwelling unit, commercial establishment or industrial facility shall permit the accumulation of refuse, rubbish or garbage upon their premises for a period that would pose a health hazard, subject adjacent property occupants to an unreasonably offensive odor, or become a public nuisance. The accumulation of refuse, rubbish or garbage in excess of seven days shall be prima facie evidence of posing a health hazard and creating a public nuisance.

(e) Leaves, yard clippings and vegetable waste may be stored for composting purposes in a manner which will not harbor rodents, subject adjacent property owners to an unreasonably offensive odor, or become a public nuisance.

(f) It shall be unlawful for any person to burn refuse at any place in the city, whether owned or occupied by such person or not, or upon any alley, street or other public place within the city.

(g) In order to comply with the requirements of this chapter and the rules and regulations adopted under this chapter, no person shall use the services of a collector of residential refuse unless the collector has been approved by the city as its contractor for such services.

(Ord. No. 10-009, 11-15-2010)

Sec. 66-5. Unauthorized dumping, littering.

(a) It shall be unlawful for any person, without the written consent of the city, to enter into the city for the purpose of disposing, depositing or leaving any refuse of any kind, unacceptable items, unacceptable bulk items, discarded bulk refuse of any kind, yard clippings or construction waste.

(b) It shall be unlawful for any person to throw, deposit or leave, or cause or permit the throwing, depositing or leaving of refuse or yard clippings of any kind, directly or indirectly, on public or private property or waters, other than property lawfully designated and set aside for such purposes by a public authority having jurisdiction.

(c) No person shall throw, deposit, leave, cause or permit the depositing or leaving of yard clippings onto a public street or alley.

(d) No person shall deposit, place or throw any refuse or other waste material into the public right-of-way for collection when such waste material was not generated directly by the private premises immediately adjacent to such public right-of-way.

(e) No person shall give permission for another individual to place refuse or other waste material in the public right-of-way for collection when such waste material was not generated by the private premises immediately adjacent to such private right-of-way.

(f) Materials placed on the public right-of-way or other private areas approved for collection of residential refuse are subject to being searched or analyzed by the city or the city contractor.

(g) In any proceeding for violation of this chapter involving littering from a motor vehicle, proof that the particular motor vehicle described in the citation, complaint or warrant was used in the violation, or proof that the defendant named in the citation, complaint or warrant at the time of the violation, shall give rise to a presumption and the prima facie evidence that the registered owner or person in charge of the vehicle at the time of the violation was responsible therefor.

(h) The owner or person in charge of a motor vehicle in which there are other occupants shall be presumed to be responsible for littering on public or private property or waters until the contrary is established by competent evidence.

(Ord. No. 10-009, 11-15-2010)

Sec. 66-6. Nuisances.

(a) *Removal or abatement.* Any unauthorized accumulated refuse, any scattered or uncontained refuse or any bag placed in front of a residence contrary to any collection procedure referred to in this chapter, any unacceptable items, or any unacceptable bulk item or appliance placed in front of a residence contrary to

this chapter, is hereby declared to be a public nuisance and is subject to removal or abatement. The city or a city contractor may enter any premises for the purpose of removing or abating the nuisance.

(b) *Expenses.*

(1) Any expense, including the administration costs to the city, incurred in the removal or abatement of the nuisance, shall be the responsibility of the owner of the property on which or in front of which the condition existed and shall be paid by the owner in whose name the property appears on the city's real property tax assessment records.

(2) Any expense incurred that remains unpaid shall be a lien against the real property and shall be reported to the city finance department, which shall assess the expense against the property on which or in front of which the nuisance was located.

(3) The owner or party in interest in whose name the property appears upon the last local tax assessment records shall be notified on the amount of such cost by first class mail at the address shown on the tax records. If the owner or party in interest fails to pay the amount within 30 days after mailing of a notice of the amount thereof, the amount due shall be collected as a single lot special assessment under section 70-12 of this Code. Late charges in the amount of ten percent shall be assessed on all payments received after the due date.

(Ord. No. 10-009, 11-15-2010)

Secs. 66-7—66-10. Reserved.

ARTICLE II. COLLECTION AND DISPOSAL[55]

Sec. 66-11. Refuse collection service.

The refuse collection service of the city shall be under the supervision and direction of the city engineer who, along with the city administrator, shall be responsible for enforcement of all ordinances pertaining to the collection of all refuse in the city.

(Ord. No. 10-009, 11-15-2010)

Sec. 66-12. Residential collection.

(a) The city will provide once a week curbside refuse collection to the residential property owners or occupants. The weekly schedule shall be determined by the city engineer. The regular pickup schedule shall be kept on file with the engineering department for review.

(b) (1) Refuse shall be set out for pickup on the city right-of-way on city streets only. No refuse shall be set out for pickup prior to 6:00 p.m. the evening before the scheduled day of pickup.

(2) In the event the residential property does not abut or is not on a city right-of-way or a city street, refuse collection may be provided by the city, subject to the following conditions:

[55]Editor's note(s)—See editor's note to Art. I.

State law reference(s)—Authority to provide garbage disposal system, MCL 123.362.

a. The use of the property must meet the definition of "residential" as set forth in this chapter.

b. The city engineer must determine, at the sole discretion of the engineer, that there is suitable and safe access to the property for vehicles being utilized for the collection by the city provider.

c. The owner of any private street or drive which is approved for such pickup must execute a waiver and release of liability to the city and its contracted provider for collection services for any damage that may result to any such private street or drives caused by the vehicles utilized for collection.

d. If the city engineer determines that access is not suitable or safe, a suitable collection point on an adjacent city right-of-way may be considered for curbside collection, with such arrangement to be approved at the sole discretion of the city engineer.

(c) While on private property, any refuse stored outside shall be placed in a container constructed of rodent-proof material. Any refuse stored in such containers shall be in an airtight container or bag that shall be tied.

(d) No refuse, baled papers or baled cardboard containers shall be placed on the sidewalk or street in a manner to congest either pedestrian or vehicular traffic.

(e) All refuse shall be set out for collection in bags as defined in this article.

(f) There shall be no more than six bags placed for collection for each dwelling unit each week, with no single bag set out for collection to weigh more than 50 pounds.

(g) There shall be no collection at any time by the city of hazardous waste (as defined by the Natural Resources Act and Environmental Protection Act), industrial waste, liquids, tires, batteries, barrels, motor oil, pesticides, insecticides, auto parts, yard clippings or other items that are not accepted at the landfill or landfills used by the city or its contractor.

(h) The city shall not collect or pay for any pickup of refuse placed in dumpsters; however, if a dumpster is used for collection by a private service, grease, garbage and other such types of material shall be placed in another airtight case, tied plastic bag or carton before being placed in the dumpster. Dumpsters must be placed on private property or on a location approved by the engineer.

(i) Each year, the city engineer shall designate two dates for collection of Christmas trees from residential properties.

(j) Companies providing services for commercial, industrial or other properties not receiving residential curbside collection of refuse shall follow all city regulations and shall not pick up or collect refuse of other solid waste before 7:00 a.m. or later than 7:00 p.m. Monday through Friday.

(k) City contractors must report all weights and/or volumes of materials collected to the city engineer on a yearly basis.

(Ord. No. 10-009, 11-15-2010)

Sec. 66-13. Recycling.

(a) Recycling of materials commonly accepted and marketable is strongly encouraged. Those eligible for residential refuse collection may participate in recycling programs offered by the city or by a city contractor. Companies providing services for commercial and industrial entities shall follow all city regulations and shall not pick up or collect such items before 7:00 a.m. or later than 7:00 p.m., and shall only be collected Monday through Friday.

(b) Collection of recyclables by persons other than contractors approved by the city commission is prohibited (anti-scavenging).

(c) Bins shall be placed at the curb for pickup no earlier than 6:00 p.m. of the day preceding service and shall be removed from the curb no later than 8:00 p.m. on the day of service.

(d) Contractors collecting recyclables must report all weights and/or volumes of materials that have been recycled to the city engineer on a yearly basis.

(Ord. No. 10-009, 11-15-2010)

Sec. 66-14. Anti-scavenging.

No person shall take, collect, scavenge, rifle or transport refuse or recyclable materials from any street right-of-way, alley, refuse or garbage dumpster or refuse bags without city authorization for such activity.

(Ord. No. 10-009, 11-15-2010)

Sec. 66-15. Curbside collection of yard waste.

(a) The City of Adrian or a city contractor will conduct two yard waste collection periods each year; one period during the spring and one period during the fall.

(b) Yard waste is described as grass clippings, leaves, material from flower beds, garden waste, and twigs smaller than one-quarter inch in diameter.

(c) Yard waste collection will be provided to areas approved for residential refuse collection. In order for the yard waste to be picked up, the yard waste must be placed in biodegradable and/ or compostable paper bags and must not weigh more than 50 pounds. Unapproved containers will not be picked up for collection.

(d) Brush and branches may also be collected during the yard waste collection periods but must meet the following guidelines:

(1) Tied in bundles no longer than three feet.

(2) Bundles are placed parallel with the curb.

(3) Bundles weigh less than 50 pounds.

(e) Yard waste bags and bundled branches shall not be placed along the curb for any amount of time other than during the pickup periods as determined by the city administrator. Any yard waste bags and bundled branches placed along the curb not during scheduled collection periods may be picked up by city personnel or by a city contractor and the owner will be charged for all labor, material, equipment costs and a reasonable administrative fee. If not paid, the charge shall constitute a lien against the property and may be collected as a single lot assessment as set forth in section 70-12 of this Code. A late charge of ten percent of said bill shall be added to all bills not paid within 30 days.

(Ord. No. 10-009, 11-15-2010; Ord. No. 14-001, 2-17-2014; Ord. No. 14-001, 2-4-2019)

Sec. 66-16. Compost site operation.

(a) The Oakwood compost site shall be open for a period of time, two days a week, as determined by the city administrator.

(b) Use of the compost site shall be limited to residents of the City of Adrian eligible for residential refuse collection.

(c) Eligible residents may deposit grass clippings, leaves, material from flower beds, garden waste, and twigs smaller than one-quarter inch in diameter at the compost site only during open hours of operation.

(d) All yard waste deposited at the compost site in anything other than biodegradable and/or compostable paper bags must be removed from the bag or container.

(Ord. No. 10-009, 11-15-2010; Ord. No. 14-001, 2-17-2014; Ord. No. 14-001, 2-4-2019)

Sec. 66-17. Bulk items.

(a) Bulk items, as defined in this article, shall not be placed on the curb for collection unless its collection has been scheduled and for which payment has been made in advance to the city contractor. Any appliances containing Freon shall not be placed for bulk collection unless the Freon has been removed by a certified Freon removal facility. Proof of Freon removal shall be affixed to the item by the removal facility.

(b) No person shall transport bulk items or household appliances to public property for the purpose or depositing the bulk items in trash receptacles or dumpsters located within public property.

(Ord. No. 10-009, 11-15-2010)

Secs. 66-18—66-20. Reserved.

ARTICLE III. RATES AND CHARGES

Sec. 66-21. Fees established.

The city commission shall establish, by resolution, all fees for residential refuse collection, curbside recycling collection, late charges, operation of the city compost site and administrative costs. Such fees shall be subject to revision by the city commission, from time to time. Owners of each residential unit shall be charged and responsible for the payment of the applicable fees.

(Ord. No. 10-009, 11-15-2010)

Sec. 66-22. Manner of billing.

In the case of residential premises containing more than one dwelling unit, fees will be charged for each dwelling unit in the premises. The owner of the property shall be responsible for payment of all dwelling units located in the residential premises.

(Ord. No. 10-009, 11-15-2010)

Sec. 66-23. Change of occupancy.

Collection of refuse and appropriate charges shall continue, regardless of the customer's payment of billings.

(Ord. No. 10-009, 11-15-2010)

Sec. 66-24. Waiver of charges.

In the event that a residential unit becomes uninhabitable due to condemnation, fire damage, code violations or other similar reasons, the owner may request a waiver from payment of refuse charges. The owner shall submit documentation to the city engineer, who may determine to waive said charges during the period of vacancy, commencing on the verification of the documentation provided by the owner.

(Ord. No. 10-009, 11-15-2010)

Sec. 66-25. Billing procedures for residential refuse collection.

The following billing procedures shall be controlling as to city refuse collection service:

(1) Statements shall be rendered quarterly and in advance of service.

(2) The billing statement shall be payable on or before the due date shown on the statement. The payment date shall constitute the date upon which payment is received at the appropriate office. Late charges shall be assessed on all payments received after the due date in the amount of ten percent of the payment that is due.

(Ord. No. 10-009, 11-15-2010)

Sec. 66-26. Lien for charges.

(a) Charges for city refuse collection shall constitute a lien on such premises.

(b) In addition to the methods for collecting fees imposed by or pursuant to this chapter, the finance department shall certify all unpaid charges for refuse collection services to any premises which have remained unpaid. Such unpaid charges shall be certified to the finance department and shall be collected as a single lot assessment under section 70-12 of this Code.

(Ord. No. 10-009, 11-15-2010)

Chapter 70 SPECIAL ASSESSMENTS[56]

ARTICLE I. IN GENERAL

Sec. 70-1. Definitions.

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

[56]Charter reference(s)—Special assessments, ch. 11.

Cross reference(s)—Any ordinance levying or imposing any special assessment saved from repeal, § 1-11(10); administration, ch. 2; community development, ch. 18; streets, sidewalks and other public places, ch. 74.

Cost includes, when referring to the cost of any improvement, the cost of surveys, plans, rights-of-way, spreading of rolls, notices, advertising, financing and construction, and all other costs incidental to the making of such improvement, the special assessment for such improvement and the financing thereof.

Improvement means any public improvement, any part of the cost of which is to be assessed against one or more lots or parcels of land to be especially benefitted thereby in proportion to the benefits to be derived therefrom.

(Code 1972, § 1.201)

Cross reference(s)—Definitions generally, § 1-2.

Sec. 70-2. Authority of city commission.

The city commission shall have the power to determine that the whole or any part of the cost of any improvement shall be defrayed by special assessment upon the property especially benefitted.

(Code 1972, § 1.202)

Sec. 70-3. Time of levy.

Special assessments to pay the estimated cost of any improvement may be levied before making such improvements or after the completion thereof, as may be determined by the city commission.

(Code 1972, § 1.203)

Sec. 70-4. Initiation of proceedings.

Proceedings for making improvements may be initiated by resolution of the city commission or by petition of a majority of the owners of land liable to be assessed in any proposed special assessment district, provided that all improvements shall be made at the discretion of the city commission and any petition shall be advisory only and not mandatory upon the city commission.

(Code 1972, § 1.204)

Sec. 70-5. Preliminary proceedings.

Before determining to make any improvements, any part of the cost of which is to be defrayed by special assessment, the city commission shall require the city administrator to prepare, or cause to be prepared, plans and specifications for such improvements and an estimate of the cost thereof, and to file such plans, specifications and estimate with the city commission, together with the administrator's recommendation as to what portion of the cost should be paid by special assessment and what part, if any, should be a general obligation of the city, the number of installments in which the assessment may be paid and the lands which should be included in the proposed special assessment district.

(Code 1972, § 1.205)

Sec. 70-6. Filing report.

Upon receipt of the report of the city administrator, if the city commission shall determine to proceed with the improvement, it shall declare such determination by resolution, stating in such resolution the nature of the

proposed improvement, the estimated cost thereof, what portion of the cost shall be defrayed by special assessments, what portion of the cost, if any, shall be paid from the general funds of the city, designating therein the lands or premises to be included in the proposed special assessment district, and specifying whether the special assessment shall be levied according to benefits or frontage. The city commission shall, thereupon, order the report to be filed with the city clerk for public examination and shall mail notice of its intention to make the improvement by first class mail. Such notice shall describe the property to be included in the proposed special assessment district, the nature of the improvements, the estimated cost of the improvements, what portion of the cost shall be defrayed by special assessment, and shall set a time not less than ten days following the date of mailing of the notice when the city commission will meet and hear objections to the proposed improvements or to the inclusion of any property within the proposed special assessment district. The notice shall be served by the city clerk to each owner or party in interest of property proposed to be assessed as indicated upon the last local tax assessment records in the office of the city assessor.

(Code 1972, § 1.206)

State law reference(s)—Required notice, MCL 211.741.

Sec. 70-7. First public hearing.

At the time and place specified in the notice for the public hearing, the city commission shall meet and hear any person affected by the proposed improvements. The city commission may, at or after the public hearing, modify the proposed improvements or district in any respect which it shall deem in the best interests of the city at large, provided that, if the amount of work is increased or the boundaries of the district enlarged, then another hearing shall be held pursuant to a notice as set forth in section 70-6. Any hearing may be adjourned from time to time without further notice.

(Code 1972, § 1.207)

Sec. 70-8. Determination of city commission.

After hearing any objections, the city commission may, by resolution, determine to make the improvements and defray the whole or any part of the cost of the improvements by special assessment upon the property especially benefitted in proportion to the benefits thereto or the frontage thereof. By such resolution, the city commission shall:

(1) Approve the plans and specifications for the improvement;

(2) Determine the estimated cost thereof;

(3) Determine what proportion of such cost shall be paid by special assessment upon the property especially benefitted and what part, if any, shall be a general obligation of the city;

(4) Determine the number of installments in which assessments may be paid;

(5) Determine, by resolution, the rate of interest to be charged on installments;

(6) Designate the district of land and premises upon which special assessment shall be levied; and

(7) Direct the city assessor to prepare a special assessment roll in accordance with the determination of the city commission.

(Code 1972, § 1.208)

Sec. 70-9. Completion of improvement prior to levy.

Notwithstanding any provisions of this chapter to the contrary, the city commission may, in its discretion, delay the preparation of the special assessment roll until after the completion of the improvements, in which case, the special assessment roll shall then be made in accordance with the actual cost of the improvements.

(Code 1972, § 1.209)

Sec. 70-10. Determination of actual cost.

Upon completion of the improvement and the payment of the cost thereof, the city clerk shall certify to the city administrator the total cost of the improvement. The city administrator shall forward the report to the city commission, who shall, by resolution, approve or disapprove the cost. If such cost is approved, the city commission shall direct the city assessor to spread the amount of the exact cost of the improvement upon the special assessment roll.

(Code 1972, § 1.210)

Sec. 70-11. Preparation of roll.

If the assessment is required to be made according to frontage, the city assessor shall assess to each lot, premises or parcel of land such relative proportion of the whole amount to be levied as the length of frontage of such premises abutting upon the improvement bears to the total frontage of all the lots or premises to be assessed unless the shape or size of any lot or premises shall make assessment in a different manner more equitable. If the assessment is directed to be according to benefits, the city assessor shall assess to each lot, premises or parcel of land such relative proportion of the whole amount to be levied as shall be proportionate to the estimated benefit resulting to such lot or premises from such improvement. When the city assessor shall have completed the assessment roll, he/she shall report the completion to the city commission, together with the assessor's certificate that the assessment roll conforms to the direction of the city commission and the provisions of this chapter.

(Code 1972, § 1.211)

Sec. 70-12. Assessing single lots.

(a) When any expense or cost shall have been incurred by the city upon, or in respect to, any single lot or premises, either by way of improvement, abatement of public hazards or nuisances, or otherwise, which expense or cost is chargeable against such lot or premises and the owner thereof under the provisions of the Charter, any ordinance of the city or law of the state and is not of the class required to be prorated among several lots and parcels of land in a special assessment district, an account of labor, material or service for which such expense or cost was incurred with the description of the premises and the name of the owner, if known, shall be reported to the city administrator, who shall immediately charge and bill the owner thereof, if known. The city administrator shall annually direct the city treasurer to prepare a special assessment roll covering all such charges which shall not have been paid. Such assessment rolls shall be reported to the city commission in the same manner as other rolls.

(b) The provisions of the preceding sections of this article, with reference to special assessments generally and the proceedings and notice necessary to be had before making improvements, shall not apply to assessments contemplated in this section, except that notice of hearing on the confirmation of the roll shall be given not less than ten days before the hearing by first class mail, addressed to the owner or party in

interest of the land to be assessed as shown by the last local tax assessment records in the office of the city assessor.

(c) Upon confirmation of any special assessment roll authorized by this section, the special assessments shall constitute a lien upon the premises and a charge against the owner thereof until paid. The city commission shall determine the number of installments in which assessments may be paid and the rate of interest to be charged on installments.

(Code 1972, § 1.212)

Sec. 70-13. Filing roll.

Upon receipt of the special assessment roll from the city assessor, the city commission shall order the roll to be filed in the office of the city clerk for public examination; fix the time and place where it will meet and review the roll; and direct the city clerk to give notice of such hearing. Such notice shall set forth that the roll is on file for public examination, and specify the time and place of the hearing on the roll, and shall be sent by first class mail not less than ten days prior to the date of hearing to each owner or party in interest of property subject to assessment as indicated by the records of the office of the city assessor.

(Code 1972, § 1.213)

Sec. 70-14. Aggrieved persons.

Any persons deeming themselves aggrieved by the special assessment roll may appear and be heard at the hearing as specified in section 70-13.

(Code 1972, § 1.214)

Sec. 70-15. Second public hearing.

The city commission shall meet and review the special assessment roll at the time and place appointed or at any adjourned date, and shall consider any objections thereto. During the course of such hearing, the city commission may correct the roll in any manner it deems necessary. Any changes made in such roll shall be noted in the minutes of the city commission. After such hearing and review, the city commission 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 the roll and any proceedings in connection therewith. The date of confirmation of each special assessment roll shall be noted on the roll.

(Code 1972, § 1.215)

Sec. 70-16. Confirmation of roll.

When any special assessment roll shall have been confirmed as set forth in section 70-15, such roll shall be final and conclusive.

(Code 1972, § 1.216)

Sec. 70-17. Attachment of lien.

All special assessments contained in any special assessment roll, including any part thereof deferred as to payment, 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. Such lien shall be of the same character and effect as the lien created for city taxes and shall include accrued interest and penalties. No judgment or decree, nor any action of the city commission vacating a special assessment shall destroy or impair the lien of the city upon the premises assessed for such amount of the assessment as may be equitably charged against the premises, or as by a regular mode of proceeding might be lawfully assessed thereon.

(Code 1972, § 1.217)

Sec. 70-18. Due date.

All special assessments shall be due and payable upon confirmation unless divided into installments by the city commission as provided in this article. If the assessment is divided into installments, the city commission shall fix the date on which each installment shall be due and payable, and it shall be the duty of the city treasurer to render annual statements for respective installments.

(Code 1972, § 1.218)

Sec. 70-19. Handling and payment of assessment roll.

Upon confirmation, the assessment roll shall be transmitted by the city clerk to the city treasurer for collection and the city treasurer shall give notice by mail that the special assessment roll has been filed in his office, setting forth the date and place where payments on such special assessment may be paid. The whole or any part of any such special assessment may be paid during the period of 60 days from the date of confirmation of the special assessment roll without interest or penalty. At the expiration of the 60-day period, the city treasurer shall divide any remaining balance of each assessment into such number of equal installments as shall have been fixed by the city commission, provided that, if such division operates to make any installment less than $10.00, the city treasurer shall reduce the number of installments so that each installment shall be above and as near to $10.00 as possible.

(Code 1972, § 1.219)

Sec. 70-20. Delinquent installments.

If any installment shall not be paid when due as set forth in section 70-19, the amount shall be spread upon the next city tax roll in a column headed "delinquent special assessments," together with interest upon all unpaid installments from the date of confirmation of the roll or the date of the last payment of interest, as the case may be, to and including May 30 of the year in which such tax roll is made, provided that any fraction of a month shall be considered as a full month.

(Code 1972, § 1.220)

Sec. 70-21. Collection remedies.

Whenever a delinquent installment is placed on the tax rolls as set forth in section 70-20, the amount shall be collected by the city treasurer with the same rights and remedies and the same penalties and interest as provided in the Charter for the collection of taxes.

(Code 1972, § 1.221)

Sec. 70-22. Deficiency assessments and refunds.

Should the assessments in any special assessment roll, including the amount assessed to the city at large, prove insufficient for any reason to pay the cost of the improvement for which they were made, then the city commission shall make additional assessments against the city and the several lots and parcels of land, in the same ratio as the original assessments, to supply the deficiency, but the total amount assessed against any lot or parcel of land shall not exceed the value of the benefits received from the improvement. The additional assessments may be made without further notice. Should the assessments levied prove to be more than five percent larger than necessary to defray the cost of the improvement, the city commission shall, by resolution, order the excess over five percent to be applied to the unpaid installments of such special assessment against each lot or parcel of land in the inverse order in which they are payable. Any amount of such excess as to any lot or parcel of land which cannot be applied as set forth in this section shall be credited upon the next city tax levied against the lot or parcel of land.

(Code 1972, § 1.222)

Sec. 70-23. Reassessment due to irregularities, informalities and illegalities.

Whenever any special assessment shall, in the opinion of the city commission, be invalid by reason of irregularity or informality in the proceedings or if any court of competent jurisdiction shall adjudge such assessment to be illegal, the city commission shall, whether the improvement has been made or not or whether any part of the assessment has been paid or not, have power to cause a new assessment to be made for the same purpose for which the former assessment was made. All proceedings on such reassessment and for the collection thereof shall be conducted in the same manner as provided for the original assessment and, whenever the assessment, or any part thereof, levied upon any premises has been set aside, if the levy has been paid and not refunded, the payment made shall be applied upon the reassessment and the reassessment shall, to that extent, be deemed satisfied.

(Code 1972, § 1.223)

Sec. 70-24. Collection by court action.

In addition to any other remedies, and without impairing the lien for such remedies, any delinquent special assessment, together with interest and penalties, may be collected in an action in assumpsit in the name of the city against the person assessed in any court having jurisdiction. If, in any such action, it shall appear that, by reason of any irregularities or informalities, the assessment has not been properly made against the defendant or upon the 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 defendant or the premises in question, render judgment for the amount properly chargeable against such defendant or upon such premises.

(Code 1972, § 1.224)

Sec. 70-25. Division of land assessed.

Should any lot, premises or parcel of land be divided after a special assessment has been levied thereon and confirmed and divided into installments, and before the collection of all the installments thereof, the city commission may require the city assessor to apportion the uncollected amount upon the several parts of such divided lot, premises or parcel of land. Upon receipt from the city assessor of the special assessment roll as apportioned, proceedings shall be taken leading to the review and confirmation of the roll as apportioned in the same manner as proceedings are taken for the review and confirmation of special assessments generally. When

the special assessment roll as apportioned shall have been confirmed, it shall be conclusive upon all parties in interest.

(Code 1972, § 1.225)

Secs. 70-26—70-60. Reserved.

ARTICLE II. IMPROVEMENT CHARGES

Sec. 70-61. Generally.

Whenever a parcel of land which is especially benefitted by a public improvement made by the city shall be annexed to the city, an improvement charge shall be levied against the parcel annexed to recover the fair share of the cost of the improvement which is attributable to the parcel, but which was paid by the city. The improvement charge shall be in an amount determined by the city commission, by resolution, to be the fair prorated share of the parcel annexed in proportion to the benefit thereto or the frontage thereof and shall conform as nearly as may be reasonably possible to the formula used in levying special assessments for the improvement against land located within the city at the time the improvement was made.

(Code 1972, § 1.226)

Sec. 70-62. Notice of hearing.

Whenever the city commission shall propose to adopt a resolution establishing an improvement charge, it shall declare such by resolution and shall set a time when it will meet and hear objections to the adoption of the proposed resolution. Notice of the time and the place of the hearing shall be served by first class mail, not less than ten days prior to the date of the hearing, upon each owner or party in interest of property affected as shown on the last tax assessment records of the office of the city assessor or the supervisor of the city, as the case may be. Any persons deeming themselves aggrieved by the adoption of the proposed resolution may appear and be heard at the hearing. At the time and place specified in such notice for the public hearing, the city commission shall meet and hear any person affected by the adoption of the proposed resolution establishing an improvement charge. Any hearing may be adjourned from time to time without further notice. The city clerk shall maintain proof of giving the notice as set forth in this section, but failure to give the notice shall not invalidate the proceedings or improvement charges.

(Code 1972, § 1.227)

State law reference(s)—Required notices, MCL 211.741.

Sec. 70-63. Adoption of resolution.

Whenever adopted, a certified copy of the resolution determining the amount of the improvement charge to be levied shall be promptly recorded in the county office of the register of deeds. The improvement charge shall be payable at the time fixed by the resolution, and the city commission may permit the payment of the improvement charge to be made in installments over a period of time and at a rate of interest that shall be set forth in the resolution. The improvement charges, including any part of which payment is deferred, shall, from the date of adoption of the resolution, constitute a lien upon the respective parcels of land and until paid shall be a charge against the respective owners of the parcels of land. Such lien shall be of the same character and effect as the lien created for city taxes and shall include accrued interest and penalties, provided that interest shall not commence

to accrue until the date of the adoption of the resolution. No judgment, nor any action of the city commission vacating a special assessment shall destroy or impair the lien of the city upon the premises against which the improvement charge is levied for such amount as may be equitably charged against the premises or might be lawfully assessed thereon. In the event of any default in the payment of any improvement charge, or portion thereof, or interest or penalties thereon, payment thereof shall be enforced in the same manner as delinquent special assessments, and the delinquent amount shall be collected by the city treasurer with the same rights and remedies and the same penalties and interest as provided in the Charter for the collection of taxes. In respect to improvement charges, the resolution of the city commission as set forth in this section shall have the same effect as the special assessment roll, and the date of the adoption of the resolution shall have the same effect as the date of the confirmation of the roll, in the case of a special assessment.

(Code 1972, § 1.228)

Sec. 70-64. Notice prior to annexation.

Whenever a petitioner shall seek annexation of land to the city, the petitioner shall be advised as to whether or not an improvement charge will be levied against the land sought to be annexed. Whenever annexation of land affected by an improvement charge shall be sought by election, the city clerk shall cause notice of the fact that an improvement charge will be levied against the land to be published once, in a newspaper of general circulation within the city, not less than ten days prior to the date of the election. The city clerk shall maintain proof of giving the advice or notice, but failure to give the advice or notice shall not invalidate the proceedings or improvement charges.

(Code 1972, § 1.229)

Sec. 70-65. Other requirements for improvement charges.

Except as provided in this article, provisions in this chapter not located in this article relative to special assessments generally and the proceedings and notice which are necessary prior to making improvements shall not apply to improvement charges contemplated in this article.

(Code 1972, § 1.230)

Chapter 74 STREETS, SIDEWALKS AND OTHER PUBLIC PLACES[57]

[57]Cross reference(s)—Any ordinance levying or imposing any special assessment saved from repeal, § 1-11(10); any ordinance dedicating, establishing, naming, locating, relocating, opening, paving, widening, repairing or vacating any road, street, sidewalk or alley saved from repeal, § 1-11(11); any ordinance establishing the grade or any road, street or sidewalk saved from repeal, § 1-11(12); buildings and building regulations, ch. 10; cemeteries, ch. 14; community development, ch. 18; environment, ch. 22; peddlers, § 46-201 et seq.; transient merchants, § 46-391 et seq.; manufactured homes and trailers, ch. 50; obstructing public places, § 58-144; begging and soliciting alms, § 58-147; parks and recreation, ch. 62; special assessments, ch. 70; subdivisions and other divisions of land, ch. 78; design standards for streets and alleys in subdivisions, § 78-151 et seq.; telecommunications, ch. 86; traffic and vehicles, ch. 90; one-way street schedule, § 90-4; sidewalks and highways, § 90-93; riding bicycles on sidewalks, § 90-182; utilities, ch. 94; vegetation, ch. 98; waterways, ch. 102; zoning, ch. 106.

ARTICLE I. IN GENERAL

Sec. 74-1. Definitions.

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

Department means the department of engineering and public works of the city.

Safety vision means an unobstructed line of sight enabling a driver to travel upon, enter or exit a roadway in a safe manner.

Sidewalk means the portion of the street right-of-way designed for pedestrian travel.

Street means all the land lying between property lines on either side of all streets, alleys and boulevards in the city, and includes lawn extensions and sidewalks and the area reserved for lawn extensions and sidewalks where they are not yet constructed.

(Code 1972, §§ 4.1, 4.41)

Cross reference(s)—Definitions generally, § 1-2.

Sec. 74-2. Permits; insurance and deposits.

(a) Where permits are authorized in this chapter, they shall be obtained upon application to the city engineer of public works, upon such forms as he shall prescribe, and there shall be a charge of $1.00 for each such permit, except as otherwise provided by resolution of the city commission. Such permit shall be revocable by the city engineer for failure to comply with this chapter, rules and regulations adopted pursuant to this chapter and the lawful orders of the city engineer or his duly authorized representative, and shall be valid only for the period of time endorsed on such permit. Application for a permit under the provisions of this chapter shall be deemed an agreement by the applicant to promptly complete the work permitted, observe all pertinent laws and regulations of the city in connection with such work, repair all damage done to the street surface and installations on, over or within such street, including trees, and all damages or actions at law that may arise or be brought on account of injury to persons or property resulting from the work done under the permit or in connection with such work.

(b) Where liability insurance policies are required to be filed in making application for a permit, they shall be in not less than the amounts established by the director of finance. In establishing such amounts, the city engineer shall consider the potential liability involved and fix the amount accordingly. A duplicate executed copy or photostatic copy of the original of such insurance policy, approved as to form by the city attorney, shall be filed with the city clerk.

(c) Where cash deposits are required with the application for any permit under this chapter, such deposit shall be in the amount established by the director of finance. In establishing deposits, the director shall consider the city's potential expenses and fix the deposit in an amount adequate to cover such expenses. Such deposit shall be used to defray all expenses to the city arising out of the granting of the permit and work done under the permit or in connection with such work. Six months after completion of the work done under the permit, any balance of such cash deposit unexpended shall be refunded. In any case where the deposit does not cover all costs and expenses of the city, the deficit shall be paid by the applicant.

(Code 1972, § 4.3)

Sec. 74-3. Additional regulations.

The city administrator may make additional regulations pertaining to openings and excavations in the streets, curb cuts, street obstructions and house moving, which regulations shall be subject to the approval of the city commission. No person shall fail to comply with any such regulations.

(Code 1972, § 4.27)

Sec. 74-4. Vacating streets, alleys, public ways and public places.

Whenever the city commission shall deem it necessary and in the best interests of the city to vacate any street, alley, public way or other public place, or any part thereof, within the corporate limits of the city, it shall so declare, by resolution, appointing in such resolution a time not less than four weeks thereafter when it will meet to hear objections to such proposed action. Notice of such meeting shall be published in the official city newspaper once each week for four successive weeks prior to the date of the hearing. If written objection to such proposed action is filed with the city clerk prior to such meeting, such street, alley, public way or other public place shall not be vacated or discontinued, except by the vote of five commissioners. The resolution shall amend the street plan map and vacated streets and alleys shall be eliminated from such map.

(Code 1972, § 1.21)

Sec. 74-5. Reserving easements.

Whenever the city commission shall resolve to vacate any street, alley, public way or other public place as set forth in section 74-4, the city commission may, as a part of the resolution, reserve to the city such easements or rights-of-way in the vacated street, alley, public way or other public place as the city commission may deem necessary and in the best interests of the city so to do.

(Code 1972, § 1.22)

Sec. 74-6. Temporary street closings.

(a) The city engineer shall have authority to temporarily close any street, or portion thereof, when he shall deem such street to be unsafe or temporarily unsuitable for use for any reason.

(b) The city engineer shall cause suitable barriers and signs to be erected on such street, indicating that the street is closed to public travel.

(c) When any street, or portion thereof, shall have been closed to public travel, no person shall drive any vehicle upon or over such street, except as may be necessary incidentally to any street repair or construction work being done in the area closed to public travel.

(d) No person shall move or interfere with any sign or barrier erected pursuant to this section without authority from the city engineer.

(Code 1972, § 4.29)

Sec. 74-7. Expense for removal of encroachments and obstructions, and refilling excavations.

Encroachments and obstructions in the streets may be removed and excavations refilled, and the expense of such removal or refilling charged to the abutting landowner when made or permitted by him or suffered to remain by him, other than in accordance with the terms and conditions of this chapter. The procedure for collection of such expense shall be as prescribed in section 70-12.

(Code 1972, § 4.28)

Sec. 74-8. Barricades and warning lights.

All openings, excavations and obstructions shall be properly and substantially barricaded and railed off and protected in accordance with the Manual on Uniform Traffic Control Devices. Violation of this section is a misdemeanor.

(Code 1972, § 4.23)

Sec. 74-9. Damage and obstruction.

(a) No person shall make an excavation in, or cause any damage to, any street in the city, except under the conditions and in the manner permitted in this chapter.

(b) No person shall place any article, thing or obstruction in any street, except under the conditions and in the manner permitted in this chapter, but such provision shall not be deemed to prohibit such temporary obstructions as may be incidental to the expeditious movement of articles and things to and from abutting premises, nor to the lawful parking of vehicles within the part of the street reserved for vehicular traffic.

(c) A person shall not remove, or cause to be removed, snow, ice or slush onto or across any street in a manner which obstructs the safety of the driver of a motor vehicle, other than off-road vehicles.

(d) A person shall not deposit, or cause to be deposited, snow, ice or slush on the traveled portion of any street.

(Code 1972, § 4.2)

Sec. 74-10. New paving and resurfacing.

(a) *Generally.* Whenever the city commission shall determine to pave or resurface any street, the city engineer shall, not less than 30 days prior to commencement of construction, serve notice upon all public utilities, requiring such public utilities to install all necessary underground work.

(b) *Sewer and water connections.* When such paving or resurfacing shall have been ordered or declared necessary by the city commission, such sewer and water connections as are necessary shall be installed in advance of such paving or resurfacing, and the cost thereof shall be charged against the premises adjacent thereto or to be served thereby and against the owner of such premises. Where such paving or resurfacing is financed in whole or in part by special assessment, the cost of such sewer and water connections may be made chargeable against the premises served or adjacent thereto as a part of the special assessment for such paving or resurfacing. Where such paving or resurfacing is financed other than by special assessment, the cost of the installed sewer and water connections shall be a lien on the premises adjacent thereto or to be served thereby, and shall be collected as provided for assessments on single lots pursuant to the provisions of section 70-12.

(c) *Determination of necessity.* The necessity for such sewer and water connections shall be determined by the city engineer, which determination shall be based upon the size, shape and area of each abutting lot or parcel of land, the lawful use of such land under the zoning regulations of the city, the character of the locality and the probable future development of each abutting lot or parcel of land. The city engineer shall give written notice of the intention to install such sewer and water connections and to charge the cost of such installations to the premises and each owner of land abutting the street to be furnished with such connections as shown by the records of the city assessor in accordance with section 2-1. Any owner objecting to the installation of any such sewer or water connection shall file his objections with the city engineer, in writing, within seven days after service of such notice, and the city engineer, after considering each such objection made in writing, shall make a final determination of the sewer and water connections to be installed.

(Code 1972, §§ 4.10—4.12)

Sec. 74-11. Curb cuts.

No opening in or through any curb or street shall be made without first obtaining a written permit from the city engineer. Curb cuts and sidewalk-driveway crossings to provide access to private property shall comply with the following:

(1) No single curb cut shall exceed 35 feet, nor be less than ten feet, as measured at the sidewalk line, except in light industrial zones, industrial zones or exclusive industrial zones, where traffic volume, traffic patterns and types of vehicles both on the street and private property necessitate a variance, as recommended by the city engineer and approved by the city administrator.

(2) The minimum distance between any curb cut and a public crosswalk shall be five feet.

(3) The minimum distance between curb cuts shall be 25 feet, except curb cuts serving residential property and where traffic volumes and patterns both on the street and private property necessitate a variance, as recommended by the city engineer and approved by the city administrator.

(4) The maximum number of lineal feet of sidewalk-driveway crossings permitted for any lot, parcel of land, business or enterprise shall be 35 percent of the total abutting street frontage, up to and including 200 lineal feet of street frontage, plus 20 percent of the lineal feet of street frontage in excess of 200 feet.

(5) The necessary adjustments to utility poles, light standards, fire hydrants, catchbasins, street or railway signs, signals or other public improvements or installations shall be accomplished without cost to the city.

(6) All construction shall be in accordance with plans and specifications approved by the city engineer.

(Code 1972, § 4.18)

Sec. 74-12. Building construction obstructing sidewalks.

(a) No person shall occupy any street with any materials or machinery incidental to the construction, demolition or repair of any building adjacent to such street, or for any other purpose, without first obtaining a permit from the city engineer and posting a cash deposit or bond and filing an insurance policy as required by section 74-2. A violation of this subsection is a misdemeanor.

(b) At least five feet of sidewalk space shall be kept clean and clear for the free passage of pedestrians and, if the building operations are such that such free passageway is impracticable, a temporary plank sidewalk, with

substantial railings or sidewalk shelter built in accordance with chapter 106 of this Code, shall be provided around such obstruction.

(Code 1972, §§ 4.20, 4.21)

Cross reference(s)—Buildings and building regulations, ch. 10.

Sec. 74-13. Placing of decorative objects.

Anything herein contained to the contrary notwithstanding, the city commission may place, or authorize the placing of, decorative objects, trees or shrubs in any street in the instances, and subject to the terms and conditions, of the following:

(1) Before any decorative objects, trees or shrubs shall be placed in any street, the city commission shall first determine, by resolution, that such action is in the best interests of the city.

(2) In all cases, such objects, trees or shrubs shall be placed only in such a manner and in such locations as the city commission shall, by resolution, direct.

(3) The portion of the street between the section of the street dedicated for vehicular travel and the property line, excepting the sidewalk, shall be landscaped and maintained by the abutting property owner. Landscape shall be limited to sod, seed, or other living ground cover as approved by resolution of the city commission. Nonliving ground cover, including, but not limited to, rock, stone, concrete, asphalt, or other like materials, shall only be permitted when it is determined by the city that the location will not allow for adequate maintenance of sod or other living ground cover.

(4) In all cases the city commission may impose such other and further conditions, limitations and restrictions relative to the placing of such objects, trees or shrubs as the city commission shall, in each instance, determine.

(Code 1972, § 4.30; Ord. No. 16-014, 12-19-2016)

Sec. 74-14. Violations; municipal civil infraction.

Except as otherwise stated in this article, a person who violates any of the provisions of this article is responsible for a municipal civil infraction.

(Code 1972, §§ 1.20(1, 7, 8))

Secs. 74-15—74-50. Reserved.

ARTICLE II. EXCAVATIONS

Sec. 74-51. Street openings.

No person shall make any excavation or opening in or under any street without first obtaining a written permit from the city engineer. No permit shall be granted until the applicant shall post a cash deposit and file a liability insurance policy as required by section 74-2.

(Code 1972, § 4.4)

Sec. 74-52. Prohibited openings.

No permit to make any opening or excavation in or under a paved street shall be granted to any person within a period of three years after the completion of any paving or resurfacing of such street, provided that, if the city commission shall find that an unusual hardship exists, it may, by a majority vote of the commissioners present and voting, authorize an opening within such three-year period. If a street opening is necessary as a public safety measure, the city engineer may suspend the operation of this section for such street opening.

(Code 1972, § 4.13)

Sec. 74-53. Emergency openings.

If the public safety required immediate action, the city engineer may grant permission to make a necessary street opening in an emergency, provided that a permit shall be obtained on the following business day and there shall be compliance with the provisions of this chapter.

(Code 1972, § 4.5)

Sec. 74-54. Backfilling.

All trenches in a public street or other public place, except by special permission, shall be backfilled in accordance with regulations adopted pursuant to this chapter. Any settlement shall be corrected within eight hours after notification.

(Code 1972, § 4.6)

Sec. 74-55. Sidewalk openings.

All openings in the sidewalk for the admission of light and air shall be closed and protected by either a substantial iron grating or illuminating the pavement in a design and placed so as to be satisfactory to the city engineer.

(Code 1972, § 4.7)

Sec. 74-56. Utility poles.

Utility poles may be placed in such streets as the city engineer shall prescribe, and shall be located in accordance with the directions of the city engineer. Such poles shall be removed or relocated as the city engineer shall direct from time to time.

(Code 1972, § 4.8)

Cross reference(s)—Utilities, ch. 94.

Sec. 74-57. Shoring.

(a) All openings and excavations shall be properly and substantially sheeted and braced as a safeguard to workmen and to prevent cave-ins or washouts which would tend to injure the thoroughfare or subsurface structure of the street.

(b) A violation of this section is a misdemeanor.

(Code 1972, § 4.24)

Sec. 74-58. Maintenance of installations in streets.

Every owner and person in control of any property maintaining a sidewalk vault, manhole or other excavation, or any post, pole, sign awning, wire, pipe, conduit or other structure in, under, over or upon any street which is adjacent to, or a part of, his estate, shall do so only on condition that such maintenance shall be considered as an agreement on his part with the city to keep the installations, the covers thereof, and any gas and electric boxes and tubes thereon, in good repair and condition at all times during his ownership or control thereof, and to indemnify and save harmless the city against all damage or actions at law that may arise or be brought by reason of such excavation or structure being under, over, in or upon the street, or being unfastened, out of repair or defective during such ownership or control.

(Code 1972, § 4.9)

Sec. 74-59. Moving buildings and bulky or heavy objects.

No person shall move, transport or convey any building or other similar bulky object, including machinery, trucks and trailers larger than 14 feet in width, and other overweight vehicles, across or along any street, alley or other public place in the city, without first obtaining a permit from the city engineer. The applicant shall file written clearances from the light, telephone, gas and water utilities, stating that all connections have been properly cut off and, where necessary, all obstructions along the proposed route of moving will be removed without delaying moving operations. In addition, clearance shall be obtained from the police department, approving the proposed route through the city streets and the time of moving, together with an estimated cost to the police department due to the moving operations. The applicant shall deposit with the city the total estimated cost to the police department and department of public works, plus a cash deposit as required by section 74-2, and shall file with the city a liability insurance policy in the amount specified by the director of finance. In fixing the amount of the policy, the director of finance shall consider the potential liability and fix the policy in an amount adequate to cover such liability.

(Code 1972, § 4.26)

Cross reference(s)—Buildings and building regulations, ch. 10.

Secs. 74-60—74-90. Reserved.

ARTICLE III. SIDEWALK CONSTRUCTION, REPAIR AND MAINTENANCE

Sec. 74-91. Specifications and permits.

No person shall construct, rebuild or repair any sidewalk, except in accordance with the line, slope and specifications established by the city engineer/director of public works. A permit shall be required for each individual lot where sidewalk construction is being done. The permit shall be prominently displayed on the construction site. A fee for such permit in the amount established by resolution shall be paid to the city. To ensure the quality of concrete being used, the city engineer/director of public works may require that tests be run, the cost of which shall be borne by the permit applicant.

(Code 1972, § 4.42; Ord. No. 01-10, 12-3-2001)

Sec. 74-92. Permit revocation; stop work order.

(a) The city engineer may revoke any permit issued under the terms of this article for incompetency or failure to comply with the terms of this chapter or the rules, regulations, plans and specifications established by the department of public works for the construction, reconstruction or repair of any sidewalk.

(b) The city administrator may cause work to be stopped under any permit granted for the construction, reconstruction or repair of any sidewalk for any of the causes enumerated in this section, which stop work order shall be effective until the next regular meeting of the city commission and, if confirmed by the city commission at its next regular meeting, such stop work order shall be permanent and shall constitute a revocation of the permit.

(Code 1972, § 4.45)

Sec. 74-93. Line and grade stakes.

The city engineer shall furnish line and grade stakes as may be necessary for proper control of the work, but this shall not relieve the owner of responsibility for making careful and accurate measurements in constructing the work to the lines furnished by the city engineer. Where it is necessary to replace the city engineer's stakes which are disturbed or destroyed without fault on the part of the city or its employees, a charge equal to the cost of restoration shall be paid.

(Code 1972, § 4.43)

Sec. 74-94. Specifications.

All sidewalks within the city shall be constructed in accordance with the following specifications. Sidewalks that are not constructed to conform with the following specifications will be removed and replaced, at the expense of the contractor, to meet all the following specifications:

(1) All sidewalks must be at least four feet in width unless a different width is approved by the city engineer. Sidewalks must be replaced to the width of the existing sidewalk. All sidewalks must be straight and free from irregularities in line, except as allowed in the following procedure:

a. New sidewalks. In cases where existing trees are in line with the proposed sidewalk location, it shall be permissible to arc the sidewalk around the trees, subject to the following requirements:

1. Each case must be reviewed and approved by the city engineer and city forester, who will then issue a special permit.

2. A drawing, with dimensions, must be submitted with the permit application, showing the length and offset of the arc.

3. Where the arc extends on private property, the owner will be required to sign an easement suitable to the city administrator, that will be in effect until the tree is removed and the sidewalk is returned to a straight line.

b. Replacement sidewalks. When sidewalk replacement conflicts with existing trees or shallow tree roots, it shall be permissible to cut or shave the roots so as not to threaten the stability of the tree to facilitate sidewalk construction. If necessary, an arc will also be permitted as outlined in subsection (1)a. of this section.

(2) Excavations shall be made to the required depth and to a width that will permit the installation and bracing of the forms. The foundation shall be shaped and compacted to a firm, even surface. All soft

and yielding material shall be removed and replaced with a granular fill material approved by the city engineer. All existing concrete and concrete sidewalks must be removed before the sidewalk is installed.

(3) The forms shall be of wood or metal, straight and free from warp, and of a sufficient strength to resist springing during the process of depositing concrete against the forms. The forms shall be to the full depth of the concrete and shall be firmly staked to the required line and grade. Forms shall be installed so as to provide a transverse slope of one-quarter inch per foot toward the street.

(4) In all new construction, where practicable, the sidewalk grade shall be established at not less than three inches, nor more than six inches above the grade of the top of the curb.

(5) Sidewalks shall be constructed of thoroughly mixed concrete or material approved in advance by the city engineer/director of public works of a minimum thickness of four inches at all points, except for driveways where the minimum thickness shall be six inches. All concrete used shall have a minimum compressive strength of 3,500 pounds per square inch (psi) at 28 days and shall have between five—seven percent air content. A ready-mix concrete shall have a minimum of 517 pounds of cement per yard (5½ bags), with a maximum slump of four inches. If concrete is proportioned and mixed on the site, the following mix, per cubic foot, shall be used: 24 pounds of air entraining cement; 39 pounds clean, sharp sand; 70 pounds of course aggregate, well graded, up to one inch in size; and nine pounds of water.

(6) All surfaces shall be finished to a true contour and granular surface, in a neat and workmanlike manner. The base shall be moist and the concrete shall be thoroughly spaded along the faces of the forms before finishing operations are started. The concrete shall be struck off to the required grade and cross section. The surface shall be floated enough to produce a smooth surface, free from irregularities. All edges and joints shall be rounded with an approved finishing tool to a radius of one-quarter inch. The surface shall then be broomed to slightly roughen the surface and remove the finishing tool marks.

(7) All water shutoffs within the sidewalks shall be protected so as not to bond the shutoff cap to the sidewalk.

(8) One-half-inch expansion joints, which must meet MDOT specifications, shall be provided at intervals of approximately 25 feet and wherever the walk abuts the curb, another walk, transition from four inches to six inches or a building. Jointing material shall extend from the surface to the subgrade, be at right angles to the sidewalk surface and extend the full width of the walk. Surface edges of each slab shall be rounded to a radius of one-quarter inch. The sidewalk shall be divided into unit areas of not less than 16 square feet. The unit areas shall be produced by use of slab division forms extending to the full depth of the concrete or by cutting joints in the concrete, after floating, to a depth of not less than one-quarter the thickness of the sidewalk. The cut joints shall not be less than one-eighth inch, nor more than one-quarter inch in width and shall be finished smooth and substantially true to line.

(9) After the concrete has gained sufficient strength, the side forms shall be removed and the spaces on both sides shall be backfilled with sound earth. The backfill shall be compacted and leveled to the grade of the surface of the sidewalk and left in a neat and workmanlike condition.

(Code 1972, § 4.44)

Sec. 74-95. Ordering construction.

(a) The city commission may, by resolution, require the owners of lots and premises to build sidewalks in the public streets adjacent to, and abutting upon, such lots and premises. When such resolution shall be adopted, the city clerk shall give notice of such resolution to the owners of such lots or premises, in

accordance with section 2-1 of this Code, requiring such owners to construct or rebuild such sidewalks promptly after the date of such notice.

(b) If the owner of any lot or premises shall fail to build any particular sidewalk as described in the notice, and within the time and in the manner required by such notice, the city engineer is hereby authorized and required, immediately after the expiration of the time limited for the construction or rebuilding of such sidewalk by the owner, to cause such sidewalk to be constructed and the expenses thereof shall be charged to such premises and the owner thereof, and collected as provided for single lot assessments in section 70-12 of this Code.

(Code 1972, §§ 4.46, 4.47)

Sec. 74-96. Maintenance.

No person shall permit any sidewalk which adjoins property owned by him to fall into a state of disrepair or to be unsafe.

(Code 1972, § 4.48)

Sec. 74-97. Repair.

Whenever the city engineer shall determine that a sidewalk is unsafe for use, notice of such determination may be given to the owner of the lot or premises adjacent to, and abutting upon, such sidewalk, which notice shall be given in accordance with section 2-1. After such notice, it shall be the duty of the owner to place the sidewalk in a safe condition. Such notice shall specify a reasonable time, not less than seven days, within which such work shall be commenced and shall further provide that the work shall be completed with due diligence. If the owner of such lot or premises shall refuse or neglect to repair the sidewalk within the time limited for such repair, or in a manner otherwise than in accordance with this chapter, the city engineer shall have such sidewalk repaired. If the city engineer determines that the condition of the sidewalk is such that immediate repair is necessary to protect the public, he may dispense with the notice. The cost of repairs under this section shall be charged against the premises which the sidewalk adjoins and the owner of the premises, and shall be collected as provided for single lot assessments in section 70-12 of this Code.

(Code 1972, § 4.49)

Sec. 74-98. Financing by city.

Whenever an owner who has been given notice to construct or repair any sidewalk is not immediately able to finance the sidewalk construction or repair, such owner may file with the city clerk a written statement, under oath, to such effect, and shall sign an agreement providing that the city shall finance the required construction or repair; that the owner shall reimburse the city for the total cost thereof in five equal installments, with interest at a rate to be set by the city commissioner; that the first payment shall be due and payable within 90 days from the date of such agreement; and that the total cost thereof shall be a lien against the property until paid. Whenever such an agreement has been signed, the owner may employ a contractor bonded to the city to complete the required construction or repair. Upon approval by the owner of an invoice submitted by the contractor, the city clerk shall draw a warrant on the city treasurer in the amount of the invoice submitted in favor of the contractor. The city treasurer shall then immediately furnish the owner with an invoice showing the five equal payments required, the date each payment is due and the interest charge thereon. In the case of property being purchased under land contract, the signature of both the seller and the purchaser shall be required to such agreement.

(Code 1972, § 4.50)

Sec. 74-99. Delinquent payments.

If any payment due the city under this article shall become delinquent, the city administrator shall, at the first meeting in April of each year, certify such delinquency, together with a penalty of ten percent, to the city commission, and the city commission, by resolution, shall direct the city assessor to spread the amount on the next succeeding July tax roll.

(Code 1972, § 4.52)

Sec. 74-100. Removal of snow or ice.

(a) The occupant of every lot or parcel of land adjoining any sidewalk or the owner of such lot or parcel of land, if not occupied, shall clear all ice and snow from sidewalks adjoining such lot or parcel of land within the time required in this subsection When any snow shall fall or drift upon any sidewalk, the owner or occupant of the lot or parcel of land adjacent to such sidewalk shall remove such snow as shall have fallen or accumulated during the nighttime by 12:00 noon, and snow failing or drifting during the day shall be removed before 12:00 noon of the following day. When any ice shall form on any sidewalk, the owner or occupant of the lot or parcel of land adjoining such sidewalk shall, if practicable, immediately remove the ice, and when immediate removal is impracticable, the owner or occupant shall immediately cause sand or salt to be spread upon the ice in such a manner, and in such quantity, as to prevent the sidewalk from being slippery and dangerous to pedestrians, and shall thereafter remove the ice as soon as shall be practicable.

(b) If any occupant or owner shall neglect or fail to clear ice or snow from the sidewalk adjoining his lot or parcel of land within the time limited in subsection (a) of this section, and allow such ice or snow to accumulate on such sidewalk, he shall be guilty of a violation of this Code and, in addition, the city engineer may cause such ice or snow to be cleared and the expense of removal will be billed to the owner. If payment in full is not received within 30 days from the due date, a late fee in the amount of $50.00 will be charged. If full payment is not received, the amount owed to the city shall be collected as a special assessment against the premises as provided in section 70-12.

(Code 1972, §§ 4.53, 4.54; Ord. No. 10-010, 11-15-2010)

Secs. 74-101—74-130. Reserved.

ARTICLE IV. STREET NAMES AND BUILDING NUMBERS[58]

Sec. 74-131. Street names.

All streets shall be known and designated by the names applied to such streets on the map of the city known as the "street plan," which map is filed with the department. The naming of any new street or the changing of the name of any street shall be done by resolution, which resolution shall amend such map.

(Code 1972, § 1.20)

[58]Cross reference(s)—Buildings and building regulations, ch. 10.

Sec. 74-132. Street and numbers.

(a) *Street numbers.* All premises shall bear a distinctive street number on the front of the premises, at or near the front entrance of the premises, in accordance with, and as designated upon, the street plan map on file in the office of the department.

(1) *Assignment procedure.* Street numbers will be assigned to properties by the city based on a system that coincides with the orderly numbering of blocks, or approximate block equivalents, as the blocks relate to their distance from the approximate directional centerlines of the city. For example, properties in 1st block will be numbered in the 100s; properties in the 15th block will be numbered in the 1500s, etc. The northerly-southerly and easterly-westerly centerlines of the city shall emanate from their intersection at the approximate center point of the intersections of the Main Street and Maumee Street rights-of-way, and following the centerlines of city street rights-of-way where practical.

(2) *Exceptions.* Property owners may request exceptions to the street numbers assigned by filing a written request with the city clerk. Exceptions may be granted by the city commission subject to all of the following conditions and after the city commission has considered the review and recommendations of the planning commission, police chief, fire chief and city engineer.

a. The street right-of-way within the city limits is no longer than 2640 feet and does not cross one of the directional center-lines of the city. The subdivision and/or street plan must be designed and situated such that it is not practical that the street might be extended in the future beyond these limits.

b. Properties on the street upon which the exception is requested are not already assigned and displaying numbers that comply with the city's standard street numbering system.

c. The city reserves the right to exercise its policing and regulatory authority granted by the City Charter to assign and/or modify street numbers as it sees fit to promote such things as consistency, public safety or other reasons it deems in the public interest.

(b) *Placement required.* The owners and occupants of all buildings in the city shall cause the correct numbers to be placed on the buildings in accordance with the street plan map. No person shall display any numbers other than the officially designated numbers on any house or building.

(Code 1972, §§ 1.23, 1.24; Ord. No. 04-01, 1-20-2004)

Secs. 74-133—74-160. Reserved.

ARTICLE V. STORMWATER UTILITY[59]

Sec. 74-161. Purpose.

This article shall be known as the "Stormwater Utility Ordinance" of the City of Adrian.

This article amends the City of Adrian's stormwater utility for the purpose of conducting the city's stormwater management program to protect public health, safety, and welfare; and establishes regulations for the

[59]Editor's note(s)—Ord. No. 13-020, adopted Oct. 21, 2013, amended art. V in its entirety to read as herein set out. Former art. V, §§ 74-161—74-179 pertained to similar subject matter, and derived from Ord. No. 13-001, adopted Jan. 22, 2013. See the Code Comparative Table for a complete derivation.

use of the stormwater system, and prescribes the powers and duties of certain municipal agencies, departments and officials.

(Ord. No. 13-020, 10-21-2013)

Sec. 74-162. Findings.

The commission finds all of the following:

(1) The constitution and laws of the State of Michigan authorize local units of government to provide stormwater management services and systems that will contribute to the protection and preservation of the public health, safety and welfare, and to the protection of the state's natural resources.

(2) Property owners influence the quantity, character and quality of stormwater from their property in relation to the nature of the alterations made to property.

(3) Stormwater contributes to the diminution of water quality, adversely impacting the public health, safety and welfare, and endangering natural resources.

(4) Control of the quantity and quality of stormwater from developed and undeveloped property is essential to protect and improve the quality of surface waters and ground waters, thereby protecting natural resources and public health, safety and welfare.

(5) The Federal Clean Water Act and rules and regulations promulgated there under place increased mandates on the city to develop, implement, conduct and make available to its citizens and property owners stormwater management services which address water quality, velocity, and volume impacts of stormwater.

(6) Water quality is improved by stormwater management measures that control the quantity or quality, or both, of stormwater discharging directly or indirectly to receiving waters, that reduce the velocity of stormwater, or that divert stormwater from sanitary sewer systems.

(7) The city, having a responsibility to protect the public health, safety, and welfare, has a major role in ensuring appropriate water quality related to stormwater flow.

(8) Improper management of stormwater runoff causes erosion of lands, threatens businesses and residences and other facilities with water damage from flooding, adversely impacts public health, safety, and welfare, and creates environmental damage to rivers, streams and other bodies of water in Michigan, including the Great Lakes.

(9) The public health, safety, and welfare are adversely affected by poor ambient water quality and flooding that results from inadequate management of both the quality and quantity of stormwater.

(Ord. No. 13-020, 10-21-2013)

Sec. 74-163. Definitions.

For the purposes of this article, the following words and phrases shall have the meanings described in this section:

Administrator is the city engineer or such other person as the city administrator may designate.

City shall mean the City of Adrian, Michigan and its authorized agents.

Commission shall mean the City Commission of the City of Adrian, Michigan.

Detention shall mean the prevention of, or to prevent, the discharge, directly or indirectly, of a given volume of stormwater runoff into the stormwater system by providing temporary on-site storage.

Discharge shall mean the flow of water from a project, site, aquifer, drainage basin, or other drainage facility.

Erosion shall mean the wearing or washing away of soil by the action of water.

Impervious area or *surface* means a surface area which is compacted or covered with material that is resistant to or impedes permeation by water, including but not limited to, most conventionally surfaced streets, roofs, sidewalks, patios, driveways, parking lots, and any other oiled, graveled, graded, or compacted surfaces.

MDEQ shall mean the Michigan Department of Environmental Quality.

NPDES means National Pollutant Discharge Elimination System, a program to issue permits for discharges to receiving waters, established under the Federal Clean Water Act, and administered by the MDEQ.

Operation and maintenance includes any component of a stormwater system expenditure for materials, labor, utilities and other items for the management and uninterrupted operation of the stormwater system in a manner for which the stormwater system was designed and constructed.

Owner shall mean any individual, firm, partnership, association, organization, joint venture, public or private corporation, public agency or other entity or combination of entities who alone, jointly, or severally with others hold(s) legal or equitable title to any real property. The term "owner" shall also include heirs, successors, and assigns.

Parcel shall mean a tract, or contiguous tracts, of land in the possession of, owned by, or recorded as property of the same claimant person.

Pervious area or *surface* is all land area that is not impervious.

Property means any land within the boundary of the City of Adrian, both publicly and privately owned, including public and private rights-of-way.

Retention shall mean the prevention of, or to prevent, the discharge, directly or indirectly, of any stormwater volume into the stormwater system.

Stormwater means stormwater runoff, snowmelt runoff, footing drain discharges, surface runoff and drainage.

Stormwater management means one or more of the following:

(1) The quantitative control achieved by the stormwater system of the increased volume and rate of surface runoff caused by alterations to the land.

(2) The qualitative control achieved by the stormwater system, pollution prevention activities, and ordinances to reduce, eliminate or treat pollutants that might otherwise be carried by stormwater.

(3) Public education, information, and outreach programs designed to educate and inform the public on the potential impacts of stormwater.

Stormwater management plan shall mean the written documents and plans that contain the following elements which shall be used to guide the stormwater management program:

(1) May, 1992 City of Adrian, Michigan Stormwater Utility Feasibility Study prepared by McNamee, Porter & Seeley, Inc. (now known as Tetra Tech).

(2) 2006 Westside Storm Sewer Capacity Study prepared by Tetra Tech.

(3) Geographic limits of the City of Adrian, Michigan.

(4) River Raisin Watershed Management Plan.

(5) Total Maximum Daily Loads promulgated by the federal or state government.

(6) Rules of the Lenawee County Drain Commissioner.

(7) A description of the components of the stormwater system owned and operated by the City of Adrian.

Stormwater management program means one or more aspects of stormwater management undertaken for the purpose of complying with applicable federal, state and local law and regulation or the protection of the public health, safety, and welfare related to stormwater runoff.

Stormwater runoff shall mean flow on the surface of the ground, resulting from precipitation and snowmelt that does not infiltrate into the soil, including material dissolved or suspended in it.

Stormwater system means roads, streets, catch basins, curbs, gutters, ditches, storm sewers and appurtenant features, lakes, ponds, channels, swales, storm drains, canals, creeks, catch basins, streams, gulches, gullies, flumes, culverts, siphons, retention or detention basins, dams, floodwalls, levees, pumping stations, and other like facilities, and natural watercourses and features located within the geographic limits of the city which are designed or used for collecting, storing, treating or conveying stormwater or through which stormwater is collected, stored, treated or conveyed, or any other physical means by which stormwater management is achieved.

Structure shall mean anything constructed or installed with a fixed location on or in the ground.

Surface waters shall mean any receiving waters existing on the surface of the ground, including but not limited to; brooks, streams, rivers, wetlands, ponds, or lakes.

Undeveloped shall mean the condition of a property unaltered by construction or the addition of impervious surface.

User shall mean a firm, person or property that directly or indirectly contributes stormwater to the stormwater system.

Water quality shall mean those characteristics that relate to the physical, chemical, biological or radiological integrity of water.

Water quantity shall mean those characteristics that relate to the rate and volume of the stormwater runoff to downstream areas.

Watershed shall mean an extent of land where stormwater runoff drains downhill into a body of water, such as a river, lake, reservoir, estuary, or wetland. The watershed includes both the streams and rivers that convey the water as well as the land surfaces from which water drains into those channels, and is separated from adjacent watersheds by a topographic divide.

(Ord. No. 13-020, 10-21-2013)

Sec. 74-164. stormwater charges.

Charges for other services provided by the city shall be on a time and materials basis, including direct and indirect costs, as established by the administrator. The administrator may also set charges for the fair share recovery of the cost, including direct and indirect costs, from users for the implementation and operation of any of the following:

(1) Monitoring, inspection and surveillance procedures.

(2) Reviewing accidental discharge procedures and construction.

(3) Stormwater discharge permit applications.

(4) Annual charges for multi-year permits.

(5) Other charges as the administrator may deem necessary to carry out the requirements of this article.

(Ord. No. 13-020, 10-21-2013)

Sec. 74-165. Discharge permits.

(a) A permit is required from the administrator to discharge treated nonstormwater otherwise subject to a discharge prohibition under this article into the stormwater system. The administrator may require each person or firm that applies for use or uses of the stormwater system for nonstormwater purposes to obtain a discharge permit on the form prescribed by the administrator, to be subject to all provisions of this article. A permit may be issued for a period not to exceed five years. The permit shall be subject to modification or revocation for failure to comply or provide safe access or provide accurate reports of the discharge constituents and characteristics. Permits are issued to specific persons or firms for specific operations and are not assignable to another person or firm without the prior written approval of the administrator. Permits are not transferable to another location. Anyone seeking a permit to discharge treated nonstormwater otherwise subject to a discharge prohibition into the stormwater system must do the following:

(1) File a written statement with the administrator setting forth the nature of the enterprise, the amount of water to be discharged with its present or expected bacterial, physical, chemical, radioactive or other pertinent characteristics.

(2) Provide a plan map of the building, works or complex with each outfall to the surface waters, sanitary system, storm sewer, natural watercourse or ground waters noted, described and the discharge stream identified.

(3) Sample, test and file reports with the administrator and the appropriate federal, state, and county agencies on appropriate characteristics of discharges on a schedule, at locations, and according to methods approved by the administrator.

(b) Every permit to discharge into the stormwater system shall be conditioned upon the permittee providing insurance, security and/or indemnification satisfactory to the administrator protecting the city, city property and persons in the city from loss or damages associated with the permit or permit activities.

(c) The administrator or other authorized employees are authorized to obtain information concerning industrial processes which have a direct bearing on the kind and source of the discharge to the stormwater system. An industrial user may withhold or restrict information if it can establish to the satisfaction of the administrator that release of the information would reveal trade secrets or would otherwise provide an advantage to competitors, except discharge constituents will not be recognized as confidential information.

(d) At the permittee's expense, the administrator shall carry out independent surveillance and field monitoring, in addition to the self-monitoring required of certain users to ascertain whether the purpose of this article is being met and all requirements are being satisfied.

(e) The method of determining flow of discharge to the stormwater system shall be approved by the administrator.

(f) The permit applicant shall acquire and be in full compliance with applicable federal, state and county permits for discharge prior to being granted a permit from the administrator.

(g) The administrator may impose fees for the use of the stormwater system for nonstormwater discharges permitted by the city under subsection (a) of this section. Charges shall be proportionate to the capacity of the stormwater system that is used by the nonstormwater flow that would otherwise be available for stormwater, and any additional charges related to preparing, monitoring, and enforcing any permits related to nonstormwater discharges.

(Ord. No. 13-020, 10-21-2013)

Sec. 74-166. Regulations.

The city administrator is authorized to promulgate rules and regulations necessary to implement the provisions of this article. Such rules and regulations shall take effect upon approval by the city commission.

(Ord. No. 13-020, 10-21-2013)

Sec. 74-167. Stormwater taps.

(a) Only city employees or licensed contractors, after first obtaining all necessary permits including but not limited to a plumbing permit, street cut permit and sewer tap permit, are authorized to uncover the stormwater system.

(b) All costs and expenses incidental to the installation, connection, and maintenance of the stormwater tap and lead shall be borne by the property owner.

(c) No storm sewer tap shall be greater than four inches. Anyone desiring a tap greater than four inches may submit, to the engineering department, the engineering design, calculations and rationale for a larger tap size for consideration by the administrator.

(Ord. No. 13-020, 10-21-2013)

Sec. 74-168. Enforcement.

(a) No person shall construct or maintain any property, residence or business not in compliance with the standards of this article.

(b) The administrator and other authorized employees of the city bearing proper credentials and identification shall be permitted to enter upon all properties for the purposes of inspection, observation, measurement, sampling and testing in accordance with the provisions of this article.

(c) No person shall fail to provide any report or other information or perform any duty required by this article.

(d) If, after reasonable notice, a person fails to comply with this article, the city may cause the work to be done to obtain compliance and shall charge the cost of that work to the person responsible. If the person responsible fails to pay an invoice for fees directed to him or her under this subsection, within 30 days of mailing of said invoice, the city may cause the cost reflected in said invoice to be assessed against the property as a special assessment pursuant to section 70-12 and the city may institute an action against the responsible person for the collection of said costs in any court of competent jurisdiction. However, the city's attempt to collect such costs by any process shall not invalidate any lien filed against the property.

(e) The administrator is authorized to take all steps necessary to immediately halt any discharge of pollutants which reasonably appears to present an imminent danger to the health or welfare of persons or to the environment.

(f) In case of an emergency involving private stormwater facilities, the administrator may direct that immediate action be taken to correct or abate the condition causing the emergency. City personnel may perform the required work and charge the owner all such related and provable costs. Such costs (if remaining unpaid for 30 days following a bill being sent for their reimbursement) shall constitute a lien on the real property.

(g) Persons aggrieved by any determination of the administrator in enforcing this article may appeal that determination. Prosecution shall be stayed pending such an appeal.

(h) In their interpretation and application, the provisions of this article shall be held to be minimum requirements and shall be liberally construed in favor of achieving the purposes of this article, and shall not be deemed a limitation or repeal of any other powers granted by state or federal statutes and regulations.

(Ord. No. 13-020, 10-21-2013)

Sec. 74-169. Violations and penalties.

(a) *Violation; municipal civil infraction.* A person who violates any provision of this article shall be responsible for a municipal civil infraction for which the court may impose a fine of not more than $500.00. Each day a violation occurs is a separate violation.

(b) *Authorized local official.* Notwithstanding any other provision of the city's laws, ordinances and regulations to the contrary, the following persons are designated as the authorized local officials to issue municipal civil infraction citations directing alleged violators to appear in district court for violations of this article (or, if applicable, to issue municipal civil infraction notices directing alleged violators to appear at a municipal ordinance violations bureau): the city administrator and the city administrator's designees, any sworn law enforcement officer, and any other persons so designated by the city.

(Ord. No. 13-020, 10-21-2013)

Sec. 74-170. Judicial relief.

The city attorney may institute legal proceedings at the direction of the city administrator in a court of competent jurisdiction to seek all appropriate relief for violations of this article. The action may seek temporary or permanent injunctive relief, damages, penalties, costs and any other relief, at law or equity that a court may order.

(Ord. No. 13-020, 10-21-2013)

Sec. 74-171. Cumulative remedies.

The imposition of a single penalty, fine, or other sanction or remedy upon any person for a violation of this article shall not preclude (or be a prerequisite for) the imposition by the city or a court of competent jurisdiction of a combination of any or all of those sanctions and remedies or additional sanctions and remedies with respect to the same violation, consistent with applicable limitations on penalty amounts under state or federal laws or regulations.

(Ord. No. 13-020, 10-21-2013)

Chapter 82 TAXATION[60]

[60]Charter reference(s)—Taxation, ch. 9.

Cross reference(s)—Any ordinance promising or guaranteeing the payment of money or authorizing the issuance of bonds or other instruments of indebtedness saved from repeal, § 1-11(3); any ordinance granting a tax exemption for specific property not codified in this Code saved from repeal, § 1-11(15); administration, ch. 2; finance, § 2-271 et seq.; licenses, permits and miscellaneous business regulations, ch. 46.

State law reference(s)—Property taxes generally, MCL 211.1 et seq.

ARTICLE I. IN GENERAL

Secs. 82-1—82-30. Reserved.

ARTICLE II. TAX EXEMPTIONS AND PAYMENTS IN LIEU OF TAXES[61]

Sec. 82-31. Siena Place.

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

Annual shelter rents means the total collections during an agreed annual period from all occupants of a housing development representing rent or occupancy charges, exclusive of charges for gas, electricity, heat or other utilities furnished to the occupants.

Authority means the Michigan State Housing Development Authority.

Commitment for low income housing tax credits means the commitment for the tax credits allocated by the authority to the sponsor under provisions of Section 42(m)(1)(A) of the Internal Revenue Code of 1986, as amended.

Elderly means 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 or older and all other members are 50 years of age or older.

Housing development means the senior citizen rental housing development which contains the housing for elderly persons of low and moderate income (as approved by the city on February 3, 1998) and such other elements of housing, commercial, recreational, communal and educational facilities that the city may subsequently approve and that the developer determines necessary to maintain the quality of the development for its stated purpose.

Sponsor means Siena Place Housing Associates, Ltd., a state limited partnership, which will apply to the authority for a low income housing tax credit allocation.

Utilities means fuel, water, sanitary sewer service, garbage and/or electrical services which are paid by the housing development.

(b) *Class of housing developments.* It is hereby 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 such taxes shall be all units at Siena Place, developed by the sponsor and rented to elderly persons under provisions of the commitment for low income housing tax credits granted to the sponsor by the authority.

(c) *Annual service charge established.* The housing development and the property on which it is to be constructed shall be exempt from all property taxes from and after the commencement of construction. The city, acknowledging that the sponsor and authority have established the economic feasibility of the housing developments in reliance upon the enactment and continuing effect of this section and the qualification of the housing development for exemption from all property taxes and a payment in lieu of taxes as established

[61]State law reference(s)—Tax exemptions and payments in lieu of taxes, MCL 125.1415a.

in this section, and in consideration of the sponsor's offer, subject to receipt of the commitment for low income housing tax credits from the authority to construct, own and operate such housing developments, hereby agrees to accept payment of an annual service charge for public services in lieu of all property taxes. The annual service charge shall commence in the calendar year in which initial occupancy of the development occurs, and shall be equal to ten percent of the annual shelter rents.

(d) *Contractual effect of section.* A contract between the city and the sponsor, with the authority as the third party beneficiary under such contract, to provide tax exemption, and accept payments in lieu thereof as set forth in this section, is effectuated by enactment of the ordinance from which this section is derived.

(e) *Payment of service charge.* The service charge in lieu of taxes, as determined under this section, shall be payable in the same manner as general property taxes are payable to the city, except that the annual payment shall be paid on or before February 15 of each year.

(f) *Duration.* This section shall remain in effect and shall not terminate as long as the housing development is operated under the provisions of the commitment for low income housing tax credits.

(Code 1972, §§ 13.22—13.27)

Sec. 82-32. Luther Knoll Apartments.

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

Annual shelter rents means the total collections during an agreed annual period from all occupants of a housing development representing rent or occupancy charges, exclusive of charges for gas, electricity, heat or other utilities furnished to the occupants.

Authority means the Michigan State Housing Development Authority.

Commitment for low income housing tax credits means the commitment for the tax credits allocated by the authority to the sponsor under provisions of Section 42(m)(1)(A) of the Internal Revenue Code of 1986, as amended.

Elderly means 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 or older and all other members are 50 years of age or older.

Housing development means the senior citizen rental housing development which contains the housing for elderly persons of low and moderate income and such other elements of housing, commercial, recreational, communal and educational facilities that the city may subsequently approve and that the developer determines necessary to maintain the quality of the development for its stated purpose.

Sponsor means or entities which have applied to the authority for a low income housing tax credit allocation.

Utilities means fuel, water, sanitary sewer service, garbage and/or electrical services which are paid by the housing development.

(b) *Class of housing developments.* It is hereby 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 such taxes shall be all units at Luther Knoll Apartments, developed by the sponsor and rented to elderly persons under provisions of the commitment for low income housing tax credits granted to the sponsor by the authority.

(c) *Annual service charge established.* The housing development and the property on which it is to be constructed shall be exempt from all property taxes from and after the commencement of construction. The city, acknowledging that the sponsor and authority have established the economic feasibility of the housing development in reliance upon the enactment and continuing effect of this section and the qualification of the housing development for exemption from all property taxes and a payment in lieu of taxes as established

in this section, and in consideration of the sponsor's offer, subject to receipt of the commitment for low income housing tax credits from the authority, to construct, own and operate such housing developments, hereby agrees to accept payment of an annual service charge for public services in lieu of all property taxes. The annual service charge shall commence in the calendar year in which initial occupancy of the development occurs, and shall be equal to ten percent of the annual shelter rents.

(d) *Contractual effect of section.* A contract between the city and the sponsor, with the authority as the third party beneficiary under such contract, to provide tax exemption, and accept payments in lieu thereof as set forth in this section, is effectuated by enactment of the ordinance from which this section is derived.

(e) *Payment of service charge.* The service charge in lieu of taxes, as determined under this section, shall be payable in the same manner as general property taxes are payable to the city, except that the annual payment shall be paid on or before February 15 of each year.

(f) *Duration.* This section shall remain in effect and shall not terminate as long as the housing development is operated under the provisions of the commitment for low income housing tax credits.

(Code 1972, §§ 13.32—13.37)

Sec. 82-33. Riverview Terrace Housing Development.

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

Annual shelter rents means the total collections during an agreed annual period from all occupants of a housing development representing rent or occupancy charges, exclusive of charges for gas, electricity, heat or other utilities furnished to the occupants.

Authority means the Michigan State Housing Development Authority.

Commitment for low income housing tax credits means the commitment for the tax credits allocated by the authority to the sponsor under provisions of Section 42(m)(1)(A) of the Internal Revenue Code of 1986, as amended.

Elderly means 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 or older and all other members are 50 years of age or older.

Housing development means the senior citizen rental housing development which contains the housing for elderly persons of low and moderate income for property commonly known as Riverview Terrace (also known as Kiwanis Riverview Terrace), and such other elements of housing, commercial, recreational, communal and educational facilities that the City of Adrian may subsequently approve and that the owner determines necessary to maintain the quality of the development for its stated purpose.

Mortgage loan means the mortgage loan made by the authority to the owner of the housing development.

Owner means Adrian Riverview terrace Limited Dividend Housing Associated Limited Partnership, a Michigan Limited Partnership, which will apply to the authority of the mortgage loan.

Utilities means fuel, water, sanitary sewer service, garbage and/or electrical services which are paid by the housing development.

(b) *Class of housing developments.* It is hereby 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 such taxes shall be all units at Riverview Terrace, developed by the owner and rented to elderly persons under provisions of the mortgage loan made to the owner by the authority.

(c) *Annual service charge established.* The housing development and the property on which it is to be constructed shall be exempt from all property taxes from and after the commencement of construction. The city, acknowledging that the owner and the authority have established the economic feasibility of the housing development in reliance upon the enactment and continuing effect of this section and the qualification of the housing development for exemption from all property taxes and a payment in lieu of taxes as established in this section, and in consideration of the owner's offer, subject to receipt of the mortgage loan from the authority, to own and operate said housing development, hereby agrees to accept payment of an annual service charge for public services in lieu of all property taxes. The annual service charge shall be as follows:

(1) In 2004, it shall be equal to ten percent of the annual shelter rents, but in no event less than $75,000.00.

(2) Beginning in 2005, the annual service charge shall be the greater of:

a. Ten percent of the annual shelter rents; or

b. $75,000.00 plus an amount equal to the number of years that have elapsed since 2004 multiplied by $1,500.00.

(d) *Contractual effect of section.* A contract between the city and the owner, with the authority as the third party beneficiary under such contract, to provide tax exemption and accept payments in lieu thereof as set forth in this section, is effectuated by enactment of the ordinance from which this section is derived.

(e) *Payment of service charge.* The service charge in lieu of taxes, as determined under this section, shall be payable in the same manner as general property taxes are payable to the city, except that the annual payment shall be paid on or before February 15 of each year.

(f) *Duration.* This section shall remain in effect and shall not terminate as long as the authority's mortgage loan remains outstanding and unpaid or the authority has any interest in the property, or the housing project remains subject to income and rent restrictions pursuant to section 42 of the Internal Revenue Code of 1986, as amended.

(Ord. No. 03-06, §§ 13.32—13.37, 3-3-2003; Ord. No. 03-10, 4-7-2003)

Sec. 82-34. Adrian Senior Village.

(a) *[Tax exempt.]* This section shall hereafter be known and cited as the "Adrian Senior Village City Tax Exemption Ordinance".

(b) *Preamble.* 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 and moderate income and to encourage the development of such housing by providing for a service charge in lieu of property taxes in accordance with the State Housing Development Authority Act of 1966 (1966 PA 346, as amended, MCLA 125.1401 et seq.). The city is authorized by said Act to establish or change the service charge to be paid in lieu of taxes by any and all classes of housing exempt from taxation under the Act at any amount it chooses, not to exceed the taxes that would be paid but for the Act. It is further acknowledged that such housing for persons of low income is a public necessity, and as the city will be benefited and improved by such housing, the encouragement of the same by providing certain real estate tax exemption therefore is a valid public purpose; further, that the continuance of the provisions of this section for tax exemption and the service charge in lieu of taxes during the periods hereinafter contemplated are essential to the determination of economic feasibility of housing developments which are constructed and financed in reliance thereon.

The city acknowledges that Lutheran Homes Society, Inc. (referred to herein as "owner"), has offered, subject to receipt of a commitment for low income housing tax credits from the authority, to own and operate a housing

development identified as Adrian Senior Village on certain property located in the City of Adrian (see Attachment A to Ordinance No. 05-13) to serve elderly persons of low and moderate income, and that the owner has offered to pay the city on account of said development an annual service charge for public services in lieu of all taxes for the said property.

(c) *Definitions.*

Authority means the Michigan State Housing Development Authority.

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

Annual shelter rents are defined as the total collections during an agreed annual period from all occupants of a housing development representing rent or occupancy charges, exclusive of charges for gas, electricity, heat or other utilities furnished to the occupants.

Commitment for low income housing tax credits shall mean the commitment for those tax credits allocated by the authority to the owner under provisions of Section 42(m)(1)(A) of the Internal Revenue Code of 1986, as amended.

Elderly shall mean 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 or older and all other members are 50 years of age or older.

Housing development shall mean the senior citizen rental housing development which contains the housing for elderly persons of low and moderate income for property commonly known as Adrian Senior Village, and such other elements of housing, commercial, recreational, communal and educational facilities that the City of Adrian may subsequently approve and that the owner determines necessary to maintain the quality of the development for its stated purpose.

Mortgage loan means the mortgage loan made by the authority to the owner for the housing development.

Owner means Lutheran Homes Society, Inc., a Ohio Corporation, which will apply to the authority for an allocation of low income housing tax credits.

Utilities mean fuel, water, sanitary sewer service, garbage and/or electrical services which are paid by the housing development.

(d) *Class of housing developments.* It is hereby determined that the class of housing developments to which the tax exemption shall apply and for which a service charge be paid in lieu of such taxes shall be all units at Adrian Senior Village developed by the owner and rented to elderly persons under provisions of the low income housing tax credits committed to the owner by the authority.

(e) *Establishment of annual service charge.* The housing development and the property on which it is to be constructed shall be exempt from all property taxes from and after the commencement of construction. The city, acknowledging that the owner and the authority have established the economic feasibility of the housing development in reliance upon the enactment and continuing effect of this section and the qualification of the housing development for exemption from all property taxes and a payment in lieu of taxes as established herein, and in consideration of the owner's offer, subject to receipt of the low income housing tax credits from the authority, to own and operate said housing development, hereby agrees to accept payment of an annual service charge for public services in lieu of all property taxes. The annual service charge shall be as follows: The annual service charge shall be equal to ten percent of the annual shelter rents, but in no event less than $33,000.00. Beginning in 2008, the annual service charge shall be the greater of: (1) ten percent of the annual shelter rents, or (2) $33,000.00 PLUS a percentage increase equal to the net percentage increase in the U.S. Bureau of Labor Statistics Consumer Price Index for all items and commodity groups (1982—1984=100) (the CPI) from the CPI as published in February, 2005 and the CPI published in January of the year in which the service charge is due.

(f) *Contractual effect of ordinance.* Notwithstanding the provisions of Section 15(a)(5) of the Act to the contrary, a contract between the city and the owner with the authority as third party beneficiary thereunder, to provide tax exemption and accept payments in lieu thereof as previously described, is effectuated by enactment of this section.

(g) *Payment of service charge.* The service charge in lieu of taxes as determined hereunder shall be payable in the same manner as general property taxes are payable to the city except that the annual payment shall be paid on or before February 15 of each year.

(h) *Duration.* This section shall remain in effect and shall not terminate so long as the housing project remains subject to income and rent restrictions pursuant to Section 42 of the Internal Revenue Code of 1986, as amended. Provided, however, that the term of this ordinance shall not exceed 30 years, regardless of whether or not the housing project remains subject to any income or rent restrictions.

(Ord. No. 05-13, §§ 13.50—13.57, 8-15-2005)

Sec. 82-35. 223 North Broad Street.

(a) This section shall be known and cited as the "223 North Broad Street Tax Exemption Ordinance."

(b) *Preamble.* 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 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, MCL 125.1401, 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 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 section for tax exemption and the service charge in lieu of taxes during the period contemplated in this section are essential to the determination of economic feasibility of housing developments which are constructed and financed in reliance on such tax exemption.

The city acknowledges that Lenawee Housing Development Coalition, Inc. (the "sponsor") has offered, subject to receipt of a mortgage loan from the Michigan State Housing Development Authority, to own and operate a housing development identified as Legacy Housing on certain property located at 223 North Broad Street in the city to serve persons of low income, and that the sponsor has offered to pay the city on account of this housing development an annual service charge for public services in lieu of all taxes.

(c) *Definitions.*

Authority means the Michigan State Housing Development Authority.

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

Annual shelter rent means the total collections during an agreed annual period from all occupants of a housing development representing rent or occupancy charges, exclusive of charges for gas, electricity, heat, or other utilities furnished to the occupants.

Contract rents are as defined by the U.S. Department of Housing and Urban Development in regulations promulgated pursuant to the U.S. Housing Act of 1937, as amended.

Housing development means 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 housing for persons of low income.

Chronically homeless means single adults who have been homeless for a single extended period of time within the past five years or homeless for three defined periods of time within the last five years.

Mortgage loan means a loan to be made by the authority to the sponsor for the construction and/or permanent financing of the housing development.

Utilities mean fuel, water, sanitary sewer service and/or electrical service which are paid by the housing development.

Sponsor means person(s) or entities which have applied to the authority for a mortgage loan to finance a housing development.

(d) *Class of housing developments.* It is determined that the class of housing development to which the tax exemption shall apply and for which a service charge shall be paid in lieu of such taxes shall be housing for the chronically homeless, which is financed or assisted pursuant to the Act. It is further determined that Legacy Housing is of this class.

(e) *Establishment of annual service charge.* The housing development identified as Legacy Housing and the property on which it shall be operated shall be exempt from all property taxes from and after the commencement of construction. 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 section and the qualification of the housing development for exemption from all property taxes and a payment in lieu of taxes as established in this section, and in consideration of the sponsor's offer, subject to receipt of a mortgage loan from the authority, to construct, own and operate the housing development, agrees to accept payment of an annual service charge for public services in lieu of all property taxes. The annual service charge shall be $100.00.

(f) *Limitation on the payment of annual service charge.* Notwithstanding subsection (e), the service charge to be paid each year in lieu of taxes for the part of the housing development which is tax exempt and which is occupied by other than low 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.

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

(g) *Contractual effect of ordinance.* Notwithstanding the provisions of section 15(a)(5) of the Act to the contrary, a contract between the city and the sponsor with the authority as third party beneficiary under the contract, to provide tax exemption and accept payments in lieu of taxes, as previously described, is effectuated by enactment of this section.

(h) *Payment of service charge.* The annual service charge in lieu of taxes as determined under the ordinance shall be payable in the same manner as general property taxes are payable to the city except that the annual payment shall be paid on or before February 14 of each year.

(i) *Duration.* This section 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 operation of the housing development commences within one year from the effective date of this ordinance.

(Ord. No. 09-06, 4-20-2009)

Sec. 82-36. Village at Lexington.

(a) This section shall be known and cited as the "Village at Lexington Tax Exemption Ordinance."

(b) *Preamble.* 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 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, MCL 125.1401, 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 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 section for tax exemption and the service charge in lieu of taxes during the period contemplated in this section are essential to the determination of economic feasibility of housing developments which are constructed and financed in reliance on such tax exemption.

The city acknowledges that Lenawee Housing Development Coalition, Inc. (the "sponsor") has offered, subject to receipt of low income housing tax credits from the Michigan State Housing Development Authority, to own and operate a housing development identified as Village at Lexington on certain property located at 251 Southfield Drive, 241 Southfield Drive, 221 Southfield Drive, 211 Southfield Drive, 191 Southfield Drive, and 1322 Barrington Lane in the city to serve persons of low income, and that the sponsor has offered to pay the city on account of this housing development an annual service charge for public services in lieu of all taxes.

(c) *Definitions.*

Authority means the Michigan State Housing Development Authority.

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

Annual shelter rent means the total collections during an agreed annual period from all occupants of a housing development representing rent or occupancy charges, exclusive of charges for gas, electricity, heat, or other utilities furnished to the occupants.

Housing development means 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 housing for persons of low income.

Low income housing tax credits means tax credits provided pursuant to Section 42 of the Internal Revenue Code of the United States.

Utilities mean fuel, water, sanitary sewer service and/or electrical service which are paid by the housing development.

Sponsor means person(s) or entities which sponsor a housing development which receives low income housing tax credits or other financial assistance from the authority.

(d) *Class of housing developments.*; It is determined that the class of housing development to which the tax exemption shall apply and for which a service charge shall be paid in lieu of such taxes shall be housing for low income families or persons sponsored by a nonprofit organization which has received an allocation of low income housing tax credits, as provided in the Act. It is further determined that Village at Lexington is of this class.

(e) *Establishment of annual service charge.* Village at Lexington and the property on which it shall be constructed shall be exempt from all property taxes from and after December 31, 2009. 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 ordinance and the qualification of the housing development for exemption from all property taxes and a payment in lieu of taxes as established

in this ordinance, and in consideration of the sponsor's offer, subject to receipt of low income housing tax credits from the authority, to participate in the ownership of a 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 ten percent of the annual shelter rents.

(f) *Limitation on the payment of annual service charge.* Notwithstanding subsection (e), the service charge to be paid each year in lieu of taxes for the part of the housing development which is tax exempt and which is occupied by other than low 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.

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

(g) *Contractual effect of ordinance.* Notwithstanding the provisions of section 15(a)(5) of the Act to the contrary, a contract between the city and the sponsor with the authority as third party beneficiary under the contract, to provide tax exemption and accept payments in lieu of taxes, as previously described, is effectuated by enactment of this section.

(h) *Payment of service charge.* The annual service charge in lieu of taxes as determined under the ordinance shall be payable in the same manner as general property taxes are payable to the city except that the annual payment shall be paid on or before February 14 of each year.

(i) *Duration.* This section shall remain in effect and shall not terminate so long as the restriction on rents and incomes under the low income housing tax credit program remains in effect or the authority has any interest in the property.

(Ord. No. 09-05, 4-20-2009)

Sec. 82-37. Adrian Village.

(a) *[Title.]* This section shall be known and cited as the "Adrian Village Tax Exemption Ordinance."

(b) *Preamble.* 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 income and to encourage the development and rehabilitation 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, MCL 125.1401 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 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 property tax exemption for such housing is a valid public purpose; further, that the continuance of the provisions of this section for tax exemption and the service charge in lieu of taxes during the period contemplated in this section are essential to the determination of economic feasibility of housing developments which are constructed and financed in reliance on such tax exemption.

The city acknowledges that Lutheran Social Services of Michigan (the "sponsor") has offered, subject to receipt of a commitment for low income housing tax credits from the Michigan State Housing Development Authority, to own, rehabilitate and operate the housing development identified as Adrian Village on certain property located at 1542 Village Green Lane in the city to serve persons of low income, and that the sponsor has offered to pay the city on account of this housing development an annual service charge for public services in lieu of all taxes.

(c) *Definitions.* [The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:]

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

Annual shelter rent means the total collections during an agreed annual period from all occupants of the housing development representing rent or occupancy charges, exclusive of charges for gas, electricity, heat, or other utilities furnished to the occupants.

Authority means the Michigan State Housing Development Authority.

Commitment for low income housing tax credits means a commitment for those tax credits allocated by the authority provided pursuant to Section 42 of the Internal Revenue Code of the United States.

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

Low income persons or families as used herein shall be the same meaning as found in Section 15(a)(7) of the Act.

Sponsor means the entity which has applied for low income housing tax credits or other financial assistance from the authority for the housing development.

Utilities means fuel, water, sanitary sewer service and/or electrical service which are paid by the housing development.

(d) *Class of housing developments.* It is determined that the class of housing development to which the tax exemption shall apply and for which a service charge shall be paid in lieu of such taxes shall be housing for low income families or persons sponsored by a nonprofit organization which has received an allocation of low income housing tax credits, as provided in the Act. It is further determined that Adrian Village is of this class.

(e) *Establishment of annual service charge.* Adrian Village and the property on which it is constructed shall be exempt from all property taxes from and after the rehabilitated housing development has been placed into service for eligibility of the low income housing tax credits. 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 ordinance and the qualification of the housing development for exemption from all property taxes and a payment in lieu of taxes as established in this section, and in consideration of the sponsor's offer, subject to receipt of low income housing tax credits from the authority, to participate in the sponsorship of a 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 the aggregate of the following: (i) the greater of four percent of the annual shelter rents or $23,500.00; plus (ii) $42,840.00 for the first year of this section, increasing at two and one-half percent for each subsequent year, provided that the foregoing aggregate amount shall not exceed the amount of taxes which would otherwise have been paid on the housing development if the housing development were not tax exempt.

(f) *Contractual effect of ordinance.* Notwithstanding the provisions of Section 15(a)(5) of the Act to the contrary, a contract between the city and the sponsor, with the authority as third-party beneficiary under the contract, to provide tax exemption and accept payments in lieu of taxes, as previously described, is effectuated by enactment of this section. Provided, however, that in the event the annual service charge is not fully paid as provided in the following paragraph, the provisions of Section 15(a)(5) [of the Act] apply and the contract shall have no further effect and shall terminate.

(g) *Payment of service charge.* The annual service charge in lieu of taxes as determined under this section shall be payable in the same manner as general property taxes are payable to the city except that the annual payment shall be paid on or before February 14 of each year.

(h) *Duration.* This section shall remain in effect and shall not terminate so long as the restriction on rents and incomes under the low income housing tax credit program remains in effect or the authority has any interest in the housing development. Provided, however, that the term of this section shall not exceed 20 years from the date the housing development is placed in service for eligibility of the low income housing tax credits.

(Ord. No. 12-001, 3-5-2012)

Sec. 82-38. Maple Village.

(a) *[Title.]* This section shall be known and cited as the "Maple Village Tax Exemption Ordinance."

(b) *Preamble.* 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 income and to encourage the development and rehabilitation 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, MCL 125.1401 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 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 section for tax exemption and the service charge in lieu of taxes during the period contemplated in this section are essential to the determination of economic feasibility of housing developments which are constructed and financed in reliance on such tax exemption.

The city acknowledges that FHC Eight Maple Village Limited Dividend Housing Association Limited Partnership, a Michigan limited partnership, (the "Sponsor" or "FHC") has offered, subject to receipt of a Mortgage Loan from the Michigan State Housing Development Authority, or a mortgage loan insured by the U.S. Department of Housing and Urban Development ("HUD") to own, rehabilitate and operate the housing development identified as Maple Village on certain property located in the 1200 block of South Main (see attachment A) in the city to serve persons and families of low income, and that the sponsor has offered to pay the city on account of this housing development an annual service charge for public services in lieu of all taxes.

(c) *Definitions.* [The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:]

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

Annual shelter rent means the total collections during an agreed annual period from all occupants of the housing development representing rent or occupancy charges, exclusive of charges for gas, electricity, heat, or other utilities furnished to the occupants.

Authority means the Michigan State Housing Development Authority.

Contract rents are as defined by the U.S. Department of Housing and Urban Development in regulations promulgated pursuant to the U.S. Housing Act of 1937, as amended by the Housing and Community Development Act of 1974, so long as the Section 8 contract remains in effect and, in the event the Section 8 contract expires, the annual shelter rents collected from the tenants.

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

HUD means the U.S. Department of Housing and Urban Development acting through its Federal Housing Administration divisions.

Low income persons or families as used herein shall be the same meaning as found in Section 15(a)(7) of the Act.

Mortgage loan means a loan to be made by the authority and/or insured by HUD to the sponsor for the rehabilitation and/or permanent financing of the housing development.

Sponsor means the entity which has applied for low income housing tax credits or other financial assistance from the authority for the housing development.

Utilities means fuel, water, sanitary sewer service and/or electrical service which are paid by the housing development.

(d) *Class of housing developments.* It is determined that the class of housing development to which the tax exemption shall apply and for which a service charge shall be paid in lieu of such taxes shall be housing which is for persons and families of low income and which is financed or assisted pursuant to the Act. It is further determined that Maple Village is of this class.

(e) *Establishment of annual service charge.* Maple Village and the property on which it is constructed shall be exempt from all property taxes from and after the acquisition by sponsor. The city, acknowledging that the sponsor and the authority and/or HUD have established the economic feasibility of the housing development in reliance upon the enactment and continuing effect of this ordinance and the qualification of the housing development for exemption from all property taxes and a payment in lieu of taxes as established in this section, and in consideration of the sponsor's offer, subject to receipt of a mortgage loan from the authority and/or loan insured by HUD, to rehabilitate, own and operate said 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 ten percent of the difference between the contract rents actually collected, less utilities.

(f) *Contractual effect of ordinance.* Notwithstanding the provisions of Section 15(a)(5) of the Act to the contrary, a contract between the city and the sponsor, with the authority and/or HUD as third-party beneficiaries under the contract, to provide tax exemption and accept payments in lieu of taxes, as previously described, is effectuated by enactment of this section. Provided, however, that in the event the annual service charge is not fully paid as provided in the following paragraph, the provisions of Section 15(a)(5) [of the Act] apply and the contract shall have no further effect and shall terminate.

(g) *Payment of service charge.* The annual service charge in lieu of taxes as determined under this section shall be payable in the same manner as general property taxes are payable to the city except that the annual payment shall be paid on or before February 14 of each year.

(h) *Duration.* The PILOT will take effect the next calendar year after all necessary paperwork has been filed with the city, including without limitation, a copy of the mortgage given by FHC to the Authority in connection with the rehabilitation and/or permanent financing of Maple Village and a notice to the assessor as provided in the Act. Until such time, the current owner, Maple Village Limited Dividend Housing Association, shall continue to pay property taxes on the family portion of the housing development and the PILOT payment currently in effect on the senior portion. Neither the PILOT nor this section shall terminate so long as the mortgage loan remains unpaid and outstanding, or either the authority or HUD have any interest in the property.

(Ord. No. 12-007, 10-15-2012; Ord. No. 15-006, 5-18-2015)

Editor's note(s)—Attachment A, as referenced above, has not been set out at length, but may be found at the city offices.

Sec. 82-39. Center City Downtown Adrian.

(a) *[Title.]* This section shall be known and cited as the "City of Adrian Tax Exemption Ordinance—Center City Downtown Adrian."

(b) *Preamble.* It is acknowledged that it is a proper public purpose of the State of Michigan and its political subdivisions to provide housing for its low 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 for low income persons and families is a public necessity, and as the city will be benefited 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 Ordinance for tax exemption and the service charge in lieu of all ad valorem taxes during the period contemplated in this section are essential to the determination of economic feasibility of the housing projects that is constructed or rehabilitated with financing extended in reliance on such tax exemption.

The city acknowledges that Excel-Deal 23 Limited Dividend Housing Association Limited Partnership has offered, subject to receipt of an allocation under the LIHTC program by the Michigan State Housing Development Authority, to construct, own and operate a housing project identified as Center City Downtown Adrian on certain property located at 211 Pearl, 235 Pearl, 239 Pearl 212 Church, 218 Church, 220 Church, 224 Church, 228 Church, and 234 Church in the city to serve low income persons and families, and that the sponsor has offered to pay the city on account of this housing project an annual service charge for public services in lieu of all ad valorem property taxes.

(c) *Definitions.*

Authority means the Michigan State Housing Development Authority.

Annual shelter rent means the total collections during an agreed annual period from or paid on behalf of all occupants of a housing project representing rent or occupancy charges, exclusive of utilities.

Contract rents means the total contract rents (as defined by the U.S. Department of Housing and Urban Development in regulations promulgated pursuant to Section 8 of the U.S. Housing Act of 1937, as amended) received in connection with the operation of a housing project during an agreed annual period, exclusive of utilities.

LIHTC program means the low income housing tax credit program administered by the authority under Section 42 of the Internal Revenue Code of 1986, as amended.

Low income persons and families means persons and families eligible to move into a housing project.

Mortgage loan means 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 means Excel-Deal 23 Limited Dividend Housing Association Limited Partnership and any entity that receives or assumes a mortgage loan and/or is financed by IRS Section 42 housing tax credits

Utilities means charges for gas, electric, water, sanitary sewer and other utilities furnished to the occupants that are paid by the housing project.

(d) *Class of housing projects.* It is determined that the class of housing projects to which the tax exemption shall apply and for which a service charge shall be paid in lieu of such taxes shall be housing projects for low

income persons and families that are financed with a mortgage loan and/or financed by IRS Section 42 housing tax credits. It is further determined that Center City Downtown Adrian is of this class.

(e) *Establishment of annual service charge.* The housing project identified as Center City Downtown Adrian and the property on which it is/or will be located shall be exempt from all ad valorem property taxes from and after the commencement of construction. The city acknowledges that the sponsor and the authority have established the economic feasibility of the housing project in reliance upon the enactment and continuing effect of this section, and the qualification of the housing project for exemption from all ad valorem property taxes and a payment in lieu of taxes as established in this section. Therefore, in consideration of the sponsor's offer to construct and operate the housing project, the city agrees to accept payment of an annual service charge for public services in lieu of all ad valorem property taxes. Subject to receipt of a mortgage loan, the annual service charge shall be equal to ten percent of the annual shelter rents actually collected by the housing project during each operating year.

(f) *Contractual effect of ordinance.* Notwithstanding the provisions of section 15(a)(5) of the Act to the contrary, a contract between the city and the sponsor with the Authority as third party beneficiary under the contract, to provide tax exemption and accept payments in lieu of taxes, as previously described, is effectuated by enactment of this section.

(g) *Limitation on the payment of annual service charge.* Notwithstanding Section 5, the service charge to be paid each year in lieu of taxes for the part of the housing project that 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 project if the housing project were not tax exempt.

(h) *Payment of service charge.* The annual service charge in lieu of taxes as determined under this section shall be payable in the same manner as general property taxes are payable to the city and distributed to the several units levying the general property tax in the same proportion as prevailed with the general property tax in the previous calendar year. The annual payment for each operating year shall be paid on or before February 14, of the following year. Collection procedures shall be in accordance with the provisions of the General Property Tax Act (1893 PA 206, as amended; MCL 211.1 et seq).

(i) *Duration.* This section will take effect the next calendar year after all necessary paperwork has been filed with the city, including a notice to the assessor as provided in the Act. Until such time, the property would be taxed under the current city operating millage in place. Neither this ordinance nor this section shall terminate so long as the mortgage loan remains unpaid and outstanding or the authority has any interest in the property; and/or the property remains subject to regulation by the Section 42 tax credit program, provided, that construction of the Center City Downtown Adrian commences within two years from the effective date of this section.

(Ord. No. 16-001, §§ 1—9, 3-7-2016; Ord. No. 16-003, §§ 1—9, 3-30-2016)

Sec. 82-40. Center City Downtown Adrian II.

(a) *[Title.]* This section shall be known and cited as the "City of Adrian Tax Exemption Ordinance—Center City Downtown Adrian II."

(b) *Preamble.* It is acknowledged that it is a proper public purpose of the State of Michigan and its political subdivisions to provide housing for its low 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 for low income persons and families is a public necessity, and as the city will be benefited 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 section for tax exemption and the service charge in lieu of all ad valorem taxes during the period contemplated in this section are essential to the determination of economic feasibility of the housing projects that is constructed or rehabilitated with financing extended in reliance on such tax exemption.

The city acknowledges that Excel-Deal 23 Limited Dividend Housing Association Limited Partnership has offered, subject to receipt of an allocation under the LIHTC program by the Michigan State Housing Development Authority, to construct, own and operate a housing project identified as Center City Downtown Adrian II on certain property located at 125 West Maumee in the city to serve low income persons and families, and that the sponsor has offered to pay the city on account of this housing project an annual service charge for public services in lieu of all ad valorem property taxes.

(c) *Definitions.*

Authority means the Michigan State Housing Development Authority.

Annual shelter rent means the total collections during an agreed annual period from or paid on behalf of all occupants of a housing project representing rent or occupancy charges, exclusive of utilities.

Contract rents means the total contract rents (as defined by the U.S. Department of Housing and Urban Development in regulations promulgated pursuant to Section 8 of the U.S. Housing Act of 1937, as amended) received in connection with the operation of a housing project during an agreed annual period, exclusive of utilities.

LIHTC program means the low income housing tax credit program administered by the authority under Section 42 of the Internal Revenue Code of 1986, as amended.

Low income persons and families means persons and families eligible to move into a housing project.

Mortgage loan means 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 means Excel-Deal 23 limited Dividend Housing Association Limited Partnership and any entity that receives or assumes a mortgage loan and/or is financed by IRS Section 42 housing tax credits

Utilities means charges for gas, electric, water, sanitary sewer and other utilities furnished to the occupants that are paid by the housing project.

(d) *Class of housing projects.* It is determined that the class of housing projects to which the tax exemption shall apply and for which a service charge shall be paid in lieu of such taxes shall be housing projects for low income persons and families that are financed with a mortgage loan and/or financed by IRS Section 42 housing tax credits. It is further determined that Center City Downtown Adrian II is of this class.

(e) *Establishment of annual service charge.* The housing project identified as Center City Downtown Adrian II and the property on which it is/or will be located shall be exempt from all ad valorem property taxes from and after the commencement of construction. The city acknowledges that the sponsor and the authority have established the economic feasibility of the housing project in reliance upon the enactment and continuing effect of this section, and the qualification of the housing project for exemption from all ad valorem property taxes and a payment in lieu of taxes as established in this section. Therefore, in consideration of the sponsor's offer to construct and operate the housing project, the city agrees to accept payment of an annual service charge for public services in lieu of all ad valorem property taxes. Subject to receipt of a mortgage loan, the annual service charge shall be equal to ten percent of the annual shelter rents actually collected by the housing project during each operating year.

(f) *Contractual effect of ordinance.* Notwithstanding the provisions of section 15(a)(5) of the Act to the contrary, a contract between the city and the sponsor with the Authority as third party beneficiary under the contract, to provide tax exemption and accept payments in lieu of taxes, as previously described, is effectuated by enactment of this section.

(g) *Limitation on the payment of annual service charge.* Notwithstanding Section 5, the service charge to be paid each year in lieu of taxes for the part of the housing project that 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 project if the housing project were not tax exempt. The service charge to be paid each year in lieu of taxes is only applied to the residential portion of this parcel. The first floor commercial use would be subject to the current general operating millage.

(h) *Payment of service charge.* The annual service charge in lieu of taxes as determined under this section shall be payable in the same manner as general property taxes are payable to the city and distributed to the several units levying the general property tax in the same proportion as prevailed with the general property tax in the previous calendar year. The annual payment for each operating year shall be paid on or before February 14, of the following year. Collection procedures shall be in accordance with the provisions of the General Property Tax Act (1893 PA 206, as amended; MCL 211.1 et seq).

(i) *Duration.* This section will take effect the next calendar year after all necessary paperwork has been filed with the city, including a notice to the assessor as provided in the Act. Until such time, the property would be taxed under the current city operating millage in place. Neither this ordinance nor this section shall terminate so long as the mortgage loan remains unpaid and outstanding or the authority has any interest in the property and/or the property remains subject to regulation by the Section 42 tax credit program; provided, that construction of the Center City Downtown Adrian II commences within two years from the effective date of this section.

(Ord. No. 16-002, §§ 1—9, 3-7-2016; Ord. No. 16-004, §§ 1—9, 3-30-2016)

Sec. 82-41. Winter Street Lofts.

(a) *[Title.]* This section shall be known and cited as the "Winter Street Lofts Tax Exemption Ordinance."

(b) *Preamble.* 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 income and to encourage the development and rehabilitation 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, MCL 125.1401 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 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 section for tax exemption and the service charge in lieu of taxes during the period contemplated in this section are essential to the determination of economic feasibility of housing developments which are constructed and financed in reliance on such tax exemption.

The city acknowledges that Winter Street Lofts, LLC, has offered, subject to receipt of an allocation under the low income housing tax credit program by the Michigan State Housing Development Authority, to construct, own and operate a housing project identified as Winter Street Lofts on certain property described as Parcel A in the attachment to serve low or moderate income families and that the sponsor has offered to pay the city on account of this housing project an annual service charge for public services in lieu of ad valorem taxes.

(c) *Definitions.*

Authority means the Michigan State Housing Development Authority.

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

Annual shelter rent means the total collections during an agreed annual period from all occupants of the housing development representing rent or occupancy charges, exclusive of charges for gas, electricity, heat, or other utilities furnished to the occupants.

Contract rents are as defined by the U.S. Department of Housing and Urban Development in regulations promulgated pursuant to the U.S. Housing Act of 1937, as amended by the Housing and Community Development Act of 1974, so long as the Section 8 contract remains in effect and, in the event the Section 8 contract expires, the annual shelter rents collected from the tenants.

Housing development means a development which contains a significant element of housing for persons and families of low income and such elements of other housing, commercial, recreational, communal, and educational facilities as the authority determines improve the quality of the development as it relates to housing for persons of low and moderate income, the name of this development is Winter Street Lofts, and consists of 57 units of rental housing located within Adrian at:

HUD means the U.S. Department of Housing and Urban Development acting through its Federal Housing Administration divisions.

Low income persons or families, as used herein, shall be the same meaning as found in section 15(a)(7) of the Act.

Mortgage loan means a loan to be made by the authority and/or insured by HUD to the sponsor for the rehabilitation and/or permanent financing of the housing development.

Sponsor means a person or other entity with a housing development which is financed or assisted pursuant to the Act. For the purposes of this section, the sponsor of Winter Street Lofts Housing Development is Winter Street Lofts, LLC, or its successors or assigns.

Utilities mean fuel, water, sanitary sewer service and/or electrical service which are paid by the housing development.

(d) *Class of housing developments.* It is determined that the class of housing development to which the tax exemption shall apply and for which a service charge shall be paid in lieu of such taxes shall be housing which is for persons and families of low income and which is financed or assisted pursuant to the Act. It is further determined that Winter Street Lofts is of this class.

(e) *Establishment of annual service charge.*

(1) The city acknowledges that the sponsor and the authority have established the economic feasibility of Winter Street Lofts Housing Development in reliance upon the enactment and continuing effort of this section and upon the qualification of the 57 units of housing in the housing development for exemption from all property taxes as established in this section.

(2) Subject to the conditions and requirements of this section and the Act, the 57 units in the housing development for persons of low and moderate income identified as Winter Street Lofts and the property on which they are constructed shall be exempt from all property taxes for not more than 20 years from the date the housing development is placed into service.

(3) In lieu of all said property taxes on the 57 units in the housing development, the sponsor shall pay, and the city will accept and annual service charge for public services, in the sum equal to ten percent of the difference between the annual shelter rents actually collected and utilities.

(4) The exemption provided under this section shall commence when the sponsor complies with section 15A(1) of 1966 PA 346, as amended, codified as MCL 125.1415a(1), which provides: the owner of a housing project eligible for the exemption shall file with the local assessing officer (the city assessor) a notification of the exemption, which shall be in an affidavit form as provided by the authority. The completed affidavit form first shall be submitted to the authority that the project is eligible for the exemption. The owner then shall file the certified notification of the exemption with the local assessing officer before November 1 of the year preceding the tax year in which the exemption is to begin.

In addition to the certification required pursuant to subsection (e)(4), the sponsor shall provide for the housing development annually in writing to the city assessor for the preceding year in which the property tax exemption was in effect:

a. The annual audited accounting report for the payment in lieu of taxes; and

b. A certified statement identifying all the units rented to persons of low or moderate income; and

c. If requested by the city, proof that the housing development units have not increased, decreased, or been altered in any form, unless the city has otherwise amended the provisions of this section.

(5) Contractual effect of ordinance. Notwithstanding the provisions of section 15(a)(5) of the Act to the contrary, a contract between the city and the sponsor, with the authority and/or HUD as third party beneficiaries under the contract, to provide tax exemption and accept payments in lieu of taxes, as previously described, is effectuated by enactment of this section. Provided, however, that in the event the annual service charge is not fully paid as provided in the following paragraph, the provisions of section 15(a)(5) apply and the contract shall have no further effect and shall terminate.

(6) Payment of service charge. The annual service charge in lieu of taxes as determined under this ordinance shall be payable in the same manner as general property taxes are payable to the city except that the annual payment shall be paid on or before February 14 of each year.

(7) Duration. This section shall remain in effect and shall not terminate for 20 years from the date the housing development is placed into service provided that the sponsor complies with the requirements of the Act and this section, and further provided that the housing development continues to be rented to low or moderate income persons at rents determined under the low income housing tax credit program, as the same may be further amended or superseded, or there is an authority-aided or federally-aided mortgage on the housing development, as provided in the Act, or the authority or HUD has an interest in the property. If the sponsor fails to complete the development or changes the scope or purpose of the 57 units of housing within the development without the consent of the city, by and through its representatives, and in accordance with the requirements of the Adrian City Charter, this section shall automatically expire and be of no effect.

(e) *Administrative fee.* The annual service charge shall be subject to a one-percent administrative fee to be retained by the city; which shall be calculated as a percentage of the established annual service charge and included with the annual payment.

(Ord. No. 17-12, 3-20-2017)

Sec. 82-42. Adrian Senior Lofts.

(a) *[Title.]* This section shall be known and cited as the "Adrian Senior Lofts Tax Exemption Ordinance."

(b) *Preamble.* 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 income and to encourage the development and rehabilitation 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, MCL 125.1401, 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 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 section for tax exemption and the service charge in lieu of taxes during the period contemplated in this section are essential to the determination of economic feasibility of housing developments which are constructed and financed in reliance on such tax exemption.

The city acknowledges that Adrian Senior Lofts LLC, has offered, subject to receipt of an allocation under the Low Income Housing Tax Credit Program by the Michigan State Housing Development Authority, to construct, own and operate a housing project identified as Adrian Senior Lofts on certain property described as Parcel B in the attachm to serve low or moderate income families and that the sponsor has offered to pay the city on account of this housing project an annual service charge for public services in lieu of ad valorem taxes.

(c) *Definitions.*

Authority means the Michigan State Housing Development Authority.

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

Annual shelter rent means the total collections during an agreed annual period from all occupants of the housing development representing rent or occupancy charges, exclusive of charges for gas, electricity, heat, or other utilities furnished to the occupants.

Contract rents are as defined by the U.S. Department of Housing and Urban Development in regulations promulgated pursuant to the U.S. Housing Act of 1937, as amended by the Housing and Community Development Act of 1974, so long as the Section 8 contract remains in effect and, in the event the Section 8 contract expires, the annual shelter rents collected from the tenants.

Housing development means a development which contains a significant element of housing for persons and families of low income and such elements of other housing, commercial, recreational, communal, and educational facilities as the authority determines improve the quality of the development as it relates to housing for persons of low and moderate income, the name of this development is Adrian Senior Lofts, and consists of 37 units of rental housing located within Adrian at:

HUD means the U.S. Department of Housing and Urban Development acting through its Federal Housing Administration divisions.

Low income persons or families as used herein shall be the same meaning as found in section 15(a)(7) of the Act.

Mortgage loan means a loan to be made by the authority and/or insured by HUD to the sponsor for the rehabilitation and/or permanent financing of the housing development.

Sponsor means a person or other entity with a housing development which is financed or assisted pursuant to the Act. For the purposes of this section, the sponsor of Adrian Senior Lofts Housing Development is Adrian Senior Lofts, LLC, or its successors or assigns.

Utilities mean fuel, water, sanitary sewer service and/or electrical service which are paid by the housing development.

(d) *Class of housing developments.* It is determined that the class of housing development to which the tax exemption shall apply and for which a service charge shall be paid in lieu of such taxes shall be housing which

is for persons and families of low income and which is financed or assisted pursuant to the Act. It is further determined that Adrian Senior Lofts is of this class.

(e) *Establishment of annual service charge.*

(1) The city acknowledges that the sponsor and the authority have established the economic feasibility of Adrian Senior Lofts Housing Development in reliance upon the enactment and continuing effort of this section and upon the qualification of the 37 units of housing in the housing development for exemption from all property taxes as established in this section.

(2) Subject to the conditions and requirements of this section and the Act, the 37 units in the housing development for persons of low and moderate income identified as Adrian Senior Lofts and the property on which they are constructed shall be exempt from all property taxes for not more than 20 years from the date the housing development is placed into service.

(3) In lieu of all said property taxes on the 37 units in the housing development, the sponsor shall pay, and the city will accept and annual service charge for public services, in the sum equal to ten percent of the difference between the annual shelter rents actually collected and utilities.

(4) The exemption provided under this section shall commence when the sponsor complies with section 15A(1) of 1966 PA 346, as amended, codified as MCL 125.1415a(1), which provides: the owner of a housing project eligible for the exemption shall file with the local assessing officer (the city assessor) a notification of the exemption, which shall be in an affidavit form as provided by the authority. The completed affidavit form first shall be submitted to the authority that the project is eligible for the exemption. The owner then shall file the certified notification of the exemption with the local assessing officer before November 1 of the year preceding the tax year in which the exemption is to begin.

In addition to the certification required pursuant to subsection (e)(4), the sponsor shall provide for the housing development annually in writing to the city assessor for the preceding year in which the property tax exemption was in effect:

a. The annual audited accounting report for the payment in lieu of taxes; and

b. A certified statement identifying all the units rented to persons of low or moderate income; and

c. If requested by the city, proof that the housing development units have not increased, decreased, or been altered in any form, unless the city has otherwise amended the provisions of this section.

(5) Contractual effect of ordinance. Notwithstanding the provisions of section 15(a)(5) of the Act to the contrary, a contract between the city and the sponsor, with the authority and/or HUD as third party beneficiaries under the contract, to provide tax exemption and accept payments in lieu of taxes, as previously described, is effectuated by enactment of this section. Provided, however, that in the event the annual service charge is not fully paid as provided in the following paragraph, the provisions of section 15(a)(5) apply and the contract shall have no further effect and shall terminate.

(6) Payment of service charge. The annual service charge in lieu of taxes as determined under this ordinance shall be payable in the same manner as general property taxes are payable to the city except that the annual payment shall be paid on or before February 14 of each year.

(7) Duration. This section shall remain in effect and shall not terminate for 20 years from the date the housing development is placed into service provided that the sponsor complies with the requirements of the Act and this section, and further provided that the housing development continues to be rented to low or moderate income persons at rents determined under the low income housing tax credit program, as the same may be further amended or superseded, or there is an authority-aided or federally-aided mortgage on the housing development, as provided in the Act, or the authority or HUD has an interest in the property. If the sponsor fails to complete the development or changes the scope

or purpose of the 37 units of housing within the development without the consent of the city, by and through its representatives, and in accordance with the requirements of the Adrian City Charter, this section shall automatically expire and be of no effect

(e) *Administrative fee.* The annual service charge shall be subject to a one-percent administrative fee to be retained by the city; which shall be calculated as a percentage of the established annual service charge and included with the annual payment.

(Ord. No. 17-13, 3-20-2017)

Sec. 82-43. Claire Gardens.

(a) [Title.] This section shall be known and cited as the "Claire Gardens Tax Exemption Ordinance."

(b) *Preamble.* 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 income and to encourage the development and rehabilitation 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, MCL 125.1401 et seq.) (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 for persons of low 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 section for tax exemption and the service charge in lieu of all ad valorem taxes during the period contemplated in this section are essential to the determination of economic feasibility of housing projects which are constructed and financed in reliance on such tax exemption.

The city acknowledges that Claire Gardens LDHA, LP, 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 project identified as Claire Gardens on property located at 239 Cross Street (Parcel No. XA0-320-0033-00) to serve low or moderate income persons and families and that the sponsor has offered to pay the city on account of this housing project an annual service charge for public services in lieu of ad valorem taxes.

(c) *Definitions.*

Annual shelter rent means the total collections during an agreed annual period from all occupants of the housing development representing rent or occupancy charges, exclusive of utilities.

Authority means the Michigan State Housing Development Authority.

Housing project means a development which contains a significant element of housing for persons and families of low income and such elements of other housing, commercial, recreational, communal, and educational facilities as the authority determines improve the quality of the development as it relates to housing for persons of low and moderate income. The name of this development is Claire Gardens, and consists of approximately 49 units of rental housing located within the City of Adrian at 239 Cross Street.

HUD means the U.S. Department of Housing and Urban Development acting through its Federal Housing Administration divisions.

LIHTC program, means the low income housing tax credit program administered by the authority under section 42 of the Internal Revenue Code of 1986, as amended.

Low income persons or families as used herein, shall be the same meaning as found in section 15(a)(7) of the Act.

Mortgage loan means 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 means a person or other entity with a housing development subject to a mortgage loan. For the purposes of this section, the sponsor is Claire Gardens LDHA, LP, or its successors or assigns.

Utilities mean gas, electric, water, sanitary sewer service and other utilities furnished to the occupants which are paid by the housing development.

(d) *Class of housing developments.* It is determined that the class of housing development to which the tax exemption shall apply and for which a service charge shall be paid in lieu of such taxes shall be housing which is for persons and families of low income and which is financed or assisted pursuant to the Act. It is further determined that Claire Gardens is of this class.

(e) *Establishment of annual service charge.*

(1) The city acknowledges that the sponsor and the authority have established the economic feasibility of Claire Gardens in reliance upon the enactment and continuing effort of this section and upon the qualification of the housing development for exemption from all ad valorem property taxes as established in this section.

(2) Therefore, in consideration of the sponsor's offer to rehabilitate and operate the housing project, in lieu of all said property taxes on the housing development, the sponsor shall pay, and the city will accept an annual service charge for public services, in the sum equal to ten percent of the annual shelter rents actually collected during each operating year.

(3) The exemption provided under this section shall commence when the sponsor complies with section 15a(1) which provides: the owner of a housing project eligible for the exemption shall file with the local assessing officer (the city assessor) a notification of the exemption, which shall be in an affidavit form as provided by the authority. The completed affidavit form first shall be submitted to the authority that the project is eligible for the exemption. The owner then shall file the certified notification of the exemption with the local assessing officer before November 1 of the year preceding the tax year in which the exemption is to begin.

In addition to the certification required pursuant to subsection (e)(3), along with the payment of the annual service charge to the city, the sponsor submit to the city assessor for the preceding year in which the property tax exemption was in effect:

a. The annual audited accounting report for the housing project; and

b. A certified statement identifying all the units rented to persons of low or moderate income; and

c. If requested by the city, proof that the number of in the housing project for low income persons or families has not increased, decreased, or been altered in any form, unless the city has otherwise approved the change.

(f) *Contractual effect of ordinance.* Notwithstanding the provisions of section 15(a)(5) of the Act to the contrary, a contract between the city and the sponsor, with the authority and/or HUD as third-party beneficiaries under the contract, to provide tax exemption and accept payments in lieu of taxes, as previously described, is effectuated by enactment of this section.

(g) *Limitation on the payment of annual service charge.* Notwithstanding subsection (e), the service charge to be paid each year in lieu of taxes for the part of the housing project that is tax exempt but which is occupied by

other than low and moderate income persons or families shall be equal to the full amount of the taxes which would be paid on that portion of the housing project if the housing project were not tax exempt.

(h) *Payment of service charge.* The annual service charge in lieu of taxes as determined under this section shall be payable in the same manner as general property taxes are payable to the city, and distributed to the several units levying the general property tax in the same proportion as prevailed with the general property tax in the previous calendar year, except that the annual payment shall be paid on or before February 28 of each year. Collection procedures shall be in accordance with the provisions of the General Property Tax Act (1893 PA 206, as amended; MCL 211.1 et seq).

(i) *Duration.* This section shall remain in effect and shall not terminate for 20 years from the date the housing project is placed into service provided that the sponsor complies with the requirements of the Act and this section, and further provided that the housing project continues to be rented to low or moderate income persons at rents determined under the LIHTC program, as the same may be further amended or superseded, and there is a mortgage loan on the housing project, as provided in the Act, or the authority or HUD has an interest in the property.

(j) *Administrative fee.* The annual service charge shall be subject to a one-percent administrative fee to be retained by the city; which shall be calculated as a percentage of the established annual service charge and included with the annual payment.

(Ord. No. 17-023, 8-21-2017; Ord. No. 17-023, 9-4-2018)

Sec. 82-44. Garfield Lofts.

(a) *Title.* This section shall be known and cited as the "Garfield Lofts Tax Exemption Ordinance."

(b) *Preamble.* It is acknowledged that it is a proper public purpose of the state and its political subdivisions to provide housing for its low-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 for persons and families of low income is a public necessity, and as the city will be benefited 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 section for tax exemption and the service charge in lieu of all ad valorem property taxes during the periods contemplated in this section are essential to the determination of economic feasibility of housing projects that are constructed or rehabilitated with financing extended in reliance on such tax exemption.

The city acknowledges that Garfield Lofts has offered, subject to receipt of an allocation under the Low-Income Housing Tax Credit (LIHTC) program by the state housing development authority, to construct, own and operate a housing project identified as Garfield Lofts on property located at 239 Cross Street (parcel no. XA0-320-0033-00) to serve low- or moderate-income persons and families and that the sponsor has offered to pay the city on account of this housing project an annual service charge for public services in lieu of ad valorem taxes.

(c) *Definitions.*

Authority means the Michigan State Housing Development Authority.

Annual shelter rent means the total collections during an agreed annual period from or paid on behalf of all occupants of a housing project representing rent or occupancy charges, exclusive of utilities.

Development means the family housing development to be located in the city and to be known as "Garfield Lofts", consisting of up to 70 units of rental housing located at 239 Cross Street.

LIHTC program means the Low-Income Housing Tax Credit program administered by the authority under section 42 of the Internal Revenue Code of 1986, as amended.

Low income persons and families means persons and families eligible to move into a housing project (same meaning as found in section 15(a)(7) of the Act).

Mortgage loan means 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, for the construction, rehabilitation, acquisition and/or permanent financing of a housing project, and secured by a mortgage on the housing project.

Sponsor means any persons or entities that receive or assume a mortgage loan. For the purposes of this section, the sponsor is Garfield Lofts Limited Dividend Housing Association LLC, which has or intends to apply to the authority for an allocation of low-income housing tax credits to finance the development.

Utilities means charges for gas, electric, water, sanitary sewer and other utilities furnished to the occupants that are paid by a housing project.

(d) *Class of housing projects.* It is determined that the class of housing projects to which the tax exemption shall apply and for which a service charge shall be paid in lieu of such taxes shall be housing projects for low income persons and families that are financed with a mortgage loan. It is further determined that Garfield Lofts is of this class.

(e) *Establishment of annual service charge.* Housing projects within the eligible class set forth in subsection (d) above and the property on which they are or will be located shall be exempt from all ad valorem property taxes from and after the commencement of construction or rehabilitation. The city acknowledges that the sponsor and the authority, in the case of a sponsor receiving an authority-financed mortgage loan, or the sponsor and the mortgage lender, in the case of a sponsor receiving a federally-aided mortgage loan, have established the economic feasibility of the housing project in reliance upon the enactment and continuing effect of this section, and the qualification of the housing projects for exemption from all ad valorem property taxes and a payment in lieu of taxes as established in this section. Therefore, the city will 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 six percent of the annual shelter rents or contract rents actually collected by the housing project during each operating year, as established by a resolution adopted by the city council.

(f) *Resolution; contractual effect.* A resolution of the city council granting tax exempt status and establishing the annual service charge, as provided in this section, shall be adopted for each housing project qualified under the terms and provisions of this section. Notwithstanding the provisions of section 15(a)(5) of the Act to the contrary, in the case of a housing project receiving an authority-financed mortgage loan, a contract between the city and the sponsor with the authority as third party beneficiary under the contract, to provide tax exemption and accept payments in lieu of taxes, as previously described, will be effectuated upon adoption of such a resolution by the city council.

(g) *Limitation on the payment of annual service charge.* Notwithstanding subsection (e), the service charge to be paid each year in lieu of taxes for the part of a housing project that 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 project if the housing project were not tax exempt.

(h) *Payment of service charge.* The annual service charge in lieu of taxes as determined under this section or the resolution shall be payable in the same manner as general property taxes are payable to the city and distributed to the several units levying the general property tax in the same proportion as prevailed with the general property tax in the previous calendar year. The annual payment for each operating year shall be paid on or before February 28 of the following year. Collection procedures shall be in accordance with the provisions of the General Property Tax Act (1893 PA 206, as amended; MCL 211.1, et seq.).

(i) *Duration.* The tax-exempt status of a housing project approved for such status by resolution of the city council shall remain in effect and shall not terminate so long as a mortgage loan for such housing project remains outstanding and unpaid and the development remains subject to income and rent restrictions under the LIHTC program. If the development is no longer subject to income and rent restrictions under the LIHTC program, then the exemption from all ad valorem property taxes established by this section shall terminate upon the payoff of the mortgage loan or upon the sale of the development to an unrelated third party.

(Ord. No. 19-012, 9-30-2019)

Chapter 86 TELECOMMUNICATIONS[62]

ARTICLE I. IN GENERAL

Secs. 86-1—86-30. Reserved.

ARTICLE II. RIGHT-OF-WAY USE

Sec. 86-31. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. All other terms used in this article shall have the same meaning as defined or as provided in the act, including, but not limited to, the following:

Act means the Metropolitan Extension Telecommunications Rights-of-Way Oversight Act (MCL 484.3101 et seq.).

Authority means the metropolitan extension telecommunications rights-of-way oversight authority created pursuant to section 3 of the act.

MPSC means the Michigan Public Service Commission in the department of consumer and industry services, and shall have the same meaning as the term "commission" as set forth in the act.

Permit means a nonexclusive permit issued to a telecommunications provider to use the public rights-of-way in the city for its telecommunications facilities, pursuant to the act and this article.

Public right-of-way means the area on, below or above a public roadway, highway, street, alley, easement or waterway. Such term does not include a federal, state or private right-of-way.

Telecommunication facilities or *facilities* means the equipment or personal property, such as copper and fiber cables, lines, wires, switches, conduits, pipes and sheaths, which are used to or can generate, receive, transmit, carry, amplify or provide telecommunication services or signals. Such term does 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

[62]Cross reference(s)—Licenses, permits and miscellaneous business regulations, ch. 46; streets, sidewalks and other public places, ch. 74; utilities, ch. 94; zoning, ch. 106.

State law reference(s)—Michigan Telecommunications Act, MCL 484.2101 et seq.; Metropolitan Extension Telecommunications Rights-of-Way Oversight Act, MCL 484.3101 et seq.

III of the Communications Act of 1934, chapter 652, 48 Stat. 1064, 47 USC 332, and further defined as commercial mobile radio service in 47 CFR 20.3, and service provided by any wireless, two-way communication device.

Telecommunications provider, provider and *telecommunications services* mean as defined in Section 102 of the Michigan Telecommunications Act (MCL 484.2102). The term "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 USC 332, and further defined as commercial mobile radio service in 47 CFR 20.3, or service provided by any wireless, two-way communication device. For the purpose of the act and this article only, the term "provider" also includes all of the following:

(1) A cable television operator that provides a telecommunications service.

(2) Except as otherwise provided by the act, a person who owns telecommunication facilities located within a public right-of-way.

(3) A person providing broadband internet transport access service.

(Ord. No. 02-20, § 3, 10-21-2002)

Cross reference(s)—Definitions generally, § 1-2.

Sec. 86-32. Purposes.

The purposes of this article are to regulate access to, and ongoing use of, public rights-of-way by telecommunications providers for their telecommunications facilities, while protecting the public health, safety and welfare, and exercising reasonable control of the public rights-of-way in compliance with the act and other applicable law, and to ensure that the city qualifies for distributions under the act by modifying the fees charged to providers and complying with the act.

(Ord. No. 02-20, § 1, 10-21-2002)

Sec. 86-33. Conflicts.

Nothing in this article shall be construed in such a manner as to conflict with the act or other applicable law.

(Ord. No. 02-20, § 2, 10-21-2002)

Sec. 86-34. Permit generally.

(a) *Required.* Except as otherwise provided in the act, a telecommunications provider using or seeking to use public rights-of-way in the city for its telecommunications facilities shall apply for and obtain a permit pursuant to this article.

(b) *Application.* Telecommunications providers shall apply for a permit on an application form approved by the MPSC in accordance with section 6(1) of the act (MCL 484.3106(1)). A telecommunications provider shall file one copy of the application with the city clerk, city administrator and city attorney. Applications shall be complete and include all information required by the act, including, but not limited to, a route map showing the location of the provider's existing and proposed facilities, in accordance with section 6(5) of the act (MCL 484.3106(5)).

(c) *Confidential information.* If a telecommunications provider claims that any portion of the route maps submitted by it as part of its application contain trade secrets, or proprietary or confidential information which is exempt from the Freedom of Information Act (MCL 15.231—15.246) pursuant to section 6(5) of the

act (MCL 484.3106(5)), the telecommunications provider shall prominently indicate such on the face of each map.

(d) *Application fee.* Except as otherwise provided by the act, the application shall be accompanied by a one-time nonrefundable application fee in the amount established by resolution.

(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 applicant cannot agree on the requirement of additional information requested by the city, the city or applicant shall notify the MPSC as provided in section 6(2) of the act (MCL 484.3106(2)).

(f) *Previously issued permits.* Pursuant to section 5(1) of the act (MCL 484.3105(1)), authorizations or permits previously issued by the city under section 251 of the Michigan Telecommunications Act (MCL 484.2251) and authorizations or permits issued by the city to telecommunications providers prior to the 1995 enactment of such section 251, but after 1985, shall satisfy the permit requirements of this article.

(g) *Existing providers.* Pursuant to section 5(3) of the act (MCL 484.3105(3)), within 180 days from November 1, 2002, the effective date of the act, a telecommunications provider with facilities located in a public right-of-way in the city as of such date, that has not previously obtained authorization or a permit under section 251 of the Michigan Telecommunications Act (MCL 484.2251), shall submit to the city an application for a permit in accordance with the requirements of this article. Pursuant to section 5(3) of the act (MCL 484.3105(3)), a telecommunications provider submitting an application under this subsection is not required to pay the application fee required under subsection (d) of this section. A provider under this subsection shall be given up to an additional 180 days to submit the permit application, if allowed by the authority, as provided in section 5(4) of the act (MCL 484.3105(4)).

(Ord. No. 02-20, § 4, 10-21-2002)

Sec. 86-35. 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 (MCL 484.3115(3)), 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 section 86-34(b) for access to a public right-of-way within the city. Pursuant to section 6(6) of the act (MCL 484.3106(6)), the city administrator shall notify the MPSC when he has granted or denied a permit, including information regarding the date on which the application was filed and the date on which the 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 a 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 (MCL 484.3106(1), 484.3106(2), 484.3115).

(c) *Conditions.* Pursuant to section 15(4) of the act (MCL 484.3115(4)), the city administrator may impose conditions on the issuance of a permit, which shall be limited to the telecommunications provider's access and usage of the public right-of-way.

(d) *Bond.* Pursuant to section 15(3) of the act (MCL 484.3115(3)), and without limitation on subsection (c) of this section, 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. No. 02-20, § 5, 10-21-2002)

Sec. 86-36. Construction or 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 74 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. No. 02-20, § 6, 10-21-2002)

Sec. 86-37. Conduit and utility poles.

Pursuant to section 4(3) of the act (MCL 484.3104(3)), obtaining a permit or paying the fees required under the act or this article does not give a telecommunications provider a right to use conduit or utility poles.

(Ord. No. 02-20, § 7, 10-21-2002)

Sec. 86-38. Route maps.

Pursuant to section 6(7) of the act (MCL 484.3106(7)), a telecommunications provider shall, within 90 days after the substantial completion of construction of new telecommunications facilities in the city, submit route maps showing the location of the telecommunications facilities to both the MPSC and 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 (MCL 484.3106(8)).

(Ord. No. 02-20, § 8, 10-21-2002)

Sec. 86-39. Damage repair.

Pursuant to section 15(5) of the act (MCL 484.3115(5)), a telecommunications provider undertaking an excavation or construction, installing telecommunications facilities within a public right-of-way or temporarily obstructing a public right-of-way in the city, as authorized by a permit, shall promptly repair all damage done to the street surface and all installations under, over, below or within the public right-of-way, and shall promptly restore the public right-of-way to its preexisting condition.

(Ord. No. 02-20, § 9, 10-21-2002)

Sec. 86-40. Maintenance fee.

In addition to the nonrefundable application fee paid to the city as set forth in section 86-34(d), a telecommunications provider with telecommunications facilities in the city's public rights-of-way shall pay an annual maintenance fee to the authority, pursuant to section 8 of the act (MCL 484.3108).

(Ord. No. 02-20, § 10, 10-21-2002)

Sec. 86-41. Modification of existing fees—Generally.

In compliance with the requirements of section 13(1) of the act (MCL 484.3113(1)), the city hereby modifies, to the extent necessary, any fees charged to telecommunications providers after November 1, 2002, the effective date of the act, relating to access and usage of the public rights-of-way, to an amount not exceeding the amounts of fees and charges required under the act, which shall be paid to the authority. In compliance with the requirements of section 13(4) of the act (MCL 484.3113(4)), the city also hereby approves modification of the fees of providers with telecommunication facilities in public rights-of-way within the city's boundaries, so that such providers pay only the fees required under section 8 of the act (MCL 484.3108). The city shall provide each telecommunications provider affected by the fee with a copy of this article, in compliance with the requirement of section 13(4) of the act (MCL 484.3113(4)). To the extent any fees are charged to telecommunications providers in excess of the amounts permitted under the act, or which are otherwise inconsistent with the act, such imposition is hereby declared to be contrary to the city's policy and intent, and upon application by a provider or discovery by the city, shall be promptly refunded as having been charged in error.

(Ord. No. 02-20, § 11, 10-21-2002)

Sec. 86-42. Same—Savings clause.

Pursuant to section 13(5) of the act (MCL 484.3113(5)), if section 8 of the act (MCL 484.3108) is found to be invalid or unconstitutional, the modification of fees under section 86-41 shall be void from the date the modification was made.

(Ord. No. 02-20, § 12, 10-21-2002)

Sec. 86-43. Use of funds.

Pursuant to section 10(4) of the act (MCL 484.3110(4)), all amounts received by the city from the authority shall be used by the city solely for right-of-way related purposes. In conformance with such requirement, all funds received by the city from the authority shall be deposited into the major street fund and/or local street fund maintained by the city under Public Act No. 51 of 1951 (MCL 247.651 et seq.).

(Ord. No. 02-20, § 13, 10-21-2002)

State law reference(s)—Local street fund, MCL 247.063.

Sec. 86-44. Annual report.

Pursuant to section 10(5) of the act (MCL 484.3110(5)), the city manager shall file an annual report with the authority on the use and disposition of funds annually distributed by the authority.

(Ord. No. 02-20, § 14, 10-21-2002)

Sec. 86-45. Cable television operators.

Pursuant to section 13(6) of the act (MCL 484.3113(6)), the city shall not hold a cable television operator in default or seek any remedy for its failure to satisfy an obligation, if any, to pay after November 1, 2002, the effective date of the act, a franchise fee or similar fee on the portion of gross revenues from charges the cable operator received for cable modem services provided through broadband internet transport access services.

(Ord. No. 02-20, § 15, 10-21-2002)

Sec. 86-46. Existing rights.

Pursuant to section 4(2) of the act (MCL 484.3104(2)), except as expressly provided in this article with respect to fees, this article shall not affect any existing rights that a telecommunications provider or the city may have under a permit issued by the city or under a contract between the city and a telecommunications provider related to the use of the public rights-of-way.

(Ord. No. 02-20, § 16, 10-21-2002)

Sec. 86-47. Compliance with act.

The city hereby declares that its policy and intent in adopting the ordinance from which this article is derived is to fully comply with the requirements of the act, and the provisions of this article should be construed in such a manner as to achieve such purpose. The city shall comply in all respects with the requirements of the act, including, but not limited to, the following:

(1) Exempting certain route maps from the Freedom of Information Act (MCL 15.231 et seq.), as provided in section 86-34(c);

(2) Allowing certain previously issued permits to satisfy the permit requirements of this article, in accordance with section 86-34(f);

(3) Allowing existing providers additional time in which to submit an application for a permit, and excusing such providers from the $500.00 application fee, in accordance with section 86-34(g);

(4) Approving or denying an application for a permit within 45 days from the date a telecommunications provider files an application for a permit for access to, and usage of, a public right-of-way within the city, in accordance with section 86-35(a);

(5) Notifying the MPSC when the city has granted or denied a permit, in accordance with section 86-35(a);

(6) Not unreasonably denying an application for a permit, in accordance with section 86-35(a);

(7) Issuing a permit in the form approved by the MPSC, with or without additional or different permit terms, as provided in section 86-35(b);

(8) Limiting the conditions imposed on the issuance of a permit to the telecommunications provider's access and usage of the public right-of-way, in accordance with section 86-35(c);

(9) Not requiring a bond of a telecommunications provider which exceeds the reasonable cost to ensure that the public right-of-way is returned to its original condition during and after the telecommunication provider's access and use, in accordance with section 86-35(d);

(10) Not charging any telecommunications provider any additional fees for construction or engineering permits, in accordance with section 86-36;

(11) Providing each telecommunications provider affected by the city's right-of-way fees with a copy of this article, in accordance with section 86-41;

(12) Submitting an annual report to the authority, in accordance with section 86-44; and

(13) Not holding a cable television operator in default for a failure to pay certain franchise fees, in accordance with section 86-45.

(Ord. No. 02-20, § 17, 10-21-2002)

Sec. 86-48. Reservation of police powers.

Pursuant to section 15(2) of the act (MCL 484.3115(2)), this article shall not limit the city's right to review and approve a telecommunication provider's access to, and ongoing use of, a public right-of-way or limit the city's authority to ensure and protect the health, safety and welfare of the public.

(Ord. No. 02-20, § 18, 10-21-2002)

Sec. 86-49. Municipal civil infraction.

(a) A person who violates any provision of this article or the terms or conditions of a permit is responsible for a municipal civil infraction, and shall be subject to the penalties and sanctions set forth in section 1-11. Nothing in this section shall be construed to limit the remedies available to the city in the event of a violation by a person of this article or a permit.

(b) The city administrator or his 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 article as provided by this Code.

(Ord. No. 02-20, §§ 20, 21, 10-21-2002)

Chapter 90 TRAFFIC AND VEHICLES[63]

ARTICLE I. IN GENERAL

[63]Editor's note(s)—Ord. No. 19-020, adopted December 2, 2019, repealed the former ch. 90, §§ 90-1—90-4, 90-31—90-34, 90-51—90-56, 90-91—90-98, 90-121—90-128, 90-161, 90-162, 90-181—183, 90-200—90-218, and enacted a new ch. 90, §§ 90-1—90-4, 90-31—90-34, 90-51—90-58, 90-91—90-97, 90-121—90-125. The former ch. 90 pertained to similar subject matter and derived from the Code of 1972; Ord. No. 01-11, adopted December 17, 2001; Ord. No. 02-04, adopted February 4, 2002; Ord. No. 03-01, adopted February 18, 2003; Ord. No. 03-03, adopted January 21, 2003; Ord. No. 04-02, adopted January 20, 2004; Ord. No. 04-15, adopted June 21, 2004; Ord. No. 04-24, adopted August 16, 2004; Ord. No. 06-14, adopted October 16, 2006; Ord. No. 06-15, adopted October 16, 2006; Ord. No. 07-08, adopted June 4, 2007; Ord. No. 09-08, August 3, 2009; Ord. No. 10-019, adopted December 20, 2011; Ord. No. 10-020, adopted December 20, 2010; Ord. No. 12-005, adopted September 17, 2012; Ord. No. 13-002, adopted February 4, 2013; and Ord. No. 16-012, adopted November 21, 2016.

Cross reference(s)—Any ordinance prescribing traffic regulations for specific locations not codified in this Code saved from repeal, § 1-11(16a); any ordinance ordering, requiring or authorizing the erection or installation of traffic control signals, devices or markings or parking meters saved from repeal, § 1-11(16b); law enforcement, ch. 42; taxicabs, § 46-291 et seq.; offenses and miscellaneous provisions, ch. 58; operation of motor vehicles in unauthorized areas, § 58-75; driving and parking vehicles, § 62-38; streets, sidewalks and other public places, ch. 74; automobile disposal and junkyards, § 106-233.

State law reference(s)—Traffic generally, MCL 257.1 et seq.; powers of local authorities, MCL 257.605, 257.606.

Sec. 90-1. Definitions.

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

Holidays, where used in this chapter or on official signs erected by authorized official agencies, in addition to Sundays, means the following legal holidays:

(1) New Year's Day;

(2) Memorial Day;

(3) Independence Day;

(4) Labor Day;

(5) Thanksgiving Day; and

(6) Christmas Day.

When any of such holidays fall on a Sunday, the following day shall be a holiday.

(Ord. No. 19-020, 12-2-2019)

Sec. 90-2. Michigan Vehicle Code adopted.

(a) The Michigan Vehicle Code (MCL 257.1 et seq.) is adopted by reference and as it may be amended from time to time. The penalties and procedures prescribed pursuant to the Michigan Vehicle Code are applicable to violations of such code occurring in the city.

(b) A violation of MCL 257.625(1)(c) is a misdemeanor punishable by one or more of the following:

(1) Community service for not more than 360 hours.

(2) Imprisonment for not more than 180 days.

(3) A fine of not less than $200.00 or more than $700.00.

(Ord. No. 19-020, 12-2-2019)

State law reference(s)—Authority to adopt Michigan Vehicle Code by reference, MCL 117.3(k).

Sec. 90-3. Uniform Traffic Code for Cities, Townships, and Villages adopted.

(a) The Uniform Traffic Code for Cities, Townships and Villages as promulgated by the Director of the Michigan Department of State Police, pursuant to the Administrative Procedures Act of 1969 (MCL 24.201 et seq.) and made effective October 30, 2002, and all future amendments and revisions to the Uniform Traffic Code when they are promulgated and effective in this state are incorporated by reference.

(b) As referenced in the Uniform Traffic Code for Cities, Townships, and Villages, "governmental unit" shall mean the City of Adrian.

(Ord. No. 19-020, 12-2-2019)

State law reference(s)—Authority to adopt Uniform Traffic Code by reference, MCL 257.951.

Sec. 90-4. One-way street schedule.

Streets heretofore designated as one-way streets for the purpose of traffic regulations contained in this chapter, or in state law relating to the use or operation of vehicles, are ratified and confirmed. The traffic engineer shall erect suitable signs indicating the direction in which vehicles are permitted to move upon such one-way streets. Temporary traffic control orders may designate other streets as one-way streets, but permanent additions or deletions to such list shall be by ordinance amending such list. A person who violates this section is responsible for a civil infraction.

(Ord. No. 19-020, 12-2-2019)

Cross reference(s)—Streets, sidewalks and other public places, ch. 74.

State law reference(s)—Authority to designate one-way streets, MCL 257.606(1)(e); one-way streets, MCL 257.641.

Secs. 90-5—90-30. Reserved.

ARTICLE II. ADMINISTRATION AND ENFORCEMENT

DIVISION 1. GENERALLY

Sec. 90-31. Enforcement.

The provisions of this article shall be enforced in accordance with the Uniform Traffic Code for Cities, Townships and Villages, as adopted in section 90-3, and the Michigan Vehicle Code (MCL 257.1 et seq.).

(Ord. No. 19-020, 12-2-2019)

Sec. 90-32. Ratification of traffic signs, signals, devices and markings.

All intersection stops and yield right-of-way requirements; regulations on stopping, standing or parking; prima facie speed limits; one-way streets, roadways and alleys; crosswalks; restricted turns; through streets; play streets; angle parking zones; all-night parking restrictions; curb loading zones; public carrier stands; parking meter zones and spaces; weight restrictions; no passing zones; and traffic control devices previously established and in effect on the effective date of the ordinance from which this article is derived, shall be deemed established under this article and shall remain effective until rescinded or modified as provided in this article.

(Ord. No. 19-020, 12-2-2019)

Sec. 90-33. Additional powers of traffic engineer.

(a) The traffic engineer is hereby authorized, subject to approval of city commission, to determine and designate permit only parking zones, if it is determined that such zones are necessary to aid in the regulation, control and inspection of the parking of vehicles.

(b) The traffic engineer is hereby further authorized, subject to the approval of the city commission, to determine and designate areas in municipal parking lots for overnight parking and shall designate such rules and regulations for such overnight parking, subject to the approval of the city commission.

(Ord. No. 19-020, 12-2-2019)

Sec. 90-34. Vehicle impoundment.

(a) In addition to all other circumstances provided by law, the police department may immediately remove a vehicle from public property or any other place open to travel by the public and impound the vehicle in any of the following circumstances:

(1) When a vehicle is found being driven upon the streets or highways with no insurance.

(2) When a vehicle is found being driven upon the streets or highways without a current year's registration.

(3) When a vehicle is found parked on any street within the corporate limits of the city between the hours of 3:00 a.m. and 6:00 a.m. of any day.

(b) No impounded vehicle shall be discharged or removed from the vehicle pound, except upon payment by the owner of such vehicle or his duly authorized representative to the officer in charge of the violations bureau, towing charges, plus additional labor charges to be assessed by the towing service, plus any storage fees assessed by the towing service and an impound fee as assessed by the city police department. When the owner of an impounded vehicle or his representative appears at the violations bureau to claim the vehicle, it shall be the duty of the officer in charge to inform such owner or representative of the nature and circumstances of the impounding. If such impounding was the result of an alleged violation of any provision of this Code, any towing charges, labor charges, storage charges or impounding fees that have been paid for release of such vehicle shall be refunded to the person paying the charges when the owner of the vehicle or the person operating the vehicle with the owner's consent, express or implied, at the time of the alleged violation is subsequently found not guilty of such offense by a court of competent jurisdiction.

(Ord. No. 19-020, 12-2-2019)

Secs. 90-35—90-50. Reserved.

DIVISION 2. PARKING VIOLATIONS BUREAU

Sec. 90-51. Established.

Pursuant to section 8395 of the Revised Judicature Act of 1961 (MCL 600.8395), a parking violations bureau is hereby established for the purpose of handling alleged parking violations within the city. The parking violations bureau shall be under the supervision and control of the city administrator.

(Ord. No. 19-020, 12-2-2019)

Sec. 90-52. Location; administration; rules and regulations.

Subject to the approval of the city commission, the city administrator shall establish a convenient location for the parking violations bureau, appoint qualified city employees to administer the parking violations bureau and adopt rules and regulations for the operation of the parking violations bureau.

(Ord. No. 19-020, 12-2-2019)

Sec. 90-53. Jurisdiction.

Violations of parking restrictions constitute civil infractions which will be governed in accordance with the Motor Vehicle Code, Act No. 300 of the Public Acts of Michigan of 1949 (MCL 257.1 et seq.), as amended. A police officer or any other authorized person may issue "citations" or "parking violation notices" for violations of the city's ordinances involving the parking or standing of a motor vehicle, including those provisions set forth in this Code and those adopted by reference in the Michigan Vehicle Code, 1949 PA 300, MCL 257.1 to 257.923, as amended, and the Uniform Traffic Code, as amended. A copy of the citation or parking violation notice is not required to be served personally upon the respondent but may be served upon the registered owner by attaching the copy to the vehicle.

(Ord. No. 19-020, 12-2-2019)

Sec. 90-54. Payment of parking violations.

If a parking violation notice is served on the respondent or attached to the vehicle, payment of the civil fine and costs may be to the parking violations bureau. If an admission of responsibility is not made and the civil fine and costs, if any, prescribed for the violation are not paid at the parking violations bureau, a Uniform Traffic Code citation may be filed with the district court and a copy of the citation shall be served by first-class mail upon the registered owner of the vehicle at the owner's address of record. The citation filed with the court need not comply in all particulars with MCL 257.727c and MCL 257.743, but must consist of a sworn complaint containing the allegations stated in the parking violation notice and must fairly inform the respondent how to respond to the citation including the length of time in which the person to whom the same was issued must respond before the court.

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 parking violations 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 accorded to them by law.

Request for relief from a parking violation notice. The city administrator or their designee is authorized to set up rules and procedures to grant relief from a parking violation notice where relief appears appropriate where the decision to grant relief does not include a determination of liability and the truth or falsity of any fact or matter relating to the alleged violation.

(Ord. No. 19-020, 12-2-2019)

Sec. 90-55. Unpaid parking tickets—Generally.

In any case where more than six parking violations under any section of this Code shall have been issued and remain unpaid and no plea having been entered in any court of competent jurisdiction for a period in excess of 30 days for a vehicle bearing the same registration plate, the vehicle may be removed from any public place in the city at the direction of any police officer. Such vehicle shall not be released to its owner until all outstanding violations, storage and towing charges have been paid.

(Ord. No. 19-020, 12-2-2019)

Sec. 90-56. Same—Locking devices.

(a) In any case where more than six parking violations under any section of this Code shall have been issued and remain unpaid and no plea having been entered in any court of competent jurisdiction for a period in excess of 30 days for a vehicle bearing the same registration plate, the same vehicle may be locked and secured with a suitable device, preventing the movement of such vehicle, by any police officer, or police parking enforcement person or cadet so authorized by the chief of police. Such lock and device shall not be removed from the vehicle until all outstanding violations and charges have been paid, or until a plea is made in a court of competent jurisdiction and an order is entered by the court releasing the vehicle, or the vehicle is removed.

(b) Any police officer is authorized, in such case where the vehicle locked has not been redeemed, to remove the vehicle in accordance with section 90-34.

(c) It shall be unlawful for any person to damage, interfere with, remove or destroy any locking device affixed to a vehicle under the authority of this section, except under lawful authority of any police officer, parking enforcement person or cadet so authorized by the chief of police.

(d) It shall be unlawful for any person to remove any vehicle locked in accordance with this section, unless under the direct authority and supervision or order of a police officer.

(Ord. No. 19-020, 12-2-2019)

Sec. 90-57. Parking violation tickets.

The issuance of a traffic ticket or notice of violation by a police officer or such other person with authority to issue such tickets or notices of violation as designated by the chief of police shall be deemed an allegation of a parking violation.

(Ord. No. 19-020, 12-2-2019)

Sec. 90-58. Schedule of parking violation offenses and penalties.

VIOLATION			FINE
(a)	A vehicle shall not be parked, except if necessary to avoid conflict with other traffic, or in compliance with the law, or under the direction of a police officer or traffic-control device in any of the following places:		
	(1)	On a sidewalk	$25.00
	(2)	In front of a public or private driveway	$25.00
	(3)	Within an intersection	$25.00
	(4)	Within 15 feet of a fire hydrant	$25.00
	(5)	On a crosswalk	$25.00
	(6)	Within 20 feet of a crosswalk, or if there is not a crosswalk, then within	$25.00

		15 feet of the intersection of property lines at an intersection of highways	
	(7)	Within 30 feet of the approach to a flashing beacon, stop sign, or traffic-control signal located at the side of a highway	$25.00
	(8)	Between a safety zone and the adjacent curb or within 30 feet of a point on the curb immediately opposite the end of a safety zone, unless a different length is indicated by an official sign or marking	$25.00
	(9)	Within 50 feet of the nearest rail of a railroad crossing	$25.00
	(10)	Within 20 feet of the driveway entrance to a fire station and on the side of a street opposite the entrance to a fire station within 75 feet of the entrance if properly marked by an official sign	$25.00
	(11)	Alongside or opposite a street excavation or obstruction, if the stopping, standing or parking would obstruct traffic	$25.00
	(12)	On a roadway side of a vehicle stopped or parked at the edge or curb of a street	$25.00
	(13)	Upon a bridge or other elevated highway structure or within a highway tunnel	$25.00
	(14)	At a place where an official sign prohibits stopping or parking	$25.00
	(15)	Within 500 feet of an accident at which a police officer is in attendance, if the scene of the accident	$25.00

		is outside of a city or village		
	(16)	In a place or in a manner that blocks immediate egress from an emergency exit, conspicuously marked as an emergency exit, of a building		$25.00
	(17)	In a place or in a manner that blocks or hampers the immediate use of an egress from a fire escape, conspicuously marked as a fire escape, providing an emergency means of egress from a building		$25.00
	(18)	In a parking space clearly identified by an official sign as being reserved for use by disabled persons that is on public property or private property available for public use, unless the individual is a disabled person as described in section 19a of the Vehicle Code or unless the individual is parking the vehicle for the benefit of a disabled person. In order for the vehicle to be parked in the parking space, the vehicle shall display one of the following		$75.00
		a.	A certificate of identification or windshield placard issued under section 675 of the Vehicle Code to a disabled person.	
		b.	A special registration plate issued under section 803d of the Vehicle Code to a disabled person.	
		c.	A similar certificate of identification or windshield placard	

			issued by another state to a disabled person.	
		d.	A similar special registration plate issued by another state to a disabled person.	
		e.	A special registration plate to which a tab for persons with disabilities is attached issued under this Act.	
	(19)	In a clearly identified access aisle or access lane immediately adjacent to a space designated for parking by persons with disabilities		$75.00
	(20)	On a street or other area open to the parking of vehicles that results in the vehicle interfering with the use of a curb cut or ramp by persons with disabilities		$75.00
	(21)	Within 500 feet of a fire at which fire apparatus is in attendance, if the scene of the fire is outside of a city or village. However, volunteer firefighters responding to the fire may park within 500 feet of the fire in a manner not to interfere with fire apparatus at the scene. A vehicle parked legally previous to the fire is exempt from this subdivision		$25.00
	(22)	In violation of an official sign restricting the period of time or manner of parking (includes "permit parking only" areas).		
		a.	If paid within 48 hours	$25.00
	(23)	In a space controlled or regulated by a meter or a public highway or in a publicly owned parking		

		area or structure, if the allowable time for parking indicated on the meter has expired, unless the vehicle properly displays one or more of the items listed in section 675(8) of the Vehicle Code.	
		a. If paid within 48 hours	$25.00
	(24)	On a street or highway in such a way as to obstruct the delivery of mail to a rural mailbox by a carrier of the United States Postal Service	$25.00
	(25)	In a place or in a manner that blocks the use of an alley	$25.00
	(26)	In a place or in a manner that blocks access to a space clearly designated as a fire lane	$25.00
(b)	A person shall not move a vehicle not owned by the person into a prohibited area or away from a curb a distance that makes the parking unlawful		$25.00
(c)	A bus, for the purpose of taking on or discharging passengers may be stopped at a place described in subsection (a)(2), (4) or (6) or on the roadway side of a vehicle illegally parked in a legally designated bus loading zone. A bus, for the purpose of taking or discharging a passenger, may be stopped at a place described in subsection (a)(14) if the place is posted by an appropriate bus stop sign, except that a bus shall not stop at such a place if the stopping is specifically prohibited by the responsible local authority, the state transportation department, or the director of the department of state police		$25.00
(d)	A person who violates any of these sections is responsible for a civil infraction, designated fine,		

	and reasonable and customary collection cost.	
(e)	If any of the above stated fines are not paid within 48 hours, the fine will increase by $15.00.	

(Ord. No. 19-020, 12-2-2019)

Secs. 90-59—90-90. Reserved.

ARTICLE III. STOPPING, STANDING AND PARKING[64]

DIVISION 1. GENERALLY

Sec. 90-91. Snow and ice emergencies.

(a) The city administrator or an authorized representative is hereby appointed as the street emergency coordinator. If, in the judgment of the street emergency coordinator, a snow or ice emergency exists, the parking or standing of a motor vehicle on a public street or highway in the city shall be prohibited during the term of such emergency.

(b) A snow or ice emergency shall be deemed to exist when snow or ice, or a combination thereof, hinders the proper removal of accumulated snow and ice from city streets or highways due to the amount of snow or ice, the number and type of storms, multiple storms in close proximity to each other or as deemed necessary by the city administrator.

(c) The provisions of subsection (a) of this section shall be immediately effective upon the posting of a notice on the city website, or other media approved for public notices, by the street emergency coordinator, that such emergency is in effect, and upon the announcement of such snow or ice emergency in a public media, newspaper or radio station that disseminates news within the city.

(d) Any person who owns or is in the control of a vehicle that is in violation of this section shall be subject to fines and costs set forth in section 90-56, in accordance with this chapter, and such motor vehicle may be removed from the city street or highway by the city police department or its authorized designee, with the costs of such removal paid by the owner or person in control of the vehicle.

(e) Appropriate signs shall be posted at all entrances to the city in conformance with applicable state statutes pertaining thereto.

(Ord. No. 19-020, 12-2-2019)

[64]State law reference(s)—Authority to regulate standing and parking of vehicles, MCL 257.606(1)(a); stopping, standing and parking, MCL 257.672 et seq.

Sec. 90-92. Yellow curbs.

A person shall not stop, stand or park a vehicle in any place next to a curb that has been painted yellow, except when necessary to avoid conflict with other traffic or to comply with the law or the directions of a police officer or traffic control device. A person who violates this section is responsible for a civil infraction.

(Ord. No. 19-020, 12-2-2019)

Sec. 90-93. Sidewalks and highways.

(a) A person shall not stop, stand or park a vehicle on a sidewalk or on the portion of a highway located between the property lot lines and the curb or curb line, provided that the city administrator may issue a permit to park between the property lot lines and the curb line when:

(1) The city administrator shall find and determine that such parking will not interfere with traffic or tend to create a traffic hazard.

(2) The city administrator shall find and determine that such parking will not interfere with, or depreciate the value of, adjoining premises.

(3) Suitable and proper curb cuts have been made in a manner approved by the superintendent of public works.

(4) The surface of the area has been paved in a manner approved by the superintendent of public works.

(5) Such parking is essential for the beneficial use of the premises.

(6) The premises in question are located only within the following zones:

a. B-1 local business district.

b. B-2 community business district.

c. B-3 central business district.

d. B-4 general business district.

e. B-5 shopping center district.

f. P-1 vehicular parking district.

g. E-1 exclusive industrial district.

h. I-1 industrial district.

i. I-2 general industrial district.

(b) A person who violates this section is responsible for a civil infraction.

(Ord. No. 19-020, 12-2-2019)

Sec. 90-94. Commercial parking in residential areas.

(a) No person shall park any commercial vehicle on any street in any residential area within the city for any purpose or length of time other than for the expeditious unloading and delivery or pickup and loading of materials, goods or merchandise, except pickup trucks or passenger vans used solely for pleasure or personal transportation which has no advertising displayed on such vehicles. Traffic control orders may be issued to

regulate, limit or prohibit the parking of commercial vehicles elsewhere in the city, provided that signs stating such restrictions or prohibitions are duly posted in accordance with this article.

(b) A person who violates this section is responsible for a civil infraction.

(Ord. No. 19-020, 12-2-2019)

Sec. 90-95. Metered parking.

(a) It is a misdemeanor for any person to:

(1) Deposit, or cause to be deposited, in a parking meter a coin for the purpose of increasing or extending the parking time of any vehicle beyond the legal parking time which has been established for the parking areas adjacent to the parking meter.

(2) Deposit, or cause to be deposited, in any parking meter any slug, device or metallic substitute for a United States coin.

(3) Remove, deface, injure, tamper with, open or willfully break, destroy or impair the usefulness of any parking meter.

(b) Whenever a vehicle is parked in a parking meter zone for a longer period of time than is permitted, the summons issued for such violation is alleged to have occurred. If the vehicle is not moved within one hour from the time the original summons was issued, a second summons shall again indicate, in writing, the time at which it was issued. Thereafter, successive summons of a similar nature shall be issued for each hour the vehicle remains parked in violation of this section. Each violation of this section shall constitute a separate violation.

(Ord. No. 19-020, 12-2-2019)

Sec. 90-96. Parking between the hours of 3:00 a.m. and 6:00 a.m.; parking appeal board.

(a) Except as provided in this section, it shall be unlawful for any owner or operator of a motor vehicle to park, cause to be parked or allow to be parked any motor vehicle on any street within the corporate limits of the city between the hours of 3:00 a.m. and 6:00 a.m. on any day, provided that parking during such times may be permitted for a limited period of time whenever the:

(1) Parking appeal board shall find that, by reason of lack of space, it is impossible for the occupants of a residence to park the vehicles owned by them on the occupied premises. In such cases, a permit for parking on the street may be issued for a period of time to be determined by the parking appeal board in accordance with the reasonable requirements of each residence for which a permit is requested. For the purpose of regulating and supervising parking under this subsection, an inspection shall be made in each case in which a parking permit is required. An inspection fee in the amount established by resolution shall be charged whenever an application is made for a permit under this subsection. The inspection fee must be paid at the time the inspection is requested, irrespective of whether or not the permit is subsequently issued. Parking permits issued under this subsection shall not be transferable from person to person or location to location. In addition to the inspection fee, there will be an annual fee in the amount established by resolution for each permit issued. All permits will expire each December 31, and must be renewed prior to such date. Applications for temporary permits for construction or similar purposes may be granted for periods of up to 60 days.

(2) Chief of police shall find that it is impossible for bona fide visitors of a residence to park the vehicles owned by such visitors on the premises, a visitor's permit maybe issued, without charge. Visitor's permits are valid only for the day issued and may be renewed daily for a period of seven days.

(b) There is hereby created a parking appeal board, which shall consist of the superintendent of public works, the chief of police and the city administrator, or their respective designated alternates. Any two members shall constitute a quorum. The parking appeal board shall have the authority to issue permits for limited parking privileges pursuant to this article and the regulations adopted under this article.

(c) The parking appeal board shall make rules and regulations concerning the issuance of permits, the supervision thereof and the regulation and enforcement of the provisions of this article. Such rules and regulations shall be subject to approval by the city commission and publication thereof. Any violation of any such rules or regulations shall constitute a violation of this article.

(d) Signs evidencing the provisions of this section shall be posted pursuant to law.

(e) Any motor vehicle parked in violation of subsection (a) of this section is hereby declared to be a public nuisance and may be impounded pursuant to the provisions of section 90-34.

(Ord. No. 19-020, 12-2-2019)

Sec. 90-97. Downtown street parking.

(a) Parking on the street in the downtown district is limited to a three-hour period of time from 8:00 a.m. to 6:00 p.m. Monday through Friday.

(b) The downtown district includes, for the purposes of this section only, Main Street from Church Street to Front Street; Maumee Street from Winter Street to Broad Street; Toledo Street from N. Main to Broad Street; and Washburn Street from Winter Street to N. Main Street.

(c) This parking limit includes vehicles moved from one parking space to another to avoid the three-hour limitation.

(d) Downtown businesses may validate parking for their customers by stamping any parking ticket the customer receives and returning the ticket to the police department.

    (1) Businesses may only validate tickets written under this section.

    (2) Businesses may not validate tickets for their owners, employees, agents or other representatives.

(Ord. No. 19-020, 12-2-2019)

Secs. 90-98—90-120. Reserved.

DIVISION 2. CITY PARKING LOTS

Sec. 90-121. Supervision of automobile parking system.

The automobile parking system of the city shall be under the supervision and direction of the department of engineering and public works.

(Ord. No. 19-020, 12-2-2019)

Sec. 90-122. Presumption of ownership.

In any proceeding for violation of the provisions of this article relative to parking, the registration plate displayed on the motor vehicle parked in violation of this article shall constitute in evidence a prima facie

presumption that the owner of such motor vehicle was the person who parked or placed such motor vehicle at the point where such violation occurred.

(Ord. No. 19-020, 12-2-2019)

Sec. 90-123. Rates.

The rates for parking in off-street parking lots and structures operated as a part of the automobile parking system shall be established by resolution of the city commission, from time to time, upon recommendation of the city administrator. Such rates need not be uniform throughout the automobile parking system, but shall be based upon demand for parking in the area which the lot or structure serves and such other considerations as the city commission shall deem pertinent. All such established rates and charges shall conform to the requirements of Ordinance No. 208, adopted December 29, 1952, as amended. The rates and charges in effect upon the date of the adoption of Ordinance No. 208 shall remain in effect until changed as provided in this section.

(Ord. No. 19-020, 12-2-2019)

Sec. 90-124. Parking in designated spaces required.

No person shall park any motor vehicle in any parking lot or structure other than within the boundaries of the space designated and allocated for the parking of a single motor vehicle by appropriate lines or other markings. Any person parking any motor vehicle in any parking lot or structure other than as prescribed in this section shall be guilty of a violation of this Code. In parking structures and parking lots, other than metered parking lots, any person who shall park a motor vehicle so as to occupy or encroach upon more than one designated parking space shall pay the full rate or charge for each parking space occupied or encroached upon, in addition to being guilty of a violation of this Code.

(Ord. No. 19-020, 12-2-2019)

Sec. 90-125. Violations; municipal civil infraction.

A person who violates any of the provisions of this division is responsible for a municipal civil infraction.

(Ord. No. 19-020, 12-2-2019)

Chapter 94 UTILITIES[65]

ARTICLE I. IN GENERAL

[65]Charter reference(s)—Municipal utilities, ch. 13.

Cross reference(s)—Administration, ch. 2; buildings and building regulations, ch. 10; community development, ch. 18; environment, ch. 22; health and sanitation, ch. 30; historic preservation, ch. 34; licenses, permits and miscellaneous business regulations, ch. 46; manufactured homes and trailers, ch. 50; solid waste, ch. 66; streets, sidewalks and other public places, ch. 74; utility poles, § 74-56; subdivisions and other divisions of land, ch. 78; telecommunications, ch. 86; utility requirements, § 106-289.

Secs. 94-1—94-100. Reserved.

ARTICLE II. WATER SYSTEM

Sec. 94-101. Definitions.

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

Connection charge means a charge to the consumer to reimburse the city for costs incurred by the city or others in bringing water service to and across a parcel on which no previous connection or assessment has been made.

Consumer means the person who occupies the property to which a water connection is made. The consumer may be either an owner or tenant.

Cross connection means a connection or arrangement of piping or appurtenances through which water of questionable quality, wastes or other contaminants could enter the water distribution system.

Department means the department of utilities of the city.

Director means the director of utilities of the city or any agents authorized by the director.

Meter means any measuring device by which the amount of water used by a consumer is measured.

Meter pit means a box or vault constructed underground, in which a meter and appurtenances can be installed.

Owner means the person owning the property to which a water connection is made.

Parcel means a lot or other single piece of land described so as to be conveyed by deed.

Service line means the part of the distribution system between the water connection and the premises served.

Tapping fee means the fee charged by the department for making the water connection.

Water connection means the part of the water distribution system connecting the water main and the service line. The water connection shall terminate between the curbline and the property line at a curb box or a meter pit.

Water distribution system means all mains, pipes, connections, meters, hydrants and appurtenances served by, or connected to, the water main which is used to distribute water by the department.

Water main means the part of the water distribution system located within street rights-of-way or easements and designed to serve more than one water connection.

(Code 1972, § 2.21)

Cross reference(s)—Definitions generally, § 1-2.

Sec. 94-102. Article supplemental to state plumbing code.

This article is supplemental to the state plumbing code.

(Code 1972, § 2.30(e))

Sec. 94-103. Additional rules or policies.

(a) The city administrator may make and issue additional rules and regulations concerning the water distribution system, connections to such system, meter installations and maintenance, hydrants and water mains, and appurtenances thereto, not inconsistent with this article. Such rules and regulations shall be effective upon approval of the city commission.

(b) The director may establish policies to govern department operations that shall be consistent with this article and any rules and regulations.

(c) The director shall from time to time establish a schedule of deposits for various classes of customers who are believed to be in risk of not paying rates and charges made by the department.

(d) The director shall annually review rates and charges, and shall adjust such rates and charges as necessary to achieve, at a minimum, a balanced budget.

(Code 1972, § 2.30(a)—(d))

Sec. 94-104. Enforcement orders generally; shutting off water.

(a) The director may issue shutoff orders, multiply rates and/or confiscate illegal tools and equipment for violations of this article. Administrative fines shall not exceed the statutory limit for municipal fines. Each day shall be deemed a separate violation where continuing violations occur. Multiple rates shall not exceed five times the normal rate paid by the consumer.

(b) Each consumer who has their water shut off for cause shall be eligible for a hearing before a department employee other than the employee who ordered the shutoff. The decision of the hearing officer shall be final and binding on both the consumer and the department.

(c) Where the director has ordered an administrative fine, the party fined shall be eligible for a hearing before the city administrator or his designee. The decision of the hearing officer shall be binding upon the department and the violator unless such decision is overturned by court action.

(d) The aggrieved party shall have 30 days from the issuance of the notice in which to request a hearing. Failure to make such request in the time allotted shall be construed as a waiver of the right to a hearing. Request for a hearing shall be in writing for all administrative actions. Request for a hearing on shutoff orders may be taken by the department by telephone or in person. The hearing shall take place within three working days for shutoff orders and within 30 days for other administrative actions.

(e) Hearing procedures shall be established by the director, which procedures shall be in writing and shall be made available to any person who requests a hearing.

(f) The hearing officer may uphold the department's or director's action, uphold the consumer's argument or modify the department's or director's action. The hearing officer may impose conditions on any modifications of the original decision of the department on either the appealer or the department.

(g) Appealers may elect to represent themselves or be represented by an attorney at their own expense and shall be entitled to examine the witnesses for the city and present evidence on their own behalf. A record shall be made of the proceedings, but such record need not be verbatim.

(h) The consumer whose service is terminated without a hearing shall be entitled to a hearing to permit the consumer to show why the service should not have been terminated, but service shall not be resumed unless so ordered by the director or the hearing officer.

(Code 1972, § 2.31)

Sec. 94-105. Continuous service not guaranteed.

The department will endeavor to furnish continuous water service to all consumers, but does not guarantee uninterrupted service or pressure. The department shall not be liable for any damage that a consumer or owner may sustain by reason of failure to provide continuous water service or pressure, whether caused by accident, repairs, shut off for cause or otherwise, nor will the department be liable for damages to persons or property arising, accruing or resulting from failure of the supply of water pressure or from any apparatus or appurtenance of the water system.

(Code 1972, § 2.22)

Sec. 94-106. Water conservation orders.

The city administrator may issue a water conservation order during times of high usage or drought, where the continued use of water at the consumers' discretion may endanger the water available to all users. The conservation order shall be concurred to by the director and shall include specific steps ordered to reduce usage, time limit for the order and a statement of fines or penalties for disregarding the order. The city administrator may issue several water conservation orders, provided, such orders clearly indicate that the latest order supersedes all previous orders. Such water conservation orders shall be deemed necessary to protect the public water supply as required for the health and safety of the citizens of the city and, not less than three days before the effective date of the order, it shall be published in the largest newspaper serving the city.

(Code 1972, § 2.30(g))

Sec. 94-107. Furnishing water outside city limits.

The department shall not furnish water outside the city limits, except pursuant to policy as set forth from time to time by the city commission.

(Code 1972, § 2.30(f))

Sec. 94-108. Water connections.

(a) An application for each tap made to a water main shall be completed by the owner of a premises for which water service is desired.

(b) No tap to a water main, nor the water connection shall be smaller than three-quarters of an inch.

(c) The department shall not make a water connection to any parcel unless the water main extends across the total frontage of the parcel for which application for a tap is made, or across the total frontage of the parcel facing one street in the case of a corner parcel.

(d) One water connection shall be made for each parcel and shall be installed between the parcel lines as extended into the street right-of-way. The water connection shall not cross one parcel, or a part thereof, to serve another parcel or premises unless the director agrees to accept a valid easement for installing, operating, maintaining or removing and replacing such water connection.

(e) Each water connection shall be placed in a separate trench and shall be separated from any storm sewer or sanitary sewer by ten feet horizontally. If a water connection must cross a sewer line, the water service shall be separated from the sewer by 18 inches vertically, and the water connection shall be installed in a casing pipe that shall extend, unbroken, a distance of ten feet on either side of the pipe as measured horizontally and perpendicular to the sewer.

(f) All water connections shall be made by department personnel or its authorized agents, and shall be the property of the city.

(Code 1972, § 2.23)

Sec. 94-109. Meters.

(a) All premises shall be metered with a meter furnished by the department. The ownership of the meter remains with the department. Meter size shall be determined by the owner at the time an application for a tap is made.

(b) Each water meter shall be served by its own water connection and service line. In general, the meter shall be in an inside location, such as a basement or cellar. Meters shall not be installed in crawl spaces or other places of difficult access. The meter setting shall be near the front wall of the structure. Where two or more structures are situated on a single parcel, each structure shall have its own water connection, service line and meter. The director may give permission, in writing, for additional structures to be served by a single connection and meter in cases of a detached garage or an industrial site where no single structure can be sold separately.

(c) In the case of a single structure with multiple residential units, such as an apartment building, a single meter may serve the entire building. In no case shall a single meter serve a multiunit building in which two or more owners maintain separate units in each name, such as a condominium. Where separate ownership of units is contemplated or a conversion of an apartment house to a condominium occurs, each separate unit shall be served by a single water connection, service line and meter.

(d) Where a premises contains no suitable inside location for a water meter, the meter shall be installed outside in a meter pit in a location near the right-of-way line.

(e) The department shall have the right to terminate the water service to any premises where the department is unable to obtain access to the meter. Any qualified employee of the department shall have the right to enter the premises where such meters are installed at reasonable hours for the purpose of reading, testing, removing or inspecting the meters, and no person shall hinder, obstruct or interfere with such employee in the lawful discharge of such employee's duties in relation to the care and maintenance of the water meter.

(f) A consumer or owner of a premises may request that the water meter be tested. If the meter is found to be accurate, the cost of all labor, materials and transportation incurred during the removal and testing of the meter shall be charged to the consumer or owner. If the meter is found to be inaccurate or defective, it shall be repaired and reinstalled in the premises at no cost to the owner or consumer. The director may order any meter removed for testing and shall not charge the owner or consumer for any costs incurred.

(Code 1972, § 2.24)

Sec. 94-110. Service lines.

(a) Service lines shall be the property and responsibility of the owner. When a new service line is installed, it shall be brought by the owner to a point between the curb and property line before the water connection is made. The point where water service terminates shall have the prior approval of the department.

(b) The service line shall be constructed of materials that are compatible with the department's materials and shall be impervious to the passage of contaminants into the water system. The department shall not connect water service to a premises if there is any question that the materials used will not prevent contamination from entering the water system or do not meet the current health codes.

(c) The owner shall be responsible for any leakage resulting from damage, defective workmanship or deterioration of the service line. Whenever the department discovers leakage on any service line, the department shall notify the owner, in writing, that the leak shall be stopped within three days or the water service shall be terminated and the service shall not be restored until the repair has been completed and inspected, and payment made for the loss of water and of the turn-on fee.

(Code 1972, § 2.25)

Sec. 94-111. Fire hydrants.

(a) No person, except an authorized employee of the city in the performance of his duties, shall open or use any fire hydrant belonging to the city. A city employee who is off duty is not authorized to operate fire hydrants. In general, under nonemergency conditions, department employees shall be the only authorized persons to operate a fire hydrant.

(b) A contractor, in the process of installing water mains and hydrants, is authorized to operate hydrants until the main or hydrant is accepted by the city.

(c) All other use of a fire hydrant shall be by permit only.

(d) A hydrant wrench conforming to the city standard nut shall be the only tool permitted to operate a fire hydrant. Persons who use other instruments to operate a hydrant shall be liable to a fine, the surrender of the tool and for all damages incurred as a result of the use of any unauthorized tool, as provided in section 94-114(b).

(Code 1972, § 2.26)

Sec. 94-112. Cross connections.

(a) The city adopts, by reference, the water supply cross connection rules of the state department of environmental quality, being R325.11401—R325.11407 of the Michigan Administrative Code.

(b) The potable water supply made available on properties served by the public water supply shall be protected from possible contamination as specified by this article. Where a private well system or other nonpotable water source is available on a premises, the two systems shall be constructed of different pipe materials, independently labeled or color coded, and have no physical connection between them.

(c) The department shall cause inspections to be made of all parcels served by a public water supply where a cross connection with the water distribution system is deemed probable. The frequency of such inspections and reinspections based on the potential health hazards involved shall be determined by the department.

(d) Whenever requested by the director, the owner of any parcel or premises served by the water distribution system shall furnish to the director all information requested concerning the piping system or systems serving the parcel or premises and shall allow the director to enter and be upon the parcel or premises in question to make inspections or investigations as the director shall deem necessary or desirable. Refusal to furnish such information or permit access, when requested, shall be deemed to be prima facie evidence of the presence of a cross connection of the type prohibited by this section.

(e) Whenever the director shall find a cross connection of the type prohibited by this section, or whenever an owner or occupant of any parcel or premises refuses to furnish the information requested or to permit access to such lands or premises for the purpose of investigation or inspection as set forth in subsection (d) of this section, the director is authorized and directed to discontinue water service to the parcel or premises. Reasonable notice shall be given to the owner or occupant of such parcel or premises in question by the director, if imminent danger of contaminating the water main is not present. Where contamination of the

public water supply or any water main is an immediate possibility, or where contamination of any main occurs, the director shall order the water to be immediately shut off without giving notice to the consumer or owner of the parcel or premises. Water service shall not be restored to a parcel or premises in question until either the cross connection has been eliminated or evidence furnished and access permitted to enable the director to determine that no cross connection, as prohibited by this section, exists.

(f) The director shall require a backflow preventer or other means of preventing contamination of the public water system at all locations where there is potential for a cross connection to exist. The director shall require that all backflow preventers be registered with the department and shall require each such backflow preventer to be tested annually, at the owner's expense. Backflow preventers that do no pass the test shall be repaired by the owner within five days or the water service shall be terminated.

(Code 1972, § 2.27)

Sec. 94-113. Turn on of water service.

(a) No person, other than an authorized employee of the department, shall turn on any water service, except as set forth in this section.

(b) Upon written notification of the department, a licensed plumber may turn water service on for testing the plumber's work, whereupon it shall be immediately turned off.

(c) No water shall be turned on to any premises until all fees and charges are paid in full.

(d) A contractor may turn off a hydrant meter at the valve furnished with the hydrant meter, but the contractor shall not operate the hydrant.

(Code 1972, § 2.28)

Sec. 94-114. Violations.

(a) It shall be unlawful for any person, except authorized employees of the department acting in their official capacity, to tap, change, remove, disconnect, repair, install, break a seal, turn on, turn off or in any way operate or molest any water main, water connection, meter, valve, hydrant, fitting or other appurtenance of the water distribution system.

(b) It shall be unlawful to operate any valve, hydrant or other appurtenance of the water system with any tool or device other than an approved wrench or key which has been stamped or marked in a distinctive way. The director shall keep a record of all wrenches and keys issued to any division of the department and any other department of the city or to a private individual or firm. The director shall inspect wrenches and keys in the possession of the department or any other department of the city and shall approve the wrenches and keys for use or shall require replacement of any wrench or key that is not suitable for use.

(c) When a fire service line is installed on a premises or parcel of land, it shall be unlawful to use water through such line for any purpose other than extinguishing fires or for testing or filling the private fire system and its appurtenances. Such prohibition shall be in effect regardless of whether the fire line is metered or not. Tests of private fire systems shall be made at such times as authorized by the director in order to protect the city water system.

(d) It shall be unlawful for any person to dump or discharge into the waters of Lake Adrian or the water intake, or into any treatment tank or process, any substance that shall create an odor or taste, or which shall create problems in treatment or be a toxicant.

(e) It shall be unlawful for any person, other than a licensed department employee acting in the course of his duties, to operate or change the setting of any valve, device or appurtenance to the water treatment plant or water distribution system, except in an emergency and then only at the direction of the director.

(f) It shall be unlawful to cover up or obstruct in any way free access to any curb box, street valve or ARB unit, meter or other appurtenance of the water system. A flooded vault or meter pit shall be deemed an obstruction. In case of a violation of this subsection, the costs of removing the obstruction and restoring the appurtenance to its proper accessible position, plus a surcharge of 25 percent, shall be charged to the owner in addition to any other action taken by the director.

(g) It shall be unlawful to permit a leak on a service line to continue beyond 72 hours. If the department gives notice to an owner or consumer that a leak exists on a private service line or a fire line and the leak is not repaired within 72 hours, the estimated volume of water lost shall be billed to the owner. The director's estimate shall be reasonable and binding.

(h) It shall be unlawful for any person to ground or electrically connect any radio, television, telephone or other electrical system to any pipe or appurtenance connected to the discharge side of the water meter, unless:

(1) A shunt is placed around the water meter so as to shunt or bypass any electrical current that might otherwise flow through the water meter; or

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

Any shunt placed around the water meter shall be placed so that the meter may be removed without disabling it, and no electrical connection whatsoever shall be made to the meter itself, the meter union or the meter tail piece. For the purposes of this subsection, the term "tail piece" means a short piece of pipe which is immediately adjacent to the meter and connected thereto by the meter union.

(i) It shall be unlawful for any person to open any valve or make any connection which makes possible the use of water which has not passed through a meter properly installed and recorded by the department, nor shall a person disable a meter in any way, or in any way cause a meter to register less water than actually is used in or on a premises.

(j) It shall be unlawful for any person to break, damage, destroy, deface, tamper with or molest any structure, appurtenance or equipment which is a part of the city water system without the approval of the director.

(k) It shall be unlawful to use water for purposes banned during a water conservation order. Such use shall be prima facie evidence that such use was consented to, approved by or directed by the consumer who is the recorded customer, according to department records, at the time of violation.

(l) It shall be unlawful for any person to make, permit to be made or permit to exist, any cross connection on any parcel of land or premises owned or occupied by such person.

(Code 1972, § 2.29)

Secs. 94-115—94-150. Reserved.

ARTICLE III. SEWERS AND SEWAGE DISPOSAL

DIVISION 1. GENERALLY

Sec. 94-151. Definitions.

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

Act means the Federal Water Pollution Control Act, as amended, 33 USC 1251 et seq., 86 Stat. 816, PL 92-500.

Alternate discharge limit means a limit set by the city in lieu of the promulgated National Categorical Pretreatment Standards for integrated facilities in accordance with the combined wastestream formula as set by the United States Environmental Protection Agency (USEPA) (40 CFR 403.6(c)(1)(e)).

Authorized representative of industrial user means a:

(1) Principal executive officer of at least the level of vice-president, if the industrial user is a corporation;

(2) General partner of the proprietor, if the industrial user is a partnership or proprietorship, respectively; or

(3) Duly authorized representative of the individual designated in subsections (1) and (2) of this definition, if such representative is responsible for the overall operation of the facilities from which the indirect discharge originates or for environmental matters of the company.

Authorization for the representative must be submitted to the city, in writing, by the individual in subsections (1) and (2) of this definition (40 CFR 403.12(1)).

Biochemical oxygen demand (BOD) means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days at 20 degrees Celsius, expressed in milligrams per liter (mg/l).

Biosolids and *sewage sludge* mean a solid, semisolid or liquid residue generated in a treatment works during the treatment of domestic sewage. Such terms include scum or solids removed in primary, secondary or advanced wastewater treatment processes and any material derived from sewage sludge (e.g., a blended sewage sludge/fertilizer product), but does not include grit and screenings or ash generated by the firing of sewage sludge in an incinerator.

Building drain means the part of the lowest horizontal piping of a drainage system which receives discharge 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 means the extension from the building drain to the public sewer or other place of disposal.

Bypass means the intentional diversion of wastestreams from any portion of a user's treatment facility.

Chemical oxygen demand (COD) means a measure of the oxygen-consuming capacity of inorganic matter present in water or wastewater, expressed as the amount of oxygen consumed from a chemical oxidant in a specified test. Such term does not differentiate between stable and unstable organic matter and, thus, does not necessarily correlate with biochemical oxygen demand. Such term is also known as "OC" and "DOC," oxygen consumed and dichromate oxygen consumed, respectively.

Chlorine demand means the difference between the amount of chlorine added to the water or wastewater and the amount of residual chlorine remaining at the end of a specified contact period. The demand for any given water varies with the amount of chlorine applied, time of contact and temperature.

Combined sewer means a sewer receiving both surface runoff and sewage.

Combined wastestream means a wastestream at industrial facilities where regulated process effluent is mixed with other wastewaters, either regulated or unregulated, prior to treatment (40 CFR 403.6(c)(1)(e)).

Compatible pollutant means 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 National Pollutant Discharge Elimination System (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.

Composite sample means a series of samples taken over a specific period of time and eventually combined into one sample whose volume is proportional to the flow in the wastestream.

Cooling water means the water discharged from any use, such as air conditioning, cooling or refrigeration, or to which the only pollutant added is heat.

Debt service charge means charges levied to customers of the wastewater system and which are used to pay principal, interest and administrative costs of retiring the debt incurred for construction of the wastewater system. The debt service charge shall be in addition to the "user charge," as defined in this section.

Department means the city department of utilities and/or an appointed representative of the department of utilities.

Director means the director of utilities.

Dump means the unauthorized discharge to any sewer of a spill or waste which may result, or is known to be, in violation of this article, especially pertaining to the violation of the city's NPDES permit and water quality standards or which may adversely affect the public health, safety and environment.

Engineer means the city engineer/director of public works.

Environmental Protection Agency (EPA) means the U.S. Environmental Protection Agency, administrator or other duly authorized official.

Federal grant means a grant in aid of construction of wastewater treatment works provided under the Clean Water Act.

Federal Water Pollution Control Act and *Clean Water Act* refer to PL 92-500, as adopted in 1972 and amended by PL 95-217 in 1977, and any succeeding amendments, and such terms are used interchangeably in this article.

Footing drain means a pipe or conduit which is placed around the perimeter of a building foundation and intentionally admits groundwater.

Garbage means solid wastes from the preparation, cooking and dispensing of food and from the handling, storage and sale of produce.

Grab sample means an individual sample collected over a period of time, not exceeding 15 minutes, which is taken from a wastestream on a one-time basis, with no regard to the flow in the wastestream and without consideration of time.

Holding tank waste means any waste from holding tanks, such as vessels, chemical toilets, campers, trailers, septic tanks and vacuum-pump tank trucks.

Incompatible pollutant means any pollutant which is not a compatible pollutant.

Industrial waste means the wastewater discharged from industrial, manufacturing, trade or business process, as distinct from their employees' domestic wastes or wastes from sanitary conveniences.

Infiltration means the portion of groundwater which is unintentionally admitted to a sewer.

Integrated facilities means industrial facilities with a combined wastestream.

Interference means a discharge which, alone or in conjunction with other discharges, inhibits or disrupts the POTW, its treatment processes or operation (40 CFR 403.3(i)).

Laboratory determination means measurements, tests and analyses of the characteristics of waters and wastes in accordance with 40 CFR 136, Guidelines Establishing Test Procedures for the Analysis of Pollutants.

National Categorical Pretreatment Standard means any federal regulation containing pollutant discharge limits promulgated by the USEPA, which applies to a specific category of industrial users.

National Pollutant Discharge Elimination System (NPDES) permit means a permit issued to a POTW pursuant to Section 402 of the Water Pollution Control Act (40 CFR 403.3(1)).

Natural outlet means any outlet into a watercourse, pond, ditch, lake or other body of surface water or groundwater.

New source means any source, the construction of which is commenced after the publication of proposed pretreatment standards which will be applicable to such source, provided that:

(1) Construction is at a site where no other point source is located;

(2) Process or production equipment causing discharge is totally replaced due to construction; or

(3) Production or wastewater generating processes of the facility are substantially independent of an existing source at the same site.

Construction is considered to have commenced when installation or assembly of the facilities or equipment has begun, significant site preparation has begun for installation or assembly, or the owner/operator has entered into a binding contractual obligation (40 CFR 403.3(k)).

Normal domestic sewage means sewage with a concentration of equal to, or less than:

(1) 300 mg/l biochemical oxygen demand;

(2) 300 mg/l of suspended solids;

(3) 15 mg/l of phosphates;

(4) 20 mg/l of ammonia-nitrogen; and

(5) 600 mg/l COD.

Operation and maintenance (O & M) means all work, materials, equipment, utilities and other efforts required to operate and maintain the wastewater transportation and treatment system consistent with ensuring 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.

Owner and *owners of record of the freehold of the premises or lesser estate therein* mean a mortgagee or vendee in procession, assignee of rents, receiver, executor, trustee, lessee or other person, firm or corporation in control of a building.

pH means the logarithm (base ten) of the reciprocal of the concentration of hydrogen ions, expressed in grams per liter of solution.

Pollutant means dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal and agricultural waste discharged into water (40 CFR 401.11(f)).

Pollution means the manmade or man-induced alteration of the chemical, physical, biological or radiological integrity of water (40 CFR 401.11(g)).

Pretreatment and *treatment* mean the reduction of the amount of pollutants, the elimination of pollutants, the alteration of the nature of pollutants or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging, or otherwise introducing such pollutants into the POTW. The reduction or alteration can be obtained by physical, chemical or biological processes or process changes of other means, except as prohibited by 40 CFR 403.6(d).

Pretreatment requirement means any substantive or procedural requirement for treating of a waste prior to inclusion in the POTW.

Pretreatment standards means National Categorical Pretreatment Standards, alternative discharge limits or other federal state or local standards, whichever are applicable.

Private sewer means a sewer which serves a limited number of privately owned buildings, which is not controlled by the public authority and is not a public sewer. Such term shall include all building sewers, building laterals and sewers on private property not in legal easements and shall include the connection to the public sewer.

Properly shredded garbage means the wastes from the preparation, cooking or dispensing of food that have been shredded to a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half inch in any dimension.

Public sewer means a sewer in which all owners of abutting properties have equal rights, is located within a public right-of-way or legal easement and is controlled by public authority.

Publicly owned treatment works (POTW) means a publicly owned treatment works which is owned by a state, municipality, city, town, special sewer district or other publicly owned and financed entity, as opposed to a privately (industrial) owned treatment facility. Such term includes any device and system used in the storage, treatment, recycling and reclamation of municipal sewage or industrial wastes of a liquid nature. Such term also includes sewers, pipes and other conveyances only if they convey wastewater to a POTW treatment plant. The term also means the municipality (public entity) which has jurisdiction over the indirect discharges to, and the discharges from, such a treatment works (40 CFR 403.3(o)).

Replacement means the replacement, in whole or in part, of any equipment in the wastewater transportation or treatment systems to ensure continuous treatment of wastewater in accordance with the NPDES permit and other state and federal regulations.

Sanitary sewer means a sewer which carries sewage and to which stormwater, surface water and groundwater are not intentionally admitted.

Severe property damage means substantial physical damage to property, damage to the treatment facilities which causes such facilities to become inoperable or substantial and permanent loss of natural resources which can be expected to occur in the absence of a bypass. Such term does not mean economic loss caused by delays in production.

Sewage means a combination of the water-carried wastes from residences, business buildings, institutions and industrial establishments, together with such groundwaters as may be present.

Sewage treatment plant and *wastewater treatment plant* mean any arrangement of devices and structures used for treating sewage.

Sewer means a pipe or conduit for carrying sewage.

Sewer service charge means the sum applicable to the user charges, surcharges and debt service charges.

Significant industrial user means:

(1) All industrial users subject to categorical pretreatment standards under 40 CFR 403.6 and 40 CFR ch. I, subch. 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;

b. Contributes a process wastestream which makes up five percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or

c. Is designated as such by the control authority, as defined in 40 CFR 403.12(a), 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 finding that an industrial user meeting the criteria in subsection (2) of this definition has no reasonable potential for adversely affecting the POTW's operation or of violating any pretreatment standard or requirement, the control authority, as defined in 40 CFR 403.12(a), 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 means one or more of the following:

(1) Chronic violations of wastewater discharge limits. For the purposes of this subsection, the term "chronic violations of wastewater discharge limits" means violations in which 66 percent or more of all of the measurements taken during a six-month period, by any magnitude, equal or exceed the daily maximum limit or the average limit for the same pollutant parameter;

(2) Technical review criteria (TRC) violations. For the purposes of this subsection, the term "technical review criteria (TRC) violations" means violations in which 33 percent 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 control authority 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 the environment, or has resulted in the POTW's exercise of its emergency authority under 40 CFR (f)(1)vi)(B) to halt or prevent such a discharge;

(5) Failure to meet, within 90 days after the schedule 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 control authority determines will adversely affect the operation or implementation of the local pretreatment program.

Slug means any discharge of water, sewage or industrial waste which, in concentration of any given constituent or in quantity of flow, exceeds, for any period of duration longer than 15 minutes, more than five times the average 24-hour concentration of flows during normal operation.

Spill means the sudden loss of a liquid pollutant from a containment vessel or containment area.

Standard Industrial Classification (SIC) means a classification pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget, 1972.

Storm sewer and *storm drain* mean a sewer which carries stormwater, surface water and drainage, but excludes sewage and polluted industrial wastes.

Stormwater means any flow occurring during or following any form of natural precipitation and resulting from such precipitation.

Surcharge means the additional charge levied on an owner who discharges wastewater having a strength in excess of the strength listed in this article to cover the cost of treating such excess strength wastewater.

Suspended solids means solids that either float on the surface of, or are in suspension in, water, sewage or other liquids, and which are removable by laboratory filtering.

Toxic pollutant means any pollutant, or combination of pollutants, which is or can potentially be harmful to public health or environment, including the pollutants listed as toxic in regulations promulgated by the administrator of the Environmental Protection Agency under the provisions of the act (40 CFR 401.15).

Upset means an exceptional incident in which there is unintentional and temporary noncompliance with National Categorical Pretreatment Standards because of factors beyond the reasonable control of the industrial user. Such term does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

User means any person who contributes, causes or permits the contribution of wastewater into the POTW.

User charge means a charge levied on users of a treatment works for the cost of operation and maintenance of the POTW pursuant to the act and includes the cost of replacement.

User class means the kind of user connected to sanitary sewers, including, but not limited to, residential, industrial, commercial, institutional and governmental.

(1) *Commercial user* means an establishment listed in the Office of Management and Budget's Standard Industrial Classification Manual, 1972 edition, involved in a commercial enterprise, business or service which, based on a determination by the city, discharges primarily segregated domestic wastes or wastes from sanitary conveniences and which is not a residential user or industrial user.

(2) *Governmental user* means any federal, state or local government user of the wastewater treatment works.

(3) *Industrial user* means any user who discharges an "industrial waste," as defined in this section.

(4) *Institutional user* means any establishment listed in the Standard Industrial Classification Manual, which is involved in a social, charitable, religious or educational convenience.

(5) *Residential user* means a user of the POTW whose premises or buildings are used primarily as a domicile for one or more persons, including dwelling units, such as detached, semidetached and row houses, mobile homes, apartments or permanent multifamily dwellings, excluding transient lodging, which is considered commercial.

Waters of the state means all streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through or border upon the state, or any portion thereof.

(Code 1972, § 2.41)

Cross reference(s)—Definitions generally, § 1-2.

Sec. 94-152. Abbreviations.

The following abbreviations shall have the designated meanings:

ASTM	—	American Society for Testing and Materials
BOD	—	Biochemical oxygen demand
CFR	—	Code of Federal Regulations
COD	—	Chemical oxygen demand
CWA	—	Clean Water Act
l	—	Liter
IPP	—	Industrial pretreatment program
MDEQ	—	Michigan Department of Environmental Quality
mg	—	Milligrams
mg/l	—	Milligrams per liter
NPDES	—	National Pollutant Discharge Elimination System
O & M	—	Operation and maintenance
POTW	—	Publicly owned treatment works
SIC	—	Standard Industrial Classification
SS	—	Suspended solids
USC	—	United States Code
USEPA	—	United States Environmental Protection Agency
WEF	—	Water Environment Federation

(Code 1972, § 2.42)

Sec. 94-153. Power and authority of inspectors.

(a) The director and other duly authorized employees of the city, bearing proper credentials and identification, shall be permitted to enter upon all properties for the purposes of inspection, observation, measurement, sampling and testing in accordance with the provisions of this article. The director or his representatives shall have no authority to inquire into any processes, including metallurgical, chemical, oil, refining, ceramic, paper or other industries, beyond the point having a direct bearing on the kind and source of discharge to the sewers, waterways or facilities for waste treatment.

(b) While performing the necessary work on private properties, the director or duly authorized employees of the city shall observe all safety rules established by the company applicable to the premises, and the company shall be held harmless for injury or death to the city employees and the city shall indemnify the company against loss or damage to its property by city employees and against liability claims and demands for personal injury or property damage asserted against the company and growing out of the gauging and sampling operation, except as may be caused by negligence or failure of the company to maintain safe conditions as required in this article.

(c) At least once each calendar year, the city shall inspect the facilities of any user to ascertain whether the purposes of this article are being met and all requirements are being complied with. Persons or occupants of premises where wastewater is created or discharged shall allow the city or its representative ready access at all reasonable times to all parts of the premises for the purposes of inspection, sampling, records examination, records copying or in the performance of any of their duties. The city shall have the right to set up on the user's property such devices as are necessary to conduct sampling, inspection, compliance monitoring and/or metering operations. Where a user has security measures in force which would require

proper identification and clearance before entry into their premises, the user shall make necessary arrangements with their security guards so that, upon presentation of suitable identification, personnel from the city will be permitted to enter, without delay, for the purposes of performing their specific responsibilities. Employees of the city may enter the premises, without prior notice, for the purpose of inspection under this subsection.

(Code 1972, § 2.50)

Sec. 94-154. Withholding city water.

In addition to all other penalties provided for violations of this Code, the city may invoke and enforce the following measures relating to the use of city water:

(1) For the purpose of protecting the public health and environment, the city commission is hereby vested with the power to withhold the use of city water from the municipal water system from any person who has refused, or is unable, to comply with the terms of this article or is a habitual violator of this article.

(2) Action to withhold the use of city water may be taken by the city commission on its own motion, or upon recommendation of the city administrator, director or engineer, based upon reasons assigned by them. In all cases of withholding the use of water from the municipal water system, notice shall be given to the person affected as quickly as reasonably practicable, stating the action contemplated and giving the reasons for such action. Such notice shall be served in a manner and by such means as may be required by the exigencies of the situation, and in all cases shall be sufficient if served in accordance with section 2-1.

(3) The city commission is hereby authorized to bring any appropriate action in the name of the city, either at law or in chancery, as may be necessary or desirable to restrain or enjoin any public nuisance, to enforce any of the provisions of this article, and in general, to carry out the intents and purposes of this article.

(Code 1972, § 2.51)

Sec. 94-155. Use of public sewers required.

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

(b) When sewer and/or treatment facilities are available, it shall be unlawful to discharge to any natural outlet within the city, or in any area under the jurisdiction of the city, any sanitary sewage, industrial wastes or other polluted waters, unless specifically permitted by the city.

(c) 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, unless specifically permitted by the city department of utilities or as provided in this article.

(d) The owner of all houses, buildings or properties used for human occupancy, employment, recreation or other purposes, situated within the city and abutting on any street, alley or right-of-way, in which there is now located, or may in the future be located, a public sanitary sewer or combined sewer of the city, is hereby required, at their expense, to install suitable toilet facilities therein, and to connect such facilities directly with the proper sewer, in accordance with the provisions of this article and regulations

supplementary to this article, within 90 days after the date of official notice to do so, provided that such public sewer is within 200 feet of the property line.

(Code 1972, § 2.43)

Sec. 94-156. Private sewage disposal systems.

(a) Where a public sanitary sewer is not available under the provisions of section 94-155(d), the building sewer shall be connected to an approved private sewage disposal system.

(b) At such time as a public sewer becomes available to a property served by a private sewage disposal system, as provided in section 94-155(d), a direct connection shall be made to the public sewer in compliance with this article, and any septic tank, cesspool and similar private sewage disposal facility shall be abandoned and filled with suitable materials.

(c) The types, capacities, locations and layouts of private sewage disposal systems shall comply with all recommendations of the state department of environmental quality, and shall be constructed and connected in accordance with the plumbing regulations of the city. No septic tank or cesspool shall be permitted to discharge to any public sewer or natural outlet.

(d) The owner shall operate and maintain the private sewage disposal facility in a sanitary manner at all times, at no expense to the city.

(e) No statement contained in this section shall be construed to interfere with any additional requirements that may be imposed by the county health department.

(Code 1972, § 2.45)

Sec. 94-157. Building sewers and connections.

(a) No person shall uncover, make any connection with or opening into, use, alter or disturb any public sewer, private sewer or appurtenance thereof, without first obtaining a written permit from the department. No building sewer shall be covered until after it has been inspected and approved by a department inspector.

(b) All costs and expenses incidental to the installation, connection to the public sewer and maintenance of a private sewer shall be borne by the owner. The private building sewer shall extend from the private building to the public sewer. The owner is responsible for installing and maintaining the building sewer, including costs for restoration of the roadway, curb and gutter, sidewalks and landscaping within the city right-of-way or easement.

(c) A separate and independent building sewer shall be provided for every building, except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard or driveway. The building sewer from the front building may be extended to the rear building with proper agreements with all owners. Such agreements shall be placed on file with the department.

(d) Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the inspector, to meet all the requirements of this article.

(e) The building sewer shall be constructed of vitrified clay sewer pipe, PVC or ductile iron pipe, as approved by the department. The city reserves the right to specify and require the encasement of any sewer pipe with concrete or the installation of the sewer pipe in a concrete cradle, if, in the opinion of the department, the foundation and construction are such as to require such protection.

(f) The size and slope of the building sewer shall be subject to the approval of the department, but, in no event, shall the diameter be less than four inches. The slope of such four-inch pipe shall not be less than one-quarter inch per foot, unless otherwise permitted.

(g) 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 be weakened by such placement. The depth shall be sufficient to afford protection from frost. The building sewer shall be laid at uniform grade. The line shall be straight or laid with properly curved pipe and fittings. Changes in direction, greater than 45 degrees, shall be provided with cleanouts, accessible for cleaning.

(h) 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 an artificial means approved by the department, and discharged to the building sewer.

(i) All joints and connections shall be made gastight and watertight. All joints shall be approved by the department.

(j) The city commission shall not allow any connection to the sanitary sewer unless there is sufficient capacity in the POTW to convey and adequately treat the additional wastewater from the proposed connection.

(Code 1972, § 2.46)

Cross reference(s)—Buildings and building regulations, ch. 10.

Sec. 94-158. Storm drainage.

(a) On new or existing construction, all downspouts shall be constructed or reconstructed as follows:

(1) Where footing drains exist, roof waters from the building shall not discharge into any flower bed or shrub bed adjacent to the building wall, nor upon the ground within five feet of the building wall, but shall either be discharged into a storm sewer or be piped five feet away from the foundation walls or discharged on splash blocks extending a minimum of five feet from the building or foundation wall.

(2) Where local setbacks, side yard or rear yard requirements would result in the building or house being located less than five feet from the property line, then the downspouts are to be directed to a front or rear yard where adequate runoff is provided, but, in no event, shall such runoff be directed to a private or public sanitary sewage disposal system. If no adequate runoff is provided, then the downspout shall be discharged only in a manner approved by the department of engineering and public works.

(3) Downspout piping shall be permanently affixed to the building wall, and where footing drains exist, it shall discharge onto a five-foot splash block or other similar method approved by the chief building inspector for the city.

(4) No approval shall be given by the chief building inspector unless the method being used shall provide a positive slope of ground surface away from the building foundation wall.

(b) All improved surfaces at or above the building line, including, but not being limited to, driveways, courts, patios and sidewalks, shall be constructed or altered so that any water on such surfaces shall drain away from the building and in a direction approved by the city. In the case of existing construction, the city administrator or his representative may require the alteration of such improved surfaces, if he finds that the existing condition is causing stormwaters and surface waters to drain into any city sanitary sewer.

(c) All new construction below grade drainage, including, but not limited to, footing tiles, sunken patios and underground springs, shall be constructed in such a manner as to preclude draining into any sanitary sewer. In the case of existing construction, the city administrator or his representative may require the alteration of

such drainage system, if he finds that it is causing water to flow into the sanitary sewer system in such quantities as to cause flooding of property in the immediate area.

(1) In all cases of new construction, all footing drain discharge shall be deposited into the storm sewers or other stormwater drainage facility in accordance with the state plumbing code, or upon the surface of the ground in instances where no storm drainage facility is available.

(2) Where such footing drain discharge is deposited upon the surface of the ground, the place of deposit shall be in the yard area that drains directly to a street, road or alley, or to the yard which contains a drainage easement without crossing another parcel of land. Discharge of such water upon the surface of the ground shall be carried not less than five feet from the foundation walls by means of splash blocks, which shall be installed at the time of construction, and shall not discharge on the surface of the ground within the street right-of-way or within 20 feet thereof.

(Code 1972, § 2.48)

Sec. 94-159. False statements, representations and certifications.

No person shall knowingly make any false statement, representation or certification in any application, record, report, plan or other document filed or required to be maintained pursuant to this article, or falsify, tamper with or knowingly render inaccurate any monitoring device or method required under this article.

(Code 1972, § 2.55(5))

Sec. 94-160. Protection from damage.

No unauthorized person shall enter or maliciously, willfully or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is part of the municipal sewage works.

(Code 1972, § 2.49)

Sec. 94-161. Violations generally.

(a) *Notice of violation; enforcement response plan.*

(1) If noncompliance is found with any part of this article or any permit issued under authority of this article, the director shall issue a notice of violation, which shall include identification of the time, date and magnitude of the noncompliance. The director shall set forth any remedies or orders to achieve compliance. The director may issue administrative fines, not greater than $1,000.00 per day, per item of noncompliance. Such notice of violation shall also establish a time within which compliance shall be achieved. Failure to remedy the noncompliance under the notice of violation shall result in a show cause hearing.

(2) The POTW shall develop an enforcement response plan, describing how the POTW will investigate and respond to instances of industrial user noncompliance.

(b) *Hearing procedures.*

(1) In addition to any remedies provided elsewhere in this article, whenever the director has reason to believe that any owner has committed, or is committing, a violation, he may serve upon the owner a written notice, stating the nature of the alleged violation, the amount of fine or damages assessed and describing the time for, and the nature of, required correction and payment.

(2) If the violation is not corrected as prescribed in the notice or charges paid, the director may issue an order to the user to appear for a hearing and show cause why service should not be terminated. The notice and order to show cause shall be served upon the user by personal service, or in lieu thereof, by certified mail, return receipt requested, to the user's last known address.

(3) The hearing shall be conducted by the city administrator or a hearing officer appointed by him, who shall render a written decision determining whether the user's service shall be terminated or recommending court action and stating reasons for such decision. Admissibility of evidence at the hearing shall be within the discretion of the city administrator or hearing officer.

(4) The owner shall be entitled to be represented at the hearing in person or by an attorney, at his own expense, and shall be entitled to examine witnesses for the city and present evidence on his own behalf. A record shall be made of the proceedings, but such record need not be verbatim.

(5) The user whose service is terminated without prior hearing may request a hearing as described in subsections (b)(4) and (5) of this section in order to permit him to show why his service should not have been terminated and should be resumed. Such request shall be granted, but service will not be resumed unless ordered by the city administrator or hearing officer.

(c) *Court action.*

(1) A violation of the provisions of this article shall be considered a public nuisance per se, and any section authorized or permitted by law for the abatement of public nuisances may be instituted by the city in regard to such violation.

(2) Whenever a person has violated any provision of this article, the city may take any legal action necessary to recover damages sustained by the city as a result of such violation. Such damages shall include, but are not limited to, lost revenues from the federal or state government, any fines or other penalties which are the result of the violation.

(3) Any person who shall continue any violation of this article shall be guilty of a misdemeanor.

(4) Whenever the director finds that a violation of this article is occurring and presents an emergency which threatens immediate, serious harm to any portion of the POTW, or which threatens to, or does, create an immediate health hazard, the user's wastewater service may be terminated by order of the director, pending further investigation and hearing.

(Code 1972, §§ 2.53—2.55)

Secs. 94-162—94-180. Reserved.

DIVISION 2. DISCHARGE RESTRICTIONS

Sec. 94-181. Generally.

(a) It shall be unlawful to discharge any wastewater to the waters of the state within the city or in any area under the jurisdiction of the city and/or to the POTW, except as provided by an NPDES permit and/or as authorized by the city in accordance with the provisions of this division. The city engineer/director of public works shall notify the director, in writing, within five days, of any application for a permit to connect to the sanitary sewer system by any potential commercial or industrial user. The city engineer/director of public works shall notify the director, in writing, within five days, of any commercial or industrial plans and specifications which could alter the discharge characteristics of the sewage discharged to the sanitary sewer system by any commercial or industrial user. The director shall contact the potential user, in writing, within

ten days, of the requirements for discharge or other information needed to assure that the potential wastestream will not be detrimental to operation of the POTW.

(b) At least 90 days before connecting or contributing to the POTW, all industrial users proposing to connect or contribute to the POTW shall submit to the director information on the user, processes and wastewater. All existing industrial users connected or contributing to the POTW shall submit such information within 30 days after the effective date of the ordinance from which this division is derived. The information submitted must be sufficient for the city to determine the impact of the user's discharge on the POTW and the need for pretreatment. The user shall submit the following information in units and terms appropriate for evaluation:

(1) Name, address and location, if different from the address.

(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, the constituents and characteristics mentioned in this article, as determined by a reliable analytical laboratory, and sampling and analysis shall be performed in accordance with the procedures and methods set forth in 40 CFR 136.

(4) Time and duration of contribution.

(5) Average daily wastewater flow rates, including daily, monthly and seasonal variations, if any.

(6) Industries identified as significant industries or subject to the National Categorical Pretreatment Standards, or industries required by the city must submit site plans, floor plans, mechanical and plumbing plans and details to show all sewers, sewer connections and appurtenances by the size, location and elevation.

(7) Description of activities, facilities and plant processes on the premises, including all materials which are, or could be, discharged.

(8) Where known, the nature and concentration of any pollutants in the discharge which are limited by any city, state or federal pretreatment standards and a statement regarding whether or not the pretreatment standards are being met on a consistent basis and, if not, whether additional O & M and/or pretreatment is required by the industrial user to meet applicable pretreatment standards. New sources shall include information on any pretreatment methods they intend to use and provide estimates on discharge flow and pollutant concentrations.

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

b. No increment referred to in subsection (b)(9)a. of this section 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 director, including, as a minimum, whether or not the user complied with the increment of progress to be met on such date and, if not, the date on which the user expects to comply with the increment of progress, the reason for delay and the steps being taken by the user to return the construction to the schedule established. In no event shall more than nine months elapse between such progress reports to the director.

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

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

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

(13) Any other information as may be deemed by the director to be necessary to evaluate the impact of the discharge on the POTW.

(c) The promulgation or revision of a pretreatment standard shall cause the affected industrial user to submit to the director the information required by subsections (b)(8) and (b)(12) of this section within six months of such revision. In addition:

(1) Upon the promulgation or revision of a pretreatment standard or the creation of a new categorical standard, the director shall notify all affected users of the sewer system of such change and of applicable requirements under Subtitles C and D of the Resource Conservation and Recovery Act (RCRA) as required by 40 CFR 403.8(f)(2)(iii). Such notice shall be sent within 90 days.

(2) Within 30 days of the enactment of the ordinance from which this section is derived, all existing significant industrial users, including categorical users, shall be notified of the applicable requirements of pretreatment and standards under the RCRA as indicated in subsection (c)(1) of this section.

(3) Such notice shall be sent by first class mail and shall include copies of this article, and indicate where copies of applicable categorical and RCRA requirements may be obtained.

(4) The reports required by this subsection and subsections (b) and (e) of this section shall be signed by an authorized representative of the industrial user and include the following certification statement:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or the persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations (40 CFR 403.6(a)(2)(ii))."

(5) If the authorized representative changes because a different individual or position has responsibility for the overall operation of the facility or for environmental matters of the company, a new authorization satisfying the requirement of the definition of the term "authorized representative of industrial user," as set forth in section 94-151, must be submitted to the city prior to, or together with, any reports to be signed by the authorized representative.

(d) Wastewater discharges shall be expressly subject to all provisions of this division and all other applicable regulations established by the city. The city may:

(1) Limit the average and maximum wastewater constituents and characteristics;

(2) Limit the average and maximum rate and time of discharge or make requirements for flow regulations and equalization;

(3) Require the installation and maintenance of inspection and sampling facilities;

(4) Establish specifications for monitoring programs, which may include sampling locations, frequency of sampling, number, types and standards for tests and a reporting schedule;

(5) Establish compliance schedules;

(6) Require submission of technical reports or discharge reports;

(7) Require the maintaining, retaining and furnishing of plant records relating to wastewater discharge as specified by the city, and affording city access to, and copying of such records;

(8) Require notification of the city for any new introduction of wastewater constituents or any substantial change in the volume or character of the wastewater constituents being introduced into the wastewater treatment system;

(9) Require notification of slug discharges and accidental spills and discharges that could cause problems to the wastewater collection and/or treatment system;

(10) Require other conditions, as deemed appropriate by the city, to ensure compliance with this division;

(11) Require the following applicable charges or fees in order to provide for the recovery of costs from users of the POTW for the implementation of the pretreatment program:

a. For reimbursement of costs of setting up and operating the pretreatment program;

b. For monitoring, inspections and surveillance procedures;

c. For reviewing accidental discharge procedures and construction;

d. For filing appeals;

e. For consistent removal by the city of pollutants otherwise subject to federal pretreatment standards; and

f. Other charges or fees the city may deem necessary to carry out the requirements contained in this division;

(12) Control, through order or similar means, such as a permit, the contribution to the POTW by each significant industrial user or any other nonresidential user, deemed necessary to ensure compliance with applicable categorical standards, pollutant specific limitations developed by the city, state or federal pretreatment requirements;

(13) Adjust categorical pretreatment standards to reflect the presence of pollutants in the user's intake water in accordance with 40 CFR 403.15;

(14) The charges and fees for the services provided by the system shall be levied upon any user which may have any sewer connection with the POTW and which discharges industrial waste to the POTW, or any part thereof. Such charges shall be based upon the quantity and quality of industrial wastewater used thereon or therein.

(e) (1) Within 180 days after promulgation or revision of a National Categorical Pretreatment Standard, all existing affected industrial users must submit to the city the information specified by 40 CFR 403.12(b)(1)—(7).

(2) At least 90 days prior to commencement of discharge, new sources, and sources that become affected industrial users subsequent to the promulgation of an applicable National Categorical Pretreatment Standard, shall submit to the city the information specified by 40 CFR 403.12(b)(1)—(5). New sources shall also include in the report information on the method of pretreatment they intend to use to meet the applicable pretreatment standard and shall give estimates of the required information regarding flow and pollutant discharges.

(3) Within 90 days following the date of final compliance with applicable pretreatment standards or, in the case of a new source, following commencement of the introduction of wastewater into the POTW, any user subject to pretreatment standards and requirements shall submit to the director, annually or more frequently as required, a report indicating the nature and concentration of all pollutants in the discharge from the regulated process which are limited by such pretreatment standards and requirements. The report shall state whether the applicable pretreatment standards and requirements 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 by an authorized representative of the industrial user and certified to by a qualified representative.

(4) Any new user discharging an industrial waste or any new industrial source discharging into the POTW shall submit to the city during the months of June and December, unless required more frequently in the pretreatment standards or by the city, a report indicating the nature and concentration of pollutants in the effluent which are limited by such pretreatment standards or this division. In addition, a report of all daily flows which, during the reporting period, exceeded the average daily flow reported in subsection (b)(5) of this section shall be submitted. At the discretion of the director and in consideration of such factors as local high or low flow rates, holidays, budget cycles, etc., the director may agree to alter the months during which the reports are to be submitted. The report shall also include information on the longterm and actual production rate, where requested by the city, to determine categorical industry compliance. Samples shall be representative of daily operation and taken immediately downstream from pretreatment facilities, if such exist, or immediately downstream from the regulated process.

(5) The city may impose mass limitations on users, where appropriate. In such cases, the report required by subsection (e)(3) and (4) of this section shall also indicate the mass of pollutants regulated by pretreatment standards in the effluent of the user.

(6) Information and data on a user obtained from reports, questionnaires, permit applications, permits, monitoring programs and inspections shall be available to the public or other governmental agency without restriction unless the user specifically requests, and is able to demonstrate to the satisfaction of the director, that the release of such information, processes or methods of production are entitled to protection as trade secrets of the user. When requested by the person furnishing a report, the portion of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available, upon written request, to governmental agencies for uses related to this division, the National Pollutant Discharge Elimination System (NPDES) permit or the pretreatment programs; provided, however, that such portions of a report shall be available or used by the state or any state agency in judicial review or enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics will not be recognized as confidential information. Information accepted by the city as confidential shall not be transmitted to any governmental agency or the general public by the city until and unless a ten-day notification is given to the user. Any such release of information shall be made in accordance with 40 CFR 403.14.

(7) All categorical users shall submit a compliance report every six months, on or before January 31 and July 31. The report shall contain the results of self-monitoring. A self-monitoring program shall be established by the director and shall require sampling for parameters of concern at least once per week. The director may accept less frequent tests on batch discharges that occur less often than weekly. If a user subject to such reporting requirements monitors any pollutant more frequently than required by the city, using approved procedures, the results of the additional monitoring shall also be included in the reports.

(8) The compliance report shall contain the following, as a minimum:

a. Name, address and telephone number of the industry.

b. Sketch showing and identifying sampling locations.

c. Name, address and contact name for the laboratory conducting the analysis.

d. Analytical reports showing the sample data, number, name and concentration of pollutant under scrutiny for all tests made the preceding six months, whether required or voluntary.

e. Detection limits for each pollutant tested.

f. Statement that categorical and pretreatment limits are being met or, if not, what additional O & M and/or pretreatment is necessary to bring the discharge into compliance.

g. Notarized signature of an authorized representative of an industrial user and certified by a corporate officer.

(9) If sampling performed by a user indicates a violation, the user shall notify the city within 24 hours of becoming aware of the violation. The user shall also repeat the sampling and submit the results of reanalysis to the city within 30 days after becoming aware of the violation, except when the city will be performing scheduled surveillance sampling/analysis within the 30-day period.

(f) All reports submitted by industrial users, or potential industrial users, shall be reviewed by the director or his agent. The reviewer shall note any deficiencies in the report and shall notify the submitter of the acceptance of the report or of deficiencies in the report. Resubmission of the report may be required by the director where deficiencies occur. Submitted reports shall be kept on file by the director for a period of time not less than three years.

(Code 1972, § 2.44)

Sec. 94-182. Specific limitations.

(a) No person shall discharge, or cause to be discharged, any stormwater, surface water, groundwater or roof water to any sanitary sewer. Drains for roof water which discharge directly into any sanitary sewer shall be reviewed within one year after enactment of the ordinance from which this division is derived so that such discharge is eliminated.

(b) Stormwater, groundwater and all other unpolluted drainage shall be discharged into such sewers as are specifically designated as storm sewers, if available, or combined sewers when a storm sewer is not available. Discharge of cooling water or unpolluted process water to a natural outlet shall be approved only by the MDEQ.

(c) Except as otherwise provided in this section, no person shall discharge, or cause to be discharged, any of the following described waters or wastes to any public sewer:

(1) Any liquid or vapor causing the temperature of the influent to the POTW to exceed 104 degrees Fahrenheit (40 degrees Celsius).

(2) Any discharge of petroleum oil, nonbiodegradable cutting oil or mineral oil products in amounts that will interfere with POTW operations or cause pass through.

(3) Any discharge of pollutants which create a fire or explosion hazard in the POTW, including, but not limited to, wastestreams with a closed cup flashpoint of less than 140 degrees Fahrenheit (60 degrees Celsius).

(4) Any garbage that has not been properly shredded.

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

(6) Solid or viscous substances capable of causing obstruction to flow in sewers or other interference with the proper operation of the POTW, such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, woods, paunch manure or any other solid or viscous substance.

(7) Any waters or wastes having corrosive properties capable of causing damage or hazard to structures, equipment and personnel of the POTW. The pH of the wastes discharged into the sewer system must be within 6.5—11.0 limits.

(8) Any discharge of 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.

(9) Any noxious or malodorous gas or substance capable of creating a public nuisance.

(10) Any radioactive waste or isotopes of such halflife or concentration as may exceed limits established by the director in compliance with applicable state and federal regulations. All users of radioactive material shall register with the director.

(11) Any industrial waste that may cause a deviation from the NPDES permit requirements, pretreatment standards, federal or state regulations or water quality standards.

(d) The industrial user shall notify the POTW, the EPA regional waste management division director and state hazardous waste authorities, in writing, of any discharge into the POTW of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR 403.12(p).

(e) Where feasible, samples shall be obtained through a 24-hour composite sampling technique. Where composite sampling is not feasible, a grab sample is acceptable. From the sampling, pollutants, including, but not limited to, the following, introduced into the POTW, shall not exceed the daily maximum concentration of:

Ammonia as N	300 mg/l
Arsenic	0.20 mg/l
Cadmium	0.03 mg/l
Chromium	4.60 mg/l
Copper	0.71 mg/l
Cyanide	0.11 mg/l
Di-n-butyl phthalate	120 ug/l
Fats, oils and greases (food based)	400 mg/l
Fats, oils and greases (petroleum based)	100 mg/l
Five-day BOD	940 mg/l
Lead	0.21 mg/l
Lindane	0.17 ug/l
Mercury, nondeductible, less than	0.0002 mg/l
Molybdenum	0.330 mg/l*
Nickel	1.20 mg/l
Phosphorous	64 mg/l
Silver	0.04 mg/l
Suspended solids	1,400 mg/l
Toluene	4,900 ug/l
Triethylamine	3,300 ug/l
Zinc	3.06 mg/l
*	Allowance of using the average of five samples collected within a two-week period

Should the concentrations set forth in the table in this subsection, either individually or in combination with one another, interfere with the sewage treatment process or cause difficulties or damage to the receiving waters, the maximum concentrations of the substances will be reduced by the director. Should any other substance, either individually or in combination with other substances, interfere with the sewage treatment process, cause damage to the receiving waters or affect the sanitary or storm sewer system, the allowable concentration of the substances will be reduced by the director.

(f) Upon the promulgation to the National Categorical Pretreatment Standards, alternative discharge limits, or other federal or state limitations for a particular industrial subcategory, the pretreatment standard, if more stringent than limitations imposed under this section for sources in that subcategory, shall immediately supersede the limitations imposed under this section and shall be considered part of this section. The city shall notify all affected users of the applicable reporting requirements. Existing sources subject to new pretreatment standards shall achieve compliance within three years of the date the standard is promulgated, unless a shorter compliance schedule is specified in the standard. New sources subject to pretreatment standards shall install, have in operating condition and have started up all pretreatment equipment required to achieve compliance before beginning to discharge, and shall meet all applicable pretreatment standards within the shortest feasible time, but not to exceed 90 days.

(g) Industrial users shall provide necessary wastewater treatment as required to comply with this division and shall achieve compliance with all pretreatment standards within the time limitations as specified by the federal pretreatment regulations and as required by the city. Any facilities required to pretreat wastewater to a level acceptable to the city shall be provided, operated and maintained at the user's expense. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the city for review and shall be approved by the city before construction of the facility. The review of such plans and operating procedures will in no way relieve the user from responsibility of modifying the facility, as necessary, to produce an effluent acceptable to the city under the provisions of this division. Any subsequent changes in the pretreatment facilities or method of operation shall be reported, and be acceptable, to the city prior to the user's initiation of the changes. As required by 40 CFR 403.8(f)(2)(vii), the city shall annually publish in the major local newspaper a list of the users which were in significant noncompliance with any applicable pretreatment requirements or standards during the 12 previous months. The notification shall also summarize any enforcement actions taken against the users during the same 12-month period. All records relating to compliance with pretreatment standards shall be made available to officials of the USEPA or MDEQ, upon request.

(h) Except where expressly authorized to do so by an applicable pretreatment standard or requirement, no user shall ever increase the use of process water or in any way attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in the National Categorical Pretreatment Standards, alternative discharge limits or in any other pollutant-specific limitation developed by the city or state.

(i) Grease, oil and sand interceptors shall be provided when, in the opinion of the director, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts or any flammable wastes, sand and other harmful ingredients, except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the chief building inspector and shall be located so 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. The interceptors shall be of substantial construction, watertight and equipped with easily removable covers which, when bolted into place, shall be gastight and watertight.

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

(k) The admission into the public sewers of any water or wastes containing a five-day BOD greater than 300 mg/l; containing more than 300 mg/l of suspended solids; containing more than 15 mg/l total phosphorus; containing any quantity of substances having the characteristics described in subsection (c) of this section; or having an average daily flow greater than 25,000 gallons per day, shall be subject to review and approval by the director. When necessary, in the opinion of the city, the owner shall provide, at his expense, such preliminary treatment as may be necessary to reduce the five-day BOD to 300 mg/l, suspended solids to 300 mg/l, total phosphorus to 15 mg/l or to reduce objectionable characteristics or constituents to within the maximum limits provided for in subsection (c) of this section or control the quantities and rates of discharge of such waters or wastes, or the right to empty such sewage shall be denied. Plans, specifications and other pertinent information relating to proposed preliminary treatment facilities shall be prepared and submitted by a qualified engineer for approval of the director, and no construction of such facilities shall be commenced until such approval is obtained, in writing.

(l) Where the strength of sewage from an industrial, commercial or institutional establishment exceeds a five-day BOD of 300 mg/l; 300 mg/l of suspended solids; 15 mg/l of total phosphorous; 20 mg/l of ammonia as N; or 600 mg/l of COD, and where such wastes are permitted by the director to be discharged to the sewer system, as evidenced by a written agreement or specific permit language establishing an upper limit for each parameter for which exceedance is permitted, an added charge, as noted in this subsection, will be made against such establishment according to the strength of such wastes. The strength of such wastes shall be determined by composite samples taken over a sufficient period of time to ensure a representative sample. The cost of any sampling and testing shall be borne by the industry or establishment, whether owner or lessee. Tests shall be made by an independent laboratory or at the city wastewater treatment plant laboratory. Added charges shall be determined by the city. The charges shall be based on the cost of operation, maintenance, administration, depreciation, amortization, plus sufficient coverage for the POTW. Should the director determine that the limits for compatible pollutants can be raised without damage to the sewer system or the WWTP or receiving waters, and would not result in the WWTP violating the NPDES permit, and the industry will practice good waste control, and the industry will treat the waste flow to the limits of the current technological limits, and the industry presents sufficient evidence that the limits can be increased, the director may raise the limits. If the upper limit established for a parameter under this subsection is exceeded, such excess shall be a violation of the IPP permit and this Code.

(m) When required by the director, 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 accessible and safely located, and shall be constructed in accordance with plans approved by the city, at the property owner's expense, and shall be maintained by the property owner so as to be safe and accessible to the city at all times.

(n) All measurements, tests and analysis of the characteristics of waters and wastes to which references are made in this section shall be determined in accordance with 40 CFR 136, published on October 16, 1973, and succeeding amendments, and shall be determined from samples taken at the facilities control manhole provided for in this article, or upon suitable samples taken from individual waste discharges of such facilities. If no special sampling manhole or points have been required, samples shall be taken at the nearest downstream manhole in the public sewer to the point at which the building sewer is connected.

(o) To determine the sewage flow from any establishment, the director may use one of the following methods:

(1) The amount of water supplied to the premises by the city or a private water company as shown upon the water meter, if the premises is metered;

(2) If the premises is supplied with river water or water from private wells, the amount of water supplied from such sources shall be metered, at the owner's expense, by a meter approved by the director;

(3) If the premises is used for an industrial or commercial purpose of such a nature that the water supplied to the premises cannot be entirely discharged into the sewer system, the amount of sewage discharged into the sewer system shall be metered, at the owner's expense, by a meter and piping arrangement approved by the director;

(4) The number of cubic feet of sewage discharged into the sewer system, as determined by measurements and samples taken at a manhole installed by the owner of the property served by the POTW, at his own expense, in accordance with the terms and conditions of the permit issued by the director pursuant to this section; or

(5) A figure determined by the director by any combination of methods set forth in subsections (o)(1)—(4) of this section, or by any other equitable method.

(p) No statement contained in this section shall be construed as preventing any special arrangement between the city and any industrial concern whereby compatible pollutants, up to levels which are within the treatment capacity of the WWTP, may be accepted by the city, subject to payment by the industrial concern, provided, such waste will not damage the storm sewer, POTW or receiving waters and, provided that the federal categorical standards will not be violated.

(Code 1972, § 2.47; Ord. No. 02-05, 3-4-2002; Ord. No. 04-09, 4-5-2004)

Sec. 94-183. Reporting spills and dumps.

(a) If a spill occurs, the owner shall immediately notify the WWTP. The city may then inspect the spill to evaluate the degree of hazard to the POTW. The city may rule upon the compatibility of the spill. The owner shall withhold discharge of the spill before a ruling is obtained. Unauthorized discharge of any spill shall automatically constitute a dump.

(b) If a dump or a discharge that could cause problems to the wastewater collection and/or treatment system occurs, either advertently or inadvertently, the owner shall immediately notify the WWTP to enable the city to take any possible action for the protection of the public health, treatment processes and environment. A dump or discharge that could cause problems to the wastewater collection and/or treatment system is a violation of this article and shall be subject to the provisions of section 94-182(l).

(c) When required, a user shall provide protection from accidental discharge of prohibited materials or other substances regulated by this division. Facilities to prevent accidental discharge of prohibited materials shall be provided and maintained at the owner's or user's own cost and expense. Detailed plans showing facilities and operating procedures to provide such protection shall be submitted to the director for review and shall be approved by the director before construction of the facility. All required users shall complete such a program within 90 days of notification by the director. If required by the director, a user who commences contribution to the POTW after the effective date of the ordinance from which this division is derived shall not be permitted to introduce pollutants into the system until accidental discharge procedures have been approved by the director. Review and approval of such plans and operating procedures shall not relieve the industrial user from the responsibility to modify the user's facility, as necessary, to meet the requirements of this division. In the case of an accidental discharge, it is the responsibility of the user to immediately telephone and notify the POTW of the incident. The notification shall include the location of the discharge, type of waste, concentration and volume, and corrective actions.

(d) Within five days following an accidental discharge, the user shall submit to the director a detailed written report describing the cause of the discharge and the measures to be taken by the user to prevent the cause of the discharge and to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage or other liability which may be incurred as a result of damage to the POTW, fish kills or any other damage to person or property, nor shall such notification relieve the user of any fine, civil

penalty or other liability which may be imposed by this article or other applicable law. Failure to file a report shall be a separate violation of this article.

(e) An upset shall constitute an affirmative defense by industrial users in unintentional and temporary noncompliance with National Categorical Pretreatment Standards, provided, it can be proved that:

(1) An upset occurred and the industrial user can identify the cause 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 submitted the following information to the city within 24 hours of becoming aware of the upset (if the 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;

In any enforcement proceedings, the industrial user seeking to establish the occurrence of an upset shall have the burden of proof.

(f) A bypass violating applicable pretreatment standards and requirements is prohibited, and the city may take enforcement action against a user for such bypass, unless the bypass was unavoidable to prevent loss of life, personal injury or severe property damage; there were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes or maintenance during normal periods of equipment downtime, except where adequate backup equipment should have been installed in the exercise of reasonable engineering judgement to operate during normal periods of equipment downtime or preventive maintenance; and the user submitted required notices. For an accidental bypass, notice requirements shall be as specified in subsections (a)—(d) of this section. If the user knows in advance of the need for a bypass, a prior notice shall be submitted to the city at least ten days before the date of the bypass. The city may approve or disapprove the anticipated bypass, after considering its adverse effects.

(g) At least once every two years, the POTW will evaluate whether a significant industrial user needs a slug control (spills and batch discharges) plan. Should the POTW decide a user must implement a slug control plan, the significant industrial user will be notified.

(Code 1972, § 2.52)

Secs. 94-184—94-210. Reserved.

ARTICLE IV. WATER AND SEWER RATES AND CHARGES

DIVISION 1. GENERALLY

Sec. 94-211. Definitions.

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

Premises means each lot or parcel of land, building or premises having any connection to the water distribution system or sanitary sewer system of the city.

(Code 1972, § 2.61)

Cross reference(s)—Definitions generally, § 1-2.

Sec. 94-212. Basis.

(a) All water service shall be charged on the basis of water consumed, as determined by the meter installed by the city department of utilities on the premises of water service customer.

(b) All sanitary sewer service shall be charged on the basis of water consumed, to the extent that such consumption reflects the return of water to the sanitary sewers as provided in this article.

(c) No free water service or sanitary sewer service shall be furnished to any person.

(Code 1972, § 2.62)

Sec. 94-213. Connection fees.

(a) Water and sewer connection fees shall be paid by the owner for all new and renewed connections to the water and sewer system. The fees shall be paid prior to issuance of a building permit. The water capacity charge and sewer impact fee are established to recover the capital investment made to provide service. The water tap installation charge recovers the cost of tapping a water main and installing a service line to the property. The fees result from an analysis of the water and sewer system capital assets and capacity. The fees are based on the size of the tap and meter, reflecting the potential water and sewer demand. The fees shall be as established by resolution.

(b) Tap installation charges for two-inch and larger size taps will be determined at the time of application. The owner shall be responsible for connection to the public sewer and installation of the sewer lateral, including restoration of streets, sidewalks, curb and gutter or any other area disturbed during construction. The owner shall also be responsible for installation of the water service line from the property line to the building. The city shall inspect the sewer lateral and the private water service line, and an inspection fee in the amount established by resolution shall be charged.

(c) For renovation work increasing the size of service, the owner will pay fees for the new size of service, with credit being given for existing service. No refunds will be made when service is downsized.

(Code 1972, § 2.77; Ord. No. 04-14, 6-21-2004; Ord. No. 04-23, 8-2-2004)

Sec. 94-214. Assessment charge.

(a) An assessment charge shall be made for properties outside the city limits to recover the capital cost of water and sewer lines which abut the property. The assessment shall be made in the following amounts, at the time of connection:

	Cost Per Foot	Minimum	Maximum
Water	$22.00	$1,000.00	$6,600.00
Sewer	30.00	1,500.00	7,500.00

(b) The city may allow the assessment to be paid over time. The owner will allow a lien to be recorded for any unpaid amount. The maximum length of time for payment shall be for five years.

(c) The city may establish assessment districts within and outside the city limits. The charge would be set at the time of such establishment and would be a fair distribution of capital costs recovery within the district. The charge could be assessed for all properties, including properties not connected.

(Code 1972, § 2.78)

Sec. 94-215. Fire service connection fees.

A fire service connection fee in the amount established by resolution shall be paid by the owner to the department of utilities for all new or renewed fire service connections, in accordance with the following: The director of utilities shall review and recommend the adjustment of fire service connection fees accordingly, on an annual basis.

(Ord. No. 01-15, § 2.79, 1-7-2002; Ord. No. 04-14, 6-21-2004)

Secs. 94-216—94-240. Reserved.

DIVISION 2. USER RATES

Sec. 94-241. Water.

(a) Water rates shall be charged for all water delivered to each premises. The water rate shall consist of two parts: a service charge and a commodity charge. All such charges shall be as established by resolution.

(b) No premises shall receive free water as a connection to the system or as unpaid rate charges. After determining that the premises has had benefit of free water service, The director shall shut off water service to the premises, upon duly notifying the consumer and giving a reasonable period of time to make payment. If charges impose a hardship on the consumer, the director may arrange for time payments, not to exceed 180 days. The consumer shall be charged for all free water used, based on reasonable estimates of consumption over the length of time free service was enjoyed, plus interest at current rates.

(Code 1972, §§ 2.30(h), 2.63; Ord. No. 02-12, 6-17-2002; Ord. No. 03-13, 6-16-2003; Ord. No. 04-14, 6-21-2004; Ord. No. 05-16, 9-19-2005)

Editor's note(s)—It should be noted that the rates established pursuant to Ord. No. 05-16 shall be effective Oct. 4, 2005.

Sec. 94-242. Sewer.

(a) *Surcharges.* Maximum limits are established in section 94-182 for compatible pollutants. A charge limit for sewage which has a concentration greater than normal domestic sewage is established as set forth in this subsection. Unit charges for compatible pollutants above the charge limit are as established by resolution. The unit charges are based on a review of actual treatment costs for fiscal year 2000. An additional charge or surcharge shall be computed for sewage with compatible pollutants between the charge limit and the maximum limit. The surcharge shall be calculated using an escalation factor proportional to the ratio of the actual concentration to the charge limit. For example, a suspended solids with a concentration of 600 mg/l would pay 600 mg/l/300 mg/l equals twice the unit charge.

(b) *Commodity charge.* For all use over the permitted minimum sewer billing, the commodity charge will be as established by resolution.

(c) *Service charge.* A monthly sewer service charge in the amount established by resolution shall be applied to each bill for administrative costs and the cost of treating wastewater and infiltration.

(d) *Flat rate.* The charge for flat rate customers in the city shall be as established by resolution.

(e) *Nonresidential pretreatment program.* All nonresidential sewer customers shall be charged a nonresidential charge in the amount established by resolution.

(f) *Administrative surcharge.* An administrative sewer surcharge of 20 percent shall be added to the surcharges set forth in subsection (a) of this section to cover city expenses for sampling, analysis, billing and other general expenses in the administration of the pretreatment program.

(g) *Special billing charge.* A special billing charge in the amount established by resolution shall be charged for the following:

(1) Reading a noncity owned water meter to determine sewer use;

(2) Reading a noncity owned meter to adjust a bill for water not entering the sewer. The charge is per meter;

(3) Adjusting a sewer bill for manifests documenting hauling off site.

(h) *Portable toilet waste fees.* The charge for portable toilet waste disposed of at the wastewater treatment plant shall be as established by resolution.

(i) *Reserved.*

(j) *Private water supply.* Where any sanitary sewer service customer uses any private water supply, any portion of which reaches the public sanitary sewers, such private supply shall be metered and maintained by the department of utilities, at the customer's expense, and the consumption from the public water supply and the total shall be used to establish the sanitary sewer service charges based on water consumed. Failure to meter any water supply shall not release the customer from paying the sanitary sewer service charge on such supply. In such case, the total water consumption shall be estimated by the director and the estimated amount shall be conclusive.

(k) *Optional arrangement.* Any customer may elect to rearrange his water supply pipes and metering for the purpose of eliminating from the total water consumption, the water not disposed of to the public sanitary sewers, or the customer may elect to establish metering facilities registering the discharge from his premises to the public sanitary sewers. All such arrangements shall be subject to the prior approval of the director and the expense thereof, including installation, maintenance and operation, shall be borne by the customer. While such an approved installation shall be in effect, the established rates shall be applied only to the water passed through the meter for water to be returned to the public sanitary sewers or to the sewage actually discharged to the public sanitary sewers or to sewers. No person shall divert any water metered as not entering the public sanitary sewers into the public sanitary sewers. Where any water metered as not entering the public sanitary sewers does enter the public sanitary sewers, the premises shall be billed at the regular sanitary sewer service rates for all water used during all billing periods in which the unlawful diversion of water occurred, if it can be determined, otherwise for a period to be determined in the discretion of the director, not to exceed five years.

(l) *Outside service.* The rates to be charged for outside sewer service shall be as established by resolution.

(Code 1972, §§ 2.64—2.68; Ord. No. 2-12, 6-12-2002; Ord. No. 02-18, 10-7-2002; Ord. No. 03-13, 6-16-2003; Ord. No. 04-14, 6-21-2004; Ord. No. 04-17, 7-19-2004; Ord. No. 05-16, 9-19-2005; Ord. No. 10-005, 7-7-2010)

Editor's note(s)—It should be noted that the rates established pursuant to Ord. No. 05-16 shall be effective Oct. 4, 2005.

Sec. 94-243. Special rates.

Special rates for water or sanitary sewer service may be fixed by resolution of the city commission for customers outside the city, customers not having a metered water supply, customers using large quantities of water not discharged into the sanitary sewers and in other cases where special considerations are applicable, in the discretion of the city commission, notwithstanding anything contained in this chapter to the contrary.

(Code 1972, § 2.69)

Sec. 94-244. Service to the city.

The city shall pay the same water and sanitary sewer rates for service to the city as would be payable by any private customer for the same service. All such charges for service shall be payable monthly from the current funds of the city or from the proceeds of taxes which the city, within constitutional limits, is hereby authorized to levy in amounts sufficient for such purpose.

(Code 1972, § 2.70)

Sec. 94-245. Billings.

Billing for water service and sanitary sewer service shall be the responsibility of the director. Water meters shall be read at regular intervals established by the director and bills rendered each month. Water usage may be determined at the discretion of the director where estimated water consumption is the basis for billings as a result of the inability of meter readers to gain access to the meter or reading device for a period of three consecutive months.

(Code 1972, §§ 2.63(G), 2.71)

Sec. 94-246. Late payment penalty.

A penalty of ten percent of the amount of the bill shall be added to each bill for water service and sanitary sewer service which is not paid on or before the date upon which the bill shall be due as set forth on such bill.

(Code 1972, §§ 2.63(G), 2.73)

Sec. 94-247. Collection.

(a) The payment of charges for water service to any premises may be enforced by discontinuing the water service to such premises and the payment of charges for sanitary sewer service to any premises may be enforced by discontinuing either the water service or the sanitary sewer service to such premises, or both, and an action of assumpsit may be instituted by the city against the customer.

(b) The charges for water service and sanitary sewer service, which, under the provisions of Public Act No. 94 of 1933 (MCL 141.101 et seq.), are made a lien on the premises to which furnished, are hereby recognized to constitute such lien, and the city administrator shall annually, at the first meeting of the city commission in April, report to the city commission all unpaid charges for such services furnished to any premises which, on the March 31 preceding, have remained unpaid for a period of six months. After due notice to the owners of the premises so served, the city commission may assess the amount found to be due as a tax against such

premises and the tax shall be certified to the city assessor, who shall place the amount on the next tax roll of the city. Such assessed charges shall be collected in the same manner as general city taxes. In cases where the city is properly notified in accordance with such act that a tenant is responsible for water or sanitary sewer service charges, no such service shall be connected or continued to such premises until there has been deposited with the city treasurer a sum established by the director and approved by the city administrator.

(c) Where the water service to any premises is turned off to enforce the payment of water service charges or sanitary sewer service charges, the water service shall not be reconnected until all delinquent charges have been paid and a deposit is made, as in the case of tenants, and there shall be a water turn-on charge as published with the current water rates. In any other case where, in the discretion of the director, the collection of charges for water or sanitary sewer service may be difficult or uncertain, the director may require a similar deposit. Such deposits may be applied against any delinquent water or sanitary sewer service charges and the application thereof shall not affect the right of the city to turn off the water service to any premises for any delinquency thereby satisfied. No such deposit shall bear interest and such deposit, or any remaining balance thereof, shall be returned to the customer making the deposit when the customer shall discontinue receiving water and sanitary sewer service.

(d) The director may withhold water service at any premises when the customer responsible for paying water service bills at such premises is delinquent in payment for water service while residing at a previous premises until all past due charges for water service owed by the customer are paid in full by the customer.

(Code 1972, § 2.72)

State law reference(s)—Liability of lessor for utility rates, MCL 141.121; lien for utility charges, MCL 123.161 et seq.

Sec. 94-248. Fiscal year for department of utilities.

The department of utilities shall be operated on the basis of a fiscal year commencing on July 1 and ending June 30.

(Code 1972, § 2.74)

Sec. 94-249. Proceeds usage; rate revisions.

(a) The rates fixed under this division are estimated to be sufficient to provide for the payment of any or all indebtedness, the expenses of administration and operation, and such expenses of maintenance of such system as are necessary to preserve the system in good repair and working order to build up a reasonable reserve for equipment replacement of such system. Such rates shall be fixed and revised, from time to time, as may be necessary to produce such amounts.

(b) An annual audit shall be prepared. Based on such audit, rates for water and sewer services shall be reviewed annually and revised, as necessary, to meet system expenses and to ensure that all user classes pay their proportionate share of operation, maintenance and equipment replacement costs.

(c) If any of the replacement funds are spent before the bond repayment period and where the replacement funds are based on the sinking fund method, the annual cost must be reviewed to compensate for the loss in principal.

(Code 1972, § 2.75)

Sec. 94-250. Disposition of revenue.

The revenues of the water system and wastewater system derived from the collection of rates established under this division are hereby ordered, as collected, to be credited to a separate account to be designated as the "water system receiving account" and the "wastewater system receiving account," and the revenues in such accounts shall be credited quarterly in such bank accounts and with such depositories as the city commission may designate by resolution or ordinance, and in the manner and for the purposes specified in this division.

(Code 1972, § 2.76)

Chapter 98 VEGETATION[66]

ARTICLE I. IN GENERAL

Secs. 98-1—98-30. Reserved.

ARTICLE II. TREES

Sec. 98-31. Definitions.

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

Department means the department of parks and recreation of the city.

Director means the director of parks and recreation.

Park includes all public parks having individual names and all areas owned by the city or to which the public has free access as a park.

Street means all of the land lying between property lines on either side of all streets, highways and boulevards in the city.

Superintendent means the superintendent of parks and forestry.

Tree means trees, shrubs, and all other woody vegetation.

(Code 1972, § 3.21(1)—(5))

Cross reference(s)—Definitions generally, § 1-2.

[66]Cross reference(s)—Buildings and building regulations, ch. 10; community development, ch. 18; environment, ch. 22; manufactured homes and trailers, ch. 50; parks and recreation, ch. 62; streets, sidewalks and other public places, ch. 74; subdivisions and other divisions of land, ch. 78; waterways, ch. 102; zoning, ch. 106.

Sec. 98-32. Application of article provisions.

This article, unless otherwise specifically stated in this article, shall apply only to public streets, parkways, parks and other land publicly owned or controlled by the city.

(Code 1972, § 3.21(6))

Sec. 98-33. Departmental responsibility.

The department shall be charged with the duty of enforcing the provisions of this article under the supervision of the director.

(Code 1972, § 3.22)

Sec. 98-34. Rules and regulations.

The city administrator may make additional rules and regulations pertaining to the planting, removal and care of trees and shrubs, not inconsistent with the provisions of this article, subject to approval by the city commission. No person shall fail to obey any such rule or regulation.

(Code 1972, § 3.30)

Sec. 98-35. Interference with director.

It shall be unlawful for any person to prevent, delay or interfere with the director or any of his employees, agents or servants while engaged in and about the planting, cultivating, mulching, pruning, spraying or removing of any tree, plant or shrub in or upon any public highway or public place or upon any private grounds, as authorized in this article.

(Code 1972, § 3.29)

Sec. 98-36. Planting, care and removal.

(a) The superintendent shall have control over all trees located within the street rights-of-way and parks in the city, and the planting, care and removal thereof, subject to the regulations contained in this article.

(b) Upon obtaining prior written permission of the superintendent, the owner of land abutting on any street may prune, spray, plant or remove trees in the part of the street abutting his land, not used for public travel, but no person shall otherwise prune, spray, plant or remove any tree in any street or park. Every such permit shall specify the extent of the authorization and the conditions to which it is subject.

(c) Where an owner of abutting property requests the removal of a tree, the superintendent is authorized, at his discretion, to require, as a condition to granting of approval for such removal, that such property owner make the removal in accordance with regulations established by the department, assume all or any part of the costs of such removal, and also require that the tree removed be replaced at some other nearby location by planting another tree, not necessarily of the same type.

(d) No person shall plant any tree of a prohibited species.

(Code 1972, § 3.23)

Sec. 98-37. Protection.

(a) No person shall, without authority, break, injure, mutilate, kill or destroy any tree or shrub, or set any fire or permit any fire, or the heat thereof, to injure any portion of any tree.

(b) No person owning, using or having control or charge of gas or other substance deleterious to tree life, shall allow such gas or other deleterious substance to come in contact with the soil surrounding the roots of any tree, shrub or plant, so as to kill or destroy or injure such tree, shrub or plant.

(c) No person shall attach, or keep attached, to any tree or shrub, or to the guard or stake intended for the protection of such tree or shrub, any rope, wire, chain, sign or other device whatsoever, except for the purpose of protecting the tree or shrub or the public.

(Code 1972, § 3.24)

Sec. 98-38. Public care.

(a) The department shall have the right to plant, trim, spray, preserve and remove trees, plants and shrubs within the lines of all streets, alleys, avenues, lanes, squares and public grounds, as may be necessary to ensure safety or preserve the symmetry and beauty of such public grounds.

(b) The superintendent may remove, or cause or order to be removed, any tree, or part thereof, which is in an unsafe condition or which, by reason of its nature, is injurious to sewers or other public improvements or is affected with any injurious fungus, insect or other pest.

(Code 1972, § 3.25)

Sec. 98-39. Private grounds.

The superintendent shall have the power to enter upon any private grounds in the city and spray or otherwise treat, or cause or order to be sprayed or otherwise treated, any tree, shrub or plant infected or infested by any parasite or insect pest when, in his opinion, it shall be necessary to do so to prevent the breeding or scattering of any parasite or animal pest or to prevent danger therefrom to trees and shrubs planted in public streets or other public places. Whenever, in the opinion of the superintendent, trimming, treatment or removal of any such tree or shrub located on private grounds shall be deemed wise, he shall have the power to trim, treat or remove any such tree or shrub, or cause such tree or shrub to be removed, treated or trimmed.

(Code 1972, § 3.26)

Sec. 98-40. Diseased/infested trees.

(a) Any live or dead tree on public property that is infected with an infectious disease, or that harbors vectors that transmit infectious disease (such as insects or other arthropods) or is infected with insects that by their actions bring about tree decline or death, are hereby declared to be a public nuisance injurious to the public health and welfare. Infectious disease and/or insects of concern include, but are not limited to, Dutch elm disease, elm yellows, oak wilt, pine wilt, ash yellows, pine saw flies, emerald ash borers and bronze birch borers.

(b) The superintendent is authorized to inspect any tree within the city reported or supposed to be infected. If, upon such inspection, the superintendent determines that such tree is infected with disease or infested by insects, and if the tree is located on any public street, ground, or place within the city, he shall immediately remove and dispose of the tree in such a manner as to prevent, as fully as possible, the spread of such

disease or infestation. If such tree is located on private property, the superintendent shall immediately serve upon the owner of such property a written notice that such tree is so infected and that the tree must be removed and properly disposed of under the supervision of the superintendent within five days of the service of such notice. If such owner cannot be found, a copy of the notice shall be posted upon the infected tree. If the tree is not removed and properly disposed of within five days after the service or posting of such notice, the superintendent shall cause the tree to be removed and properly disposed of. The cost of such removal and disposal may be collected from the owner of the property in the manner specified in section 70-12.

(Code 1972, § 3.27)

Sec. 98-41. Trimming and corner clearance.

(a) Every owner of any tree overhanging any street or right-of-way within the city shall trim the branches of such tree so that the branches shall not obstruct the light from any streetlamp or the view of any street intersection and so that there shall be a clear space of 14 feet above the surface of the street or right-of-way. Such owners shall remove all dead, diseased or dangerous trees or broken or decayed limbs which constitute a menace to the safety of the public.

(b) The city shall have the right to trim any tree or shrub on private property when the tree interferes with the proper spread of light along the street from a streetlight, or interferes with visibility of any traffic control device or sign, and such trimming shall be confined to the area above the right-of-way.

(c) All shrubs and other plants located on the triangle formed by two right-of-way lines at the intersection of two streets and extending for a distance of 25 feet each way from the intersection of the right-of-way lines on any corner lot within the city shall not be permitted to grow to a height of more than 30 inches above the sidewalk grade in order that the view of the driver of a vehicle approaching a street intersection shall not be obstructed. Trees may be planted and maintained in such area, provided that all branches are trimmed to maintain a clear vision for a vertical height of 14 feet above the roadway surface.

(d) Any owner of any property failing to trim any trees, shrubs or bushes in conformity with this section shall be notified by the superintendent to do so and such notice shall require trimming in conformance with this section within five days after the date of such notice. Upon the expiration of such five-day period, the superintendent may cause the trimming to be done and the cost thereof may be collected from the owner of such property in the manner specified in section 70-12.

(Code 1972, § 3.28)

Sec. 98-42. Prohibited species.

It is unlawful to plant any of the following:

Silver Maple (*Acer saccarinum* —pure species only)

Tree of Heaven (*Ailanthus altissima*)

Common Blackthorn (*Rhamnus catharica*)

Catalpa (*Catalpa speciosa*)

Autumn Olive (*Eleagnus* sp.)

Boxelder (*Acer negundo*)

Siberian Elm (*Ulmus pumilla*)

Black Locust (*Robinia psuedoacacia*)

Honey Locust (*Gladitsia tricanthos* —pure species only)

Prickly Ash (*Zanthoxylum americanum*)

Osage Orange (*Maclura pomifera*)

Mulberry (*Morus* sp.)

Sec. 98-43. Violations; municipal civil infraction.

Unless stated otherwise in this article, a person who violates any of the provisions of this article is responsible for a municipal civil infraction.

(Code 1972, § 1.20(5)))

Secs. 98-44—98-69. Reserved.

ARTICLE III. GRASS AND NOXIOUS WEEDS[67]

Sec. 98-70. Bamboo.

(a) Definitions:

(1) *Bamboo* means any monopodial (running) tropical or semi-tropical grasses from the genera Bambusa including but not limited to, Bambusa, Phyllostachys Aureosulcata (Yellow Groove Bamboo) and Pseudosasa, as well as Common Bamboo, Golden Bamboo and Arrow Bamboo. It also includes Japanese Knotweed, Giant Knotweed, and Bohemian Knotweed. Bamboo is also categorized under this section as a noxious weed.

(2) *Bamboo owner* means any property owner or resident who has planted and/or grows bamboo, or who maintains bamboo on the property, or who permits bamboo to grow or remain on the property even if the bamboo has spread from an adjoining property.

(b) No person or other legal entity shall plant, or cause to grow, bamboo on any property located within the city unless:

(1) The root system of such bamboo is entirely contained within an above-ground level planter, barrel or other vessel of such design, material and location so as to entirely prevent the spread and/or growth of the bamboo's root system beyond the container in which it is planted; or

(2) The bamboo owner has taken the necessary steps, including but not limited to the installation of sheathing comprised of metal or other material impenetrable by bamboo at a sufficient depth within the bamboo owner's property lines where the bamboo is planted or is growing, in order to prevent the growth or encroachment upon adjoining or neighboring property by the bamboo or within the areas where bamboo is prohibited to exist as set forth in this section.

(c) Any bamboo that is planted or otherwise permitted to grow on any property within the city pursuant to [subsection] (b), whether said bamboo existed before or after the effective date of this section, shall not:

[67]State law reference(s)—Noxious weeds, MCL 247.61 et seq.

(1) Be planted, maintained, or otherwise permitted to exist within 40 feet of the edge of the pavement or traveled portion of any public or private road;

(2) Be planted, maintained, or otherwise permitted to exist within 40 feet of the adjoining property line of any adjoining or neighboring property;

(3) Encroach or grow upon any adjoining or neighboring properties, including all public properties and rights-of-way.

(4) Bamboo that is not planted or maintained in compliance with this section is a public nuisance.

(d) Notice and removal of violating bamboo.

(1) Each bamboo owner shall be responsible to ensure that any bamboo on their property does not violate the provisions of this section. In the event that there is bamboo growing in violation of the provisions of section, the city shall issue a notice of violation in writing.

(2) Any bamboo owner receiving notice under subsection (1) above shall remove all bamboo that is in violation of this section within 30 days of the owner's receipt of said notice.

(3) In the event that any bamboo owner does not remedy and correct the violations set forth in the notice, the city may remove the bamboo that is in violation of this section, take all reasonable action to eradicate its regrowth, and to restore the real property to its natural condition prior to removal and eradication.

(4) Any costs incurred by the city in removing any bamboo and/or remedying any violation of this section shall be billed to the bamboo owner. If the bamboo owner fails to pay the costs will be assessed to the bamboo owners property pursuant to section 70-12 of City of Adrian Code.

(e) Violations:

(1) Violations of this section constitute a civil infraction with a fine not to exceed $500.00.

(2) Each day on which a violation occurs or continues after the time for correction of the violation has expired shall be deemed a separate violation of this section.

(3) In addition to any other remedies, the city may institute proceedings for injunction, mandamus, abatement or other appropriate remedies to prevent, enjoin, abate or remove any violations of this section. The rights and remedies provided herein are civil in nature. The imposition of a fine shall not exempt the violator from compliance with the provisions of this section.

(4) The provisions of this section are hereby declared severable. If any part of this section is declared invalid for any reason by a court of competent jurisdiction, that declaration does not affect or impair the validity of all other provisions that are not subject to that declaration.

(Ord. No. 17-024, 8-21-2017)

Sec. 98-71. Responsibility for cutting.

(a) No person occupying any premises and no person owning any unoccupied premises shall fail to keep cut down any grass, ragweed, Canada thistles, burdocks, crabgrass, quack grass, wild-growing bushes, wild carrots, purple loosestrife, or other noxious weeds growing on property occupied or owned by him or growing on the portion of a street which adjoins property occupied or owned by him.

(b) It shall be the duty of the occupant of every premises and the owner of occupied premises within the city to cut, remove, or destroy by lawful means, all such weeds and grass as often as may be necessary to comply with the provisions of subsection (a) of this section. Any such weeds or grass which attain a height of eight inches are hereby declared to be a public nuisance.

(c) A person who violates any of the provisions of this section is responsible for a municipal civil infraction.

(Code 1972, §§ 1.20(21), 9.35, 9.36; Ord. No. 07-03, 3-19-2007)

Sec. 98-72. Work done by city.

(a) If the provisions of section 98-71 are not complied with, and if any weeds, grass or other vegetation described in subsection 98-71(a) are permitted to attain a height of eight inches on any property described in such subsection, the city administrator may cause such weeds, grass or other vegetation to be cut, removed or destroyed and a minimum cutting fee to cover the costs associated with enforcement of $160.00 or the actual costs, whichever is greater shall be billed to the owner of the property. If payment in full is not received within 30 days from the due date, a late fee in the amount of $50.00 shall be charged. If full payment is not received, the amount owed to the city shall be collected as a special assessment against the premises as provided in section 70-12.

(b) Notice of the provisions of this section shall be published in a newspaper circulating within the city once each month during the months of May—September of each year, which notice is deemed and declared to be adequate and sufficient notice to all persons affected hereby.

(Code 1972, § 9.37; Ord. No. 07-04, 4-2-2007; Ord. No. 10-011, 11-15-2010)

Chapter 102 WATERWAYS[68]

Sec. 102-1. Speed limit on Lake Adrian.

(a) All words and phrases used in this section shall be construed and have the same meanings as such words and phrases in part 801 of Public Act No. 451 of 1994 (MCL 324.80101 et seq.).

(b) On the waters of Lake Adrian, it is unlawful for the operator of a vessel to exceed a slow, no-wake speed.

(Code 1972, §§ 9.115, 9.116)

CODE COMPARATIVE TABLE
1972 CODE

This table gives the location within this Code of those sections of the 1972 Code, as updated through December 3, 2001, that are included herein. Sections of the 1972 Code, as supplemented, not listed herein have been omitted as repealed, superseded, obsolete or not of a general and permanent nature.

1972 Code Section	Section this Code

[68]Cross reference(s)—Buildings and building regulations, ch. 10; community development, ch. 18; environment, ch. 22; manufactured homes and trailers, ch. 50; parks and recreation, ch. 62; streets, sidewalks and other public places, ch. 74; subdivisions and other divisions of land, ch. 78; vegetation, ch. 98; zoning, ch. 106.

State law reference(s)—Watercraft safety, MCL 324.80101 et seq.; local watercraft rules, MCL 324.80113.

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This table gives the location within this Code of those ordinances adopted since the 1972 Code, as updated through December 3, 2001, that are included herein. Ordinances adopted prior to such date were incorporated into the 1972 Code, as supplemented. This table contains some ordinances which precede December 3, 2001, but which were never included in the 1972 Code, as supplemented, for various reasons. Ordinances adopted since December 3, 2001, and not listed herein, have been omitted as repealed, superseded or not of a general and permanent nature or were included in the zoning ordinance (now chapter 106 in this Code).

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