

**CODE OF ORDINANCES  
CITY OF  
MORENCI, MICHIGAN**

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Published in 1993 by Order of the City Council

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Adopted October 11, 1993

Effective October 30, 1993

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OFFICIALS  
of the  
CITY OF  
MORENCI, MICHIGAN  
AT THE TIME OF THIS CODIFICATION

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Jay Funk  
*Mayor*

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Doyle Collar  
Kent Deatrick  
Gale Brink  
Devon Vernier  
Edward Herman  
Virginia Shoemaker  
*City Council*

Morenci, Michigan, Code of Ordinances  
CODE OF ORDINANCES CITY OF MORENCI, MICHIGAN

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Douglas Shields

*City Superintendent*

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Gregory Grover

*City Attorney*

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Rene Schroeder

*City Clerk*

PREFACE

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

Source materials used in the preparation of the Code were the 1963 Code, as supplemented through April 10, 1989, and ordinances subsequently adopted by the city council. 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 1963 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.

*Numbering System*

The 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 4 is 4-1. Under this system, each section is identified with its chapter, and at the same time new sections or even whole chapters 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 3-1 and 3-2 is desired to be added, such new section would be numbered 3-1.5. New chapters may be included in the same manner. If the new material is to be included between Chapters 12 and 13, it will be designated as Chapter 12.5. Care should be taken that the alphabetical arrangement of chapters is maintained when including new chapters. 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.

*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 appropriate page or pages affected 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 sheets 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 Allen Z. Paul, Supervising Editor, and Ron McLaughlin, 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 Rene Schroeder, City Clerk, and Gregory Grover, City Attorney, for their cooperation and assistance during the progress of the work on this publication. It is hoped that their efforts and those of the publisher have resulted in a Code of Ordinances which will make the active law of the city readily accessible to all citizens and which will be a valuable tool in the day-to-day administration of the city's affairs.

	MUNICIPAL CODE CORPORATION Tallahassee, Florida
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ADOPTING ORDINANCE

ORDINANCE NO. 195

AN ORDINANCE ADOPTING AND ENACTING A NEW CODE FOR THE CITY OF MORENCI, 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.

BE IT ORDAINED BY THE Council of the City of Morenci:

Section 1. The Code entitled "Code of Ordinances, City of Morenci, Michigan" published by Municipal Code Corporation consisting of Chapters 1 through 22, each inclusive, is adopted.

Section 2. All ordinances of a general and permanent nature enacted on or before July 7, 1992, 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 which is repealed by this ordinance.

Section 4. Unless another penalty is expressly provided, every person convicted of a violation of any provisions 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 or imprisonment not to exceed 90 days, or both such fine and imprisonment. Each act of violation and each day upon which any such violation shall occur shall constitute a

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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 the form as to indicate the intention of the council 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 July 7, 1992, 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 October 30, 1993, (ten days after publication in the Morenci Observer on 10/20/93).

Passed and adopted by the city council this 11th day of October, 1993.

*The yea votes being: all seven members present and the nay votes being: none.*

Mayor    Neal Singles

Clerk    Renee Schroeder

Certificate of Adoption

I hereby certify that the foregoing is a true copy of the ordinance passed at the regular meeting of the city council of the City of Morenci, Michigan, held on the 11th day of October, 1993.

Clerk    Renee Schroeder

**NOTICE: NOTICE IS HEREBY GIVEN, PURSUANT TO MSA SECTION 5.2073(k), MCL 117.3(k) THAT A COMPLETE COPY OF THE CODE IS MADE AVAILABLE TO THE PUBLIC AT THE OFFICE OF THE CITY CLERK DURING REGULAR BUSINESS HOURS.**

## 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 Book and are considered "Includes." Ordinances that are not of a general and permanent nature are not codified in the Code Book and are considered "Omits."

In addition, by adding to this table with each supplement, users of this Code of Ordinances will be able to gain a more complete picture of the Code's historical evolution.

Ordinance Number	Date Adopted	Include/Omit	Supplement Number
10-292	7-12-10	Include	16
10-293	7-12-10	Include	16
11-294	8- 8-11	Include	16
11-295	8- 8-11	Include	16

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SUPPLEMENT HISTORY TABLE

11-296	8-22-11	Include	16
11-297	11-14-11	Include	16
11-298	11-14-11	Include	16
12-299	2-27-12	Include	17
12-300	6-25-12	Include	17
12-301	9-10-12	Include	18
12-302	10-22-12	Include	18
13-303	7- 8-13	Include	18
13-304	10-28-13	Include	19
14-305	2-24-14	Include	19
14-306	3-24-14	Include	19
14-307	4-14-14	Include	19
14-308	9- 8-14	Include	19
14-309	12- 8-14	Include	19
14-310	12- 8-14	Include	19
14-311	12- 8-14	Include	19
15-312	2- 9-15	Include	20
15-313	2-23-15	Include	20
15-314	3- 9-15	Include	20
15-315	4-27-15	Include	20
15-316	5-20-15	Include	20
15-317	5-20-15	Include	20
15-318	9-14-15	Include	20
15-319	11- 9-15	Include	20
15-320	11-23-15	Include	20
16-321	1-25-16	Include	20
16-322	3-28-16	Include	21
16-323	4-25-16	Include	21
16-324	7-11-16	Include	21
16-325	7-25-16	Include	21
16-326	8-22-16	Include	21
17-327	1- 9-17	Include	21
17-328	1- 9-17	Include	21
17-329	3-13-17	Include	21
17-330	8-28-17	Include	21
17-331	9-25-17	Include	21
17-332	9-25-17	Include	21
17-333	10-23-17	Include	21
17-334	10-23-17	Include	21
17-335	1- 8-18	Include	22
18-336	1-22-18	Include	22
18-337	3-26-18	Include	22
18-338	7-23-18	Include	22
18-339	11-26-18	Include	22
19-340	1-14-19	Include	22

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19-341	5-13-19	Include	23
19-342	10-14-19	Include	23
19-343	10-28-19	Include	23
19-344	10-28-19	Include	23
19-345	12-16-19	Include	24
19-346	12-16-19	Include	24
20-347	2-10-20	Include	24
20-348	3- 9-20	Include	24
20-349	5-11-21	Include	25
20-350	5-11-21	Include	25
20-351	6-15-20	Include	25
21-351(a)	2-23-21	Include	25
21-352	3-15-21	Include	25
21-353	4-19-21	Include	25

**PART I**  
**CHARTER<sup>1</sup>**

CHARTER OF THE CITY OF MORENCI

We, the people of the City of Morenci, pursuant to the authority granted by the constitution and laws of the State of Michigan, do hereby ordain and establish this charter.

**[ARTICLE 1.] CORPORATE POWERS**

Section 1. The municipal corporation now existing and heretofore known as the Village of Morenci, and including all the territory described as follows:

All of section six (6) and the west half of section five (5), in town nine (9) south, of range two (2) east, and the southwest quarter of section thirty-two (32) and the south half of section thirty-one (31), in town eight (8) south, of range two (2) east, in Lenawee county, Michigan, together with any territory which may be annexed thereto as provided by state law,

shall continue to be a body politic and corporate under the name City of Morenci.

State law reference(s)—Incorporation, consolidation of territory and alteration of boundaries of home rule cities, MCL 117.61 et seq., MSA 5.2085 et seq.

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<sup>1</sup>Editor's note(s)—Printed herein is the Home Rule Charter of the City of Morenci, Michigan, adopted by the electors on July 16, 1934. Amendments are indicated by a history note in parentheses following the amended section. Obvious misspellings have been corrected without notation. Additions made for clarity are indicated by brackets.

State law reference(s)—Home rule cities generally, MCL 117.1 et seq., MSA 5.2071 et seq.; power to adopt and amend Charter, Mich. Const. 1963, Art. VII, § 22.

PART I - CHARTER  
[ARTICLE 1.] CORPORATE POWERS

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Section 2. The city shall have power to exercise any and all of the powers which cities are, or may hereafter be, permitted to exercise under the constitution and laws of the State of Michigan, as fully and completely as though the powers were specifically enumerated herein and to do any act to advance the interests of the city, the good government and prosperity of the municipality and its inhabitants, except for such limitations and restrictions as are provided in this charter, and no enumeration of particular powers of the city in this charter shall be held to be exclusive.

State law reference(s)—Permissible that Charter provide that the city may exercise all municipal powers in the management and control of municipal property and in the administration of the municipal government, MCL 117.4g(3), MSA 5.2083(3).

**[ARTICLE 2.] ELECTIONS**

Section 3. The general laws of the state governing registration of voters and election of officers shall apply to and control registrations and elections in the city, except as such general laws relate to party registration or enrollment or other party procedure, and except as otherwise provided by this charter.

State law reference(s)—Michigan election laws, MCL 168.1 et seq., MSA 6.1001 et seq.

Section 4. The city council shall exercise the powers and duties of the election commission and the city clerk shall have charge of all other activities and duties relating to the conduct of elections in the city.

Section 5. The council shall appoint an election board of not more than five members in each election precinct and designate the chairman; and when in its judgement the number of ballots cast so requires, it shall appoint not more than two extra clerks to assist each precinct board in counting votes. Such full-time clerical employees of the city as may not be employed at their regular work on election day may be appointed on election boards or as counting clerks and shall serve without extra compensation; the compensation for other election personnel shall be determined in advance by the council and shall be a fixed amount for each election.

Section 6. The city shall consist of one voting precinct unless otherwise required by state law. When a greater number of precincts is required, their boundaries shall be defined by ordinance. It shall be the duty of the clerk to advise the council when it is necessary to increase or decrease the number of precincts, but in no case shall the number exceed the minimum number required by state law and this charter.

State law reference(s)—Mandatory that Charter provide for one or more wards, MCL 117.3(e), MSA 5.2073(e); election precincts, MCL 168.654 et seq., MSA 6.1654 et seq.

Section 7. Every person desiring to become a candidate for any elective office under this charter shall file with the city clerk a petition therefor signed by not less than 25 nor more than 50 qualified electors of the city not later than 12 o'clock noon on the fourth Saturday prior to the date of the regular city election. At least one week before, and not more than three weeks before the last day for filing nominating petitions, the clerk shall publish notice to that effect. Blank petitions in substantially the same form as required by state law, except for references to party, shall be furnished by the clerk. The clerk shall immediately determine the sufficiency of each petition filed, and if he finds any petition does not contain the required number of signatures of qualified electors, he shall forthwith notify the candidate, who may file an amended petition not later than five days after the date and hour for filing the original petition.

State law reference(s)—Mandatory that Charter provide for nomination of elective officers, MCL 117.3(b), MSA 5.2073(b); nonpartisan nominating petitions, MCL 168.544a, MSA 6.1544(1).

Section 8. A regular city election shall be held at the same time as each biennial spring election. Special elections shall be held when called by resolution of the city council at least 30 days in advance of the election, or when required by this charter or the general laws of the state.

PART I - CHARTER  
[ARTICLE 2.] ELECTIONS

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Editor's note(s)—Regular elections are now held on the Tuesday succeeding the first Monday in November of each odd-numbered year pursuant to MCL 168.644a, MSA 6.1644(1).

State law reference(s)—Special election approval, MCL 168.631, 168.639, MSA 6.1631, 6.1639.

Section 9. The names of candidates for each office shall be rotated on ballots for all city elections, and in all other respects the printing and numbering of ballots shall conform to state law, except that no party designation or emblem shall appear on any city ballot.

State law reference(s)—Arrangement of ballot, MCL 168.706, MSA 6.1706.

Section 10. The council shall be the board of canvassers to canvass the votes cast at all city elections. The council shall meet at 7:30 p.m., eastern standard time, on the first Thursday after each election and publicly canvass the election returns. The candidate or candidates, where more than one are to be elected to the same office, who shall receive the greatest number of votes, shall be elected. In case of a tie vote for any office, the council shall decide by lot, as provided by state law, which of the persons who are tied shall be elected.

Editor's note(s)—The board of canvassers is now appointed pursuant to MCL 168.30a et seq., MSA 6.1030(1) et seq.

State law reference(s)—Canvass of returns, MCL 168.323, MSA 6.1323.

### **[ARTICLE 3.] GOVERNMENTAL ORGANIZATION**

Section 11. The government of the City and all the powers thereof, except as otherwise provided by this Charter or State law, shall be vested in a council consisting of a mayor and six councilmen. The mayor shall be elected at each regular City election for a term of two years from the Monday next following the election. At the regular City election in 1951 there shall be elected six councilmen on a single ballot; the three councilmen receiving the three highest number of votes shall be elected for terms of four years from the Monday next following said election; the three councilmen receiving the fourth, fifth and sixth highest number of votes respectively shall be elected for terms of two years from the Monday next following said election. At each regular City election thereafter there shall be elected three councilmen for terms of four years commencing on the Monday next following the election. The Mayor and councilmen shall be citizens and shall have been registered voters in the City at least one year prior to the date of taking office. The necessary expenses of members of the council, incurred in the service of the City, may be paid when so ordered by the affirmative vote of not less than four members of the council; provided, that whenever by majority vote of the council it is determined that it is necessary or advisable that the City be represented by a delegate or delegates at any meeting or function such delegate or delegates shall be named by the mayor and a minute thereof made on the record by the clerk; the total necessary expenses of each delegate shall be approved as above provided before payment, and shall be published with the other city bills. Members of the council shall receive an annual salary of Two Hundred Forty Dollars as councilmen and the Mayor shall receive an annual salary of Four Hundred Eighty Dollars. (Amended by electors, April 5, 1943; November 7, 1950; April 6, 1953)

State law reference(s)—Mandatory that Charter provide for election of a body vested with legislative power, MCL 117.3(a), MSA 5.2073(a); mandatory that Charter provide for compensation of officers, MCL 117.3(d), MSA 5.2073(d).

Section 12. In the absence or disability of the mayor, the council shall appoint, by a simple majority of the members present, one of its members to act as mayor for the duration of such absence or disability. In the event of the death, resignation or removal of the mayor, the council shall choose one of its members mayor at the next regular meeting. The mayor shall be the official head of the city for the service of process and the entitlement of



PART I - CHARTER  
[ARTICLE 3.] GOVERNMENTAL ORGANIZATION

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actions, for all ceremonial purposes and for the purposes of military law. He shall preside at all meetings of the council, and may speak and vote in such meetings as any other member of the council.

State law reference(s)—Mandatory that Charter provide for duties of officers, MCL 117.3(d), MSA 5.2073(d).

Section 13. Any vacancy on the council shall be filled by appointment by a majority of the remaining members of the council; any vacancy in any other elective office and every office to be filled by appointment by the council shall be filled by the affirmative vote of four members of the council. Except as otherwise provided by this charter, every officer appointed to any appointive office established by this charter shall hold office until his successor shall have been appointed by the next succeeding council and shall have qualified for office as provided by this charter; every officer appointed to any office created by ordinance under this charter shall be appointed as provided in such ordinance. Any officer appointed by the council may be removed at any time by the affirmative vote of four members of the council, except as otherwise provided by this charter.

Section 14. The first council elected under this charter shall, within 90 days after taking office, appoint a city superintendent for an indefinite period, and upon the resignation or removal of the city superintendent, the council shall appoint another city superintendent within 90 days. The council shall also appoint a city clerk, treasurer, assessor and health officer, and may appoint a city attorney; and any of these offices or any office which may be created by ordinance under this charter may be combined with the position of city superintendent; or such offices may be combined by ordinance in any other manner that the council may deem to be to the best interests of the city, except as otherwise provided by this charter or state law. The council may, by ordinance, create such additional offices as it may deem necessary in the conduct of the city's business. Except as otherwise provided by this charter or state law, the duties and powers of officials shall be fixed by ordinance, and the compensation by ordinance or resolution; provided, that no official may be paid by fees, except as otherwise provided by this charter, and that all fees paid to any office or officer under this charter, the ordinances of the city or the general laws of the state, shall be accounted for and paid into the city treasury by the official receiving them.

State law reference(s)—Mandatory that Charter provide for compensation of officers, MCL 117.3(d), MSA 5.2073(d).

Section 15. The city superintendent shall be in charge of streets, walks and alleys, water supply and sewers and all similar or related activities of the city. He shall be responsible for the care of all property in these departments and the maintenance of all equipment, and shall assume such other duties as the council may direct. He shall have the power to appoint and remove all employees in the departments under his control and shall recommend to the council in detail the plan for administering these departments, to be set up in an administrative ordinance. The city superintendent shall attend all meetings of the council, unless excused by the council, and shall have the same right to speak as any member, but not the right to vote; he shall keep the council informed regarding the departments under his control. He shall be appointed and removed as any other officer of the city, except that no city superintendent who has been in the service of the city for one year or more prior to the regular city election may be removed during the six months immediately following the regular city election unless by the affirmative vote of five members of the council, and except that the reasons for the removal of any city superintendent shall be summarized in the proceedings of the council. In the absence or disability of the city superintendent, the council may designate some other officer of the city as acting superintendent.

State law reference(s)—Mandatory that Charter provide for duties of city officers, MCL 117.3(d), MSA 5.2073(d).

Section 16. The council shall appoint the clerk or the city superintendent purchasing agent for the city, and if these two positions be combined, the person holding them shall be the purchasing agent. The purchasing agent shall have the authority to purchase all supplies and materials for the city, except that the city council shall approve purchases exceeding \$50.00 in value, but he may not purchase any item which exceeds any budget appropriation until the council has increased the appropriation as provided by this charter.

PART I - CHARTER  
[ARTICLE 3.] GOVERNMENTAL ORGANIZATION

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Section 17. The council shall appoint two persons, either members of the council or citizens who are taxpayers on real property who, with the city assessor, shall constitute a board of review for all general and special tax assessments.

State law reference(s)—Mandatory that Charter provide for a board of review, MCL 117.3(a), MSA 5.2073(a).

Section 18. The city shall have one justice of the peace who shall be elected at the regular city election in 1935 and every four years thereafter. Except as otherwise provided by this charter, such justice shall have and exercise the same jurisdiction in all civil and criminal matters, causes, suits and proceedings, and shall perform the same duties in all respects, so far as occasion may require, and shall be subject to all regulations and restrictions, as are or may be conferred upon or required of justices of the peace by state law. Such justice shall also have:

- (a) Concurrent jurisdiction to the amount of \$500 in all civil matters ex contractu and ex delicto, with such exceptions and restrictions as are or may be provided by state law;
- (b) The same power and authority as the circuit courts of the state possess to set aside, upon legal cause shown therefor, the verdict or judgement in any civil cause, and grant a new trial therein, whenever a motion in writing is made and filed with the justice within five days after the rendition of the verdict or judgment in said case, which motion shall briefly and plainly set forth the reasons and grounds upon which it is made and shall be supported by an affidavit or affidavits setting forth the facts relied upon and filed at the time of filing of said motion, and a notice of the hearing of such motion, with a copy of the motion and affidavits filed as aforesaid, shall be served upon the adverse party or his attorney at least two days before the hearing thereof; such motion shall be determined within two days after the same shall have been heard and submitted, and such motion shall be submitted and heard within one week after the same shall have been filed; the time for taking an appeal from judgment in case such motion be not granted, shall begin to run from the time when such motion shall be overruled; in no case shall the pendency of such motion stay the issuing and levy of an execution in such case, but in case of levy under execution pending such motion, no sale of the property so levied on shall be advertised or made until the final determination of such motion;
- (c) Such additional powers and authorities as may be conferred upon city justices of the peace by state law, it being the intent of this section that the justice of the peace in the City of Morenci shall have and exercise all powers and authority which such justices in cities may now or hereafter be permitted to exercise under state law.

It shall be the duty of such justice to try, hear and determine all matters arising under this charter or the ordinances of the city. The only compensation of such justice shall be the usual fees provided by state law and the same fees in all proceedings for violation under this charter or ordinances of the city. The justice shall make an itemized monthly report to the city council, in such manner as the council may prescribe, of all fees collected in all proceedings before his court; and shall pay into the city treasury all moneys belonging to the city which shall have been received for or on account of violations of any provisions of this charter or ordinances of the city. Failure to make such reports when and as required shall serve to vacate the office of justice; when any such report shall be more than 90 days delinquent, the city council shall declare the office vacant and appoint a justice to fill the vacancy until the next regular election.

Editor's note(s)—Justice of the peace provisions have been superseded by MCL 600.9921, MSA 27A.9921, which created the district court system.

Section 19. At each regular city election one constable shall be elected for a term of two years, who shall have like power and authority as are conferred by state law on constables in townships, and shall have power to serve all processes for violations of this charter and ordinances of the city, if a regularly employed police officer of the city is not available to serve such processes. If and when the state law shall permit the office of constable shall be abolished and all duties thereof shall be performed by the regular police officers of the city; until such change in

PART I - CHARTER  
[ARTICLE 3.] GOVERNMENTAL ORGANIZATION

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the state law may be made, such elected constable shall be under the supervision of the mayor and chief of police, and any police officer of the city may be elected to the office. The only compensation of the constable shall be the usual fees of that office, but any salaried police officer whether elected to the office of constable or performing the duties of that office under authority of this charter, shall make a detailed report of all such fees received and shall turn them into the city treasurer.

Section 20. Whenever the city shall be entitled to additional representation on the Lenawee county board of supervisors, or in the event of a change in the state law relating to the representation of fifth class cities on county boards, in effect at the time of the adoption of this charter, such representative or representatives as the city may be entitled to on the county board shall be appointed by the city council. Any elective or appointive official of the city or any citizen may be appointed to such office or offices, and shall hold office at the pleasure of the council. If any representative of the city on the county board shall be unable to attend any meeting of the board because of absence or disability, the council may appoint some other qualified person to discharge the duties of such office during such absence or disability. All representatives of the city on the county board shall be entitled to retain any compensation paid to them as members of such board, except full-time salaried employees of the city who may be given such appointments, who shall turn such compensation into the city treasury and who shall be reimbursed for their expenses in such amount as the council may allow.

Editor's note(s)—State law now provides for election and appointment of members of the board of supervisors, MCL 46.401 et seq., MSA 5.359(1) et seq. and supersedes this section.

Section 21. No person holding any elective or appointive office under the city government shall take any official action on any contract with the city or other matter in which he is financially interested, or be a bondsman or surety on any contract or bond given to the city. Any member of the council or other officer violating the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction under this section shall forfeit his office.

State law reference(s)—Conflicts of interest as to contracts, MCL 15.321 et seq., MSA 4.1700(51) et seq.; standards of conduct and ethics, MCL 15.341 et seq., MSA 4.1700(71) et seq.

Section 22. All offenses by officers of the city declared by this charter to be misdemeanors shall be punishable by a fine not exceeding one hundred dollars (\$100) or by imprisonment for a period not exceeding ninety (90) days, or both, in the discretion of the court.

Section 23. Any city officer elected or appointed by authority of this charter may be required to give a bond to be approved by the council for the faithful performance of the duties of his office in such sum as the council by ordinance or resolution shall determine, but all officers receiving or disbursing city funds shall be bonded. All official bonds, except those of the justice of the peace and the constable, which shall be the same as provided by state law for such officials in townships, shall be corporate surety bonds, and the premiums thereon shall be payable by the city. All official bonds shall be filed with the clerk.

Section 24. Notice of the election or appointment of any officer of the city, and of the requirements of any official bond to be given by any officer, shall be given him by the city clerk within five days after election or appointment. If within ten days from the date of notice, such officer shall not take, subscribe and file with the clerk his oath of office, or shall not execute and file with the clerk the required bond, such neglect shall be deemed a refusal to serve and the office shall thereupon be deemed vacant, unless the council shall extend the time in which such officer may qualify as above set forth.

State law reference(s)—Oath of public officers, Mich. Const. 1963, art. XI, § 1.

Section 25. When by this charter any officer is required to give publication to any notice, such notice shall be published once in a legal newspaper selected by the council, printed and circulated in the city; if there be no such

PART I - CHARTER  
[ARTICLE 3.] GOVERNMENTAL ORGANIZATION

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newspaper published in the city, the council may direct that such notices be published in any newspaper generally circulated in the city, or order such notices printed and posted in at least five public places within the city.

## [ARTICLE 4.] LEGISLATION

Section 26. The council shall meet at the usual place for holding council meetings, at 7:30 p.m., eastern standard time, on the Monday next following each regular city election and shall hold at least one regular stated meeting each month for the transaction of business, at such time and place within the city as it shall prescribe. Special meetings may be called by the mayor or any three councilmen on at least six hours written notice to each member of the council served personally or left at his usual place of residence, but any special meeting at which all members of the council are present shall be a legal meeting for all purposes, without such notice. Absence from three consecutive regular meetings shall operate to vacate the seat of a member, unless the absence is excused by the council by resolution setting forth such excuse. The council may, by a majority vote of those present, compel the attendance of its members and other officers of the city at its meetings and enforce orderly conduct therein; and any member of the council who refuses to conduct himself in accord with the wishes of such majority shall be deemed guilty of a misdemeanor.

Section 27. A majority of the members of the council shall be a quorum for the transaction of business. Every ordinance and resolution shall be adopted or passed by the affirmative vote of four members of the council. Unless by the affirmative vote of four members of the council, no office shall be created or abolished, no tax or assessment be imposed, street, alley or public ground be vacated, real estate or any interest therein be sold or disposed of, private property be taken for public use, any vote of the council be reconsidered or rescinded at a special meeting, nor any money appropriated, unless otherwise provided by this charter. No member of the council shall vote on any question in which he is financially interested or any question concerning his own official conduct; but on all other questions every member of the council present shall vote. All votes shall be by "yeas" and "nays". On all votes which are not unanimous, the yea and nay vote of each member shall be recorded and published in the regular proceedings, but where the vote is unanimous, it shall only be necessary to so state. The council shall determine the rules of its proceedings, and keep a journal thereof in the English language, which shall be signed by the city clerk. The proceedings of each council meeting shall be published within two weeks in a legal newspaper printed and circulated in the city, selected by the council, but each item of business shall be condensed to a statement of its substance by the clerk, under direction of the council, unless otherwise provided by this charter or the general laws of the state, and except that any pertinent points of any resolution or motion shall not be omitted, nor any vote of the council; provided, that if there be no newspaper published in the city, publication of the proceedings shall not be required.

State law reference(s)—Mandatory that Charter provide for publication of all ordinances before they become operative, MCL 117.3(k), MSA 5.2073(k); conflicts of interest as to contracts, MCL 15.321 et seq., MSA 4.1700(51) et seq.; standards of conduct and ethics, MCL 15.341 et seq., MSA 4.1700(71) et seq.

Section 28. The style of all ordinances shall be, "The City or Morenci ordains" No ordinance shall be revised, altered or amended by reference to its title only, but the section or sections of the ordinance revised, altered or amended shall be reenacted and published in full, except as otherwise provided by this charter. The effective date of any ordinance shall be prescribed therein and shall not be less than one week after its adoption, unless the council shall, upon attaching a declaration of emergency affecting the public peace, health or safety, fix an earlier date; but no ordinance imposing a penalty shall take effect until at least ten days after publication and no measure making or amending a grant, renewal or extension of a franchise or other special privilege shall ever be passed as an emergency measure.

State law reference(s)—Mandatory that Charter provide for ordinances, MCL 117.3(k), MSA 5.2073(k); general authority relative to adoption of ordinances, Mich. Const. 1963, art. VII, § 22.

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[ARTICLE 4.] LEGISLATION

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Section 29. All ordinances when legally enacted 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 the clerk to authenticate such record by their official signatures. Except as otherwise provided by this charter, all ordinances when legally enacted shall be immediately published by the clerk in the manner provided by this charter for publication of notices and the clerk shall enter his certificate as to the manner and date of publication under each ordinance in the ordinance book, provided, that publication of any ordinance with the council proceedings shall be sufficient and if any ordinance be published in full in advance of publication of the proceedings, it need not again be published in full with the proceedings. The council may direct the clerk to make a digest of any ordinance or amendment more than one thousand words in length; and when the council shall approve such digest and shall order its publication, such publication shall be deemed sufficient publication of such ordinance or amendment under this section; the council may adopt any detailed technical regulations (e.g., building code) as a city ordinance by reference to any recognized standard code, official or unofficial, or if such a code be written in detail for the city and adopted as an ordinance, the publication of a general statement of the content and purpose, approved by the council, shall be sufficient publication of such ordinance, and any amendment to such adopted code or detailed technical ordinance may be published in the same manner. Any ordinance may be repealed by reference to its number and title only, or any section of any ordinance may be repealed by reference to the number and title of the ordinance and the number of the section to be repealed. If the council shall order a general revision and compilation of all ordinances, the printing and binding of not less than one hundred copies in booklet form shall be deemed sufficient publication, and all ordinances so published shall be read and received in evidence in all courts without further proof.

State law reference(s)—Authority to adopt technical codes by reference, MCL 117.3(k), MSA 5.2073(k).

Section 30. It shall be the duty of the city clerk and city superintendent to advise the council of any legislation which in their judgement may be necessary or desirable in administering the affairs of the city.

Section 31. The council shall have authority, for the purpose of hearing or investigating charges against any officer or making any other investigation of any character, to require the mayor or any justice of the peace to issue subpoenas or process by warrant to compel the attendance of witnesses and the production of books and papers or any records before the council or any committee thereof. In case charges are made against any officer, he shall be entitled to have subpoenas issued in his behalf, to compel the attendance of witnesses and the production of books, papers and records.

Section 32. Whenever the council, or any committee of the members thereof, is authorized to compel the attendance of witnesses for a hearing or investigation, the presiding officer of the council or the chairman of the committee for the time being, shall have power to administer the necessary oaths; and the council or the committee shall have the same power to compel the witness to testify as is conferred on justices of the peace.

## [ARTICLE 5.] FINANCE

Section 33. The fiscal year of the city shall begin with the first day of July.

Section 34. On or before the first Monday in April of each year the assessor shall make and complete an assessment roll of taxable property in the city, and shall submit the roll, over his certificate to the council. The assessment roll shall be open to public inspection during the week of the second Monday in April, and notice to that effect shall be published by the clerk at least four days prior to the second Monday in April. Within the inspection period any person may file in writing with the clerk a complaint of any assessment, stating specifically the grounds of the complaint.

State law reference(s)—Mandatory that Charter provide for preparation of assessment roll, MCL 117.3(i), MSA 5.2073(i); assessment roll, MCL 211.24 et seq., MSA 7.24 et seq.

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[ARTICLE 5.] FINANCE

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Section 35. The board of review shall meet on the third Monday in April to review the roll and to consider any complaints which may have been filed with the clerk and to hear any complaints which property owners may make in person, or by attorney; the board may continue its meeting on such successive days as may be necessary to hear all complaints. Notice of the meeting of the board of review shall be published by the clerk at least four days prior to the third Monday in April. Before the first Monday in May the board shall complete its review of the roll, which shall, during the next fiscal year, be the basis for the levy and collection of taxes.

State law reference(s)—Mandatory that Charter provide for meeting of board of review, MCL 117.3(i), MSA 5.2073(i).

Section 36. Before the third Monday in April, each city officer shall submit to the city clerk an itemized estimate of the expenditures for the next fiscal year, of the department or departments under his control. The clerk shall prepare a complete itemized budget for the next fiscal year, and shall submit it to the council on or before the first Monday in May.

State law reference(s)—Municipal finance act, MCL 131.1 et seq., MSA 5.3188(1) et seq.

Section 37. The budget shall include the following information:

- (1) Detailed estimates of the expense of conducting each department and office of the city for the ensuing fiscal year;
- (2) Expenditures for corresponding items for the current year and last preceding fiscal year, with reasons for increases and decreases recommended as compared with appropriations for the current year;
- (3) The amount of supplies and materials on hand at the date of the preparation of the estimates, except office supplies and other minor items;
- (4) The amount of the total and net debt of the city, together with a schedule of maturities of bond issues;
- (5) A statement of the amounts to be appropriated:  
For interest on the city debt.  
For paying off any serial bonds maturing during the year.
- (6) An itemization of all anticipated income of the city from sources other than taxes and bond issues, with a comparative statement of the amounts received by the city from each of the same or similar sources for the last preceding and current fiscal years;
- (7) An estimate of the amount of money to be raised from taxes and the amount to be raised from bond issues which, with income from other sources, will be necessary to meet the proposed expenditures.

State law reference(s)—Mandatory that Charter provide for an annual appropriation, MCL 117.3(h), MSA 5.2073(h).

Section 38. A public hearing on the budget shall be held at least one week before its final adoption, at such time and place as the council shall direct, and notice of such public hearing shall be published at least one week in advance by the clerk.

Section 39. After the budget has been adopted, no appropriation shall be overdrawn, and no appropriation shall be increased except by the affirmative vote of five members of the council. The balance in any appropriation which has not been expended or transferred at the end of the fiscal year shall revert to the general fund and be re-appropriated during the next fiscal year. At the beginning of each quarterly period during the fiscal year and more often if required by the council, the clerk shall submit to the council data showing the relation between the estimated and actual income and expenditures to date; and if it shall appear that the income is less than originally estimated, the council shall reduce appropriations, except amounts required for debt and interest charges, to such

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[ARTICLE 5.] FINANCE

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a degree as may be necessary to keep expenditures within the cash income, without considering the possibility of receiving any revenue from current loans. It is the intent of this section to keep the expenditures of the city within its cash income, and that the authority to borrow on current loans shall only be used for unusual and unforeseen needs of an emergency nature.

Section 40. Not later than the first Monday in June, the council shall, by resolution, adopt the budget for all municipal expenditures for the next fiscal year and such resolution shall provide for a levy of the amount necessary to be raised by taxation. Upon adoption of the annual tax levy, the clerk shall prepare a tax roll before the twentieth day of June. The taxes thus assessed shall become at once a debt to the city from the persons to whom they are assessed, and the amount assessed, together with all charges thereon, shall on the first day of July, become a lien on the property assessed, of the same character and effect as the lien created by general law for state and county taxes, until paid.

State law reference(s)—General property tax act, MCL 211.1 et seq., MSA 7.1 et seq.

Section 41. Taxes levied by the city shall be due and payable on the first day of July. The treasurer shall give notice by publication of the collection of taxes before that date. After the tenth day of August, a penalty of three per cent shall be charged on all city taxes remaining unpaid, and in addition, from and after October 1, interest at the rate of one-half of one per cent per month shall be collected on all unpaid city taxes until paid or returned to the county treasurer. In returning unpaid city taxes to the county treasurer, as required by state law, the city treasurer shall add all penalties and interest due on said taxes to date; and from and after the date of the return, interest at the rate prescribed by state law to be paid on delinquent state and county taxes shall be collected by the county treasurer on the whole amount returned against any description of property. The city treasurer may receive payments of city taxes prior to the due date, or may receive partial payments at any time, for which he shall issue partial payment or temporary receipts.

State law reference(s)—Collection of taxes, MCL 211.44 et seq., MSA 7.87 et seq.

Section 42. Whenever the council shall determine that the whole or any part of the expense of any public improvement shall be defrayed by an assessment on the owners of land to be benefited thereby, it shall cause the expense of such improvement to be estimated and shall declare by an entry on its journal whether the whole or what portion thereof shall be assessed to such owners and occupants, specifying the sum to be assessed, the number of installments in which it may be paid, and the portion of the city which it deems to be benefited. The council shall cause an assessment of the sum to be assessed to be made upon all lands within the designated portion of the city according to benefit. The assessment roll shall be open to public inspection for a period of seven days before the council shall meet to review the roll and hear complaints. The clerk shall give notice in advance by publication of the opening of the roll to public inspection and of the meeting of the council to hear complaints. If at or prior to the hearing, the owners of more than one-half of the property to be assessed shall object in writing to the improvement, the assessment shall not be made without the unanimous vote of the council. Every special assessment ratified and confirmed by the council after such hearing shall be final and conclusive. Should any special assessment prove insufficient to pay for the improvement and related costs of the project for which it was levied, the council may make an additional pro rata assessment. Should the assessment prove larger than necessary by less than five percent, the council may place the excess in the city treasury; if more than five percent, the excess shall be refunded pro rata to assessments. Special assessments and all interest and charges thereon shall from the date of confirmation of the roll be and remain a lien upon the property assessed, of the same character and effect as the lien created by general law for state and county taxes, until paid. Interest at a rate not to exceed six percent per annum shall be collected on deferred installments; and the same penalty and interest shall be paid on delinquent installments of such assessments, from such date after confirmation as shall be fixed by the council, as are provided by this charter to be paid on delinquent general city taxes, and such delinquent special assessments, returned to the county treasurer for collection, shall be handled in the same manner as are delinquent general city taxes.

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[ARTICLE 5.] FINANCE

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State law reference(s)—Permissible that Charter provide for assessing costs of public improvements, MCL 117.4d, MSA 5.2077.

Section 43. The city shall have the right to sell personal property for unpaid personal taxes and the council may provide for judicial sale of such property.

Section 44. The council may provide by ordinance or resolution that the clerk shall bid in for the city any lot of land or premises at any sale for taxes or assessments levied or assessed by the city. Under such limitations as are provided by state law, the council may sell or lease in such manner and under such conditions as it may by resolution provide, any property of the city, whether acquired by purchase at tax sales or otherwise, that is not devoted to public use.

Section 45. The levy, collection and return of state, county and school taxes shall be in conformity with the general laws of the state, except that the council may provide by ordinance for the collection of school taxes at a different time, upon agreement with the school board.

State law reference(s)—Mandatory that Charter provide for levy, collection and return of state, county and school taxes, MCL 117.3(i), MSA 5.2073(i).

Section 46. The city council may borrow money on the credit of the city for any purpose within the scope of its powers, and may issue the city's bonds or other evidences of indebtedness therefor; provided, that the authority herein granted shall be subject to all limitations, conditions, restrictions and requirements now or hereafter provided by this charter and the constitution and laws of this state. Bonds which may be issued shall include general obligation bonds, mortgage bonds and revenue bonds for the purpose of acquiring or constructing public utilities, which bonds may be issued beyond the general limitation of bonded indebtedness prescribed by state law when they do not impose any liability upon the city, except upon the property and revenues of such public utility; special assessment bonds; bonds for the city's portion of local improvements; bonds issued in anticipation of the collection of taxes actually levied and uncollected; refunding bonds, and emergency bonds. All other types of bonds, notes and other evidences of indebtedness now or hereafter specifically authorized or permitted by state law may be issued as therein provided. Bonds and other evidences of indebtedness of the city shall be signed by the mayor and attested by the clerk under the seal of the city. The coupons evidencing the interest upon bonds of the city may be executed with the facsimile signatures of the mayor and the clerk.

State law reference(s)—City authority to borrow money on the credit of the city and issue bonds therefor, MCL 117.4a(1), MSA 5.2074(1); city authority to borrow money and issue bonds therefor in anticipation of the payment of special assessments, MCL 117.4a(2), MSA 5.2074(2).

Section 47. The council shall provide by ordinance for the collection of all public utility charges made by the city. Such ordinance may provide that any sums due the city on utility bills not otherwise paid shall be assessed against the real property on which the service was rendered, and shall be spread on the next regular city tax roll on which collections begin at least 90 days after the date on which such charge shall become due and payable. Such charges so assessed shall become a lien of the same character and effect as the lien created by state and county taxes, until paid.

Section 48. The council may borrow in any one year an amount not in excess of five percent of the budget for that fiscal year. Such money may be borrowed from any city fund which will not be in need of the money previous to its repayment, or on tax anticipation notes as provided by state law. The budget for the next succeeding fiscal year shall include a sum sufficient to pay all such loans and interest and they shall be paid on or before September 1 of such succeeding fiscal year. Any city officer failing to perform any duty of his office in conformity with this section shall be deemed guilty of a misdemeanor.

Section 49. The council shall audit and allow all claims and accounts against the city, or may delegate that function or any part of it to some other officer; after such claims and accounts are approved by the council, or in



such manner as the council may direct, vouchers shall be drawn upon the proper funds and certified by the city clerk; the city treasurer shall then pay the voucher by check, draft, order or warrant, which shall be signed by the mayor and countersigned by the clerk, and shall specify the account from which payment is to be made. The council shall designate the depository or depositories for city funds, and shall provide by ordinance for the prompt and regular deposit of all city moneys.

Section 50. The council may require such financial and general reports from all city officials as it may direct and may order an audit of the accounts of the city at least annually and more frequently if deemed necessary, which shall be made by outside auditors or accountants, preferably experienced in municipal accounting. An annual financial report of the city's business shall be published in sufficient detail to disclose the expenditures for the year in various departments and by the whole city, and in such manner that citizens may readily determine the relation of the city's expenditures to its actual income.

## **[ARTICLE 6.] SCHEDULE**

Section 51. For the purpose of adopting this charter and electing the first officers under it, this charter shall take effect on June 20th, 1934. Such election shall be conducted as provided by this charter for regular city elections, with such modifications as may be provided by resolutions of the charter commission.

Section 52. The council first elected under this charter shall assemble in the city hall at 8:00 p.m. eastern standard time July 23rd, 1934; when it shall have been called to order by the mayor, the council of the Village of Morenci previously existing shall cease to be and the office of each member thereof shall terminate.

Section 53. All elective officers of the Village of Morenci except the council and all appointive officers in office at the time of the adoption of this charter shall continue in office until their successors are appointed and qualified or until the office is abolished as provided by this charter.

Section 54. All officers first elected under this charter shall hold office until their successors are elected at the regular city election to be held in 1935 and qualified, except the justice of the peace, who shall hold office until his successor, elected at the regular city election in 1935, shall be qualified and succeed to the office as provided by state law.

Section 55. For all other purposes not otherwise provided for, this charter shall take effect on July 23rd, 1934.

Section 56. All provisions of this charter requiring definite actions on or before definite dates may be modified by the first city council elected under this charter up to September 1st, 1934, in order to provide for a convenient and orderly change to the procedure provided in this charter, and the city council shall have the authority to make any other necessary adjustments.

Section 57. The first annual reports for all offices which shall be made under this charter shall cover the period from the last annual reports under the village government to September 1st, 1934.

Section 58. All by-laws, ordinances, resolutions, rules and regulations of the Village of Morenci, of the council and of all officers and offices, not inconsistent with the provisions of this charter, in force in the city when it is incorporated under this charter, shall continue in full force until repealed or amended by action of the constituted authority.

Section 59. The sections of this charter and the parts thereof are severable and in the event of any provision being declared unconstitutional or contrary to the general laws of the State of Michigan, it is hereby declared the intent of the charter commission that such unconstitutional or illegal provision shall not effect the validity of the other provisions of this charter.

By the Governor of the State of Michigan,

Approved June 15th, 1934.

WILLIAM A. COMSTOCK,  
Governor of the State of Michigan.

## Chapter 1 GENERAL PROVISIONS

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

This codification of ordinances shall be known and cited as the "Code of Ordinances, City of Morenci, Michigan," and may also be cited as the "Morenci Code."

Charter reference(s)—Codification authority, § 4.06.

State law reference(s)—Codification authority, MCL 117.5b, MSA 5.2084(2).

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

In the construction of this Code and of all ordinances of the city, the following definitions and rules of construction shall be observed, unless they are inconsistent with the intent of the council or the context clearly requires otherwise:

*Charter.* The word "charter" shall mean the Home Rule Charter of the City of Morenci, Michigan, and shall include any amendment to such charter.

*City.* The word "city" shall mean the City of Morenci, Michigan.

*Code.* The words "Code" or "this Code" shall mean the Code of Ordinances, City of Morenci, Michigan, as designated in section 1-1, and as hereinafter modified by amendment and revision and by the adoption of new chapters, articles, divisions or sections.

*Computation of time.* The time within which an act is to be done as provided in this Code, or in any order issued pursuant to this Code, when expressed in days, shall be computed by excluding the first day and including the last, except that if the last day is Sunday or a legal holiday it shall be excluded; when the time is expressed in hours, the whole of Sunday or a legal holiday, from midnight to midnight, shall be excluded.

*Council.* The word "council" shall mean the Council of the City of Morenci, Michigan.

*County.* The words "the county" shall mean the County of Lenawee in the State of Michigan.

*Gender.* A word importing gender shall extend and be applied to both genders and to firms, partnerships and corporations as well.

*Health officer.* The words "health officer" mean the director of the county department of health and/or an authorized representative or agent.

*MCL, MSA.* The abbreviations "MCL" and "MSA" shall mean respectively the Michigan Compiled Laws and Michigan Statutes Annotated, as amended.

*Number.* A word importing the singular number only may extend and be applied to several persons and things as well as to one person and thing.

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*Officer, employee, department, board, commission or other agency.* Whenever any officer, employee, department, board, commission or other agency is referred to by title only, such reference shall be construed as if followed by the words "of the City of Morenci, Michigan." Whenever by the provisions of this Code any officer, employee, department, board, commission or other agency of the city is assigned any duty or empowered to perform any act or duty, reference to such officer, employee, department, board, commission or agency shall mean and include such officer, employee, department, board, commission or agency or deputy or authorized subordinate.

*Person.* The word "person" and its derivatives and the word "whoever" shall include a natural person, partnership, association, legal entity or a corporate body or any body of persons corporate or incorporate. Whenever used in any clause prescribing and imposing a penalty, the term "person" or "whoever," as applied to any unincorporated entity, shall mean the partners or members thereof and, as applied to corporations, the officers thereof.

*Public place.* The words "public place" shall mean any place to or upon which the public resorts, or travels, whether such place is owned or controlled by the city or any agency of the State of Michigan, or is a place to or upon which the public resorts or travels by custom, or by invitation, express or implied.

*Shall/may.* The word "shall" is always mandatory and not discretionary. The word "may" is permissive.

*Sidewalk.* The word "sidewalk" shall mean that portion of a street between the curblines or lateral lines and the right-of-way lines which is intended for the use of pedestrians.

*State.* The words "the state" or "this state" shall be construed to mean the State of Michigan.

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

*Tense.* Except as otherwise specifically provided or indicated by the context, all words used in this Code indicating the present tense shall not be limited to the time of adoption of this Code but shall extend to and include the time of the happening of the act, event or requirement for which provision is made therein, either as a power, immunity, requirement or prohibition.

State law reference(s)—Rules of construction, MCL 8.3 et seq., MSA 2.212 et seq.

### **Sec. 1-3. Interpretation.**

Unless otherwise provided in this Code, or by law or implication required, the same rules of construction, definition and application shall govern the interpretation of this Code as those governing the interpretation of the Public Acts of Michigan.

### **Sec. 1-4. Captions.**

Headings and captions used in this Code following the chapter, article, division and section numbers are employed for reference purposes only and shall not be deemed a part of the text of any section.

### **Sec. 1-5. References and notes.**

Charter references, cross references, state law references and editor's notes in this Code are by way of explanation only and should not be deemed a part of the text of any section.

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### **Sec. 1-6. Application to future legislation.**

All of the provisions of this chapter not incompatible with future legislation shall apply to ordinances hereafter adopted amending or supplementing this Code unless otherwise specifically provided.

### **Sec. 1-7. Reference to other sections.**

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

### **Sec. 1-8. Reference to offices.**

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

### **Sec. 1-9. Certain provisions saved from repeal.**

Nothing in this Code or the ordinance adopting this Code shall affect the following when not inconsistent with this Code:

- (1) Any offense committed or penalty incurred or any right established prior to the effective date of the Code.
- (2) Any ordinance levying annual taxes.
- (3) Any ordinance appropriating money.
- (4) Any ordinance authorizing the issuance of bonds or borrowing of money.
- (5) Any ordinance establishing utility rates.
- (6) Any ordinance establishing franchises or granting special rights to certain persons.
- (7) Any ordinance authorizing public improvements.
- (8) Any ordinance authorizing the purchase or sale of real or personal property.
- (9) Any ordinance annexing or detaching territory.
- (10) Any ordinance granting or accepting easements, plats or dedication of land to public use.
- (11) Any ordinance dedicating, naming, establishing, locating, relocating, opening, paving, widening, vacating, etc., any street or public way in the city.
- (12) Any ordinance establishing or prescribing grades in the city.
- (13) Any ordinance prescribing the number, classification or compensation of any city officers or employees.
- (14) Any ordinance prescribing traffic and parking restrictions pertaining to specific streets.
- (15) Any ordinance pertaining to rezoning.
- (16) Any ordinance pertaining to the airport or airport commission.
- (17) Any other ordinance, or part thereof, which is not of a general and permanent nature.

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All such ordinances are hereby recognized as continuing in full force and effect to the same extent as if set out at length in this Code. Such ordinances are on file in the city clerk's office.

### **Sec. 1-10. Amendment procedure.**

This Code shall be amended by ordinance. The title of each amendatory ordinance, adapted to the particular circumstances and purposes of the amendment, shall be substantially as follows:

- (1) To amend any section:

An ordinance to amend section \_\_\_\_\_ (or sections \_\_\_\_\_ and \_\_\_\_\_) Code of Ordinances, City of Morenci, Michigan.

- (2) To insert a new section or chapter:

Any ordinance to amend the Code of Ordinances, City of Morenci, Michigan, by adding a new section (\_\_\_\_\_ new sections or a new chapter, as the case may be) which new section (sections or chapter) shall be designated as section \_\_\_\_\_ (sections \_\_\_\_\_ and \_\_\_\_\_) (or proper designation if a chapter is added) of the Code.

- (3) To repeal a section or chapter:

An ordinance to repeal section \_\_\_\_\_ (sections \_\_\_\_\_ and \_\_\_\_\_, chapter \_\_\_\_\_, as the case may be) of the Code of Ordinances, City of Morenci, Michigan.

### **Sec. 1-11. Supplementation of Code.**

- (a) By contract or by city personnel, supplements to this Code shall be prepared and printed whenever authorized or directed by the council. A supplement to the Code shall include all substantive permanent and general parts of ordinances adopted during the period covered by the supplement and all changes made thereby in the Code. The pages of a supplement shall be so numbered that they will fit properly into the Code and will, where necessary, replace pages which have become obsolete or partially obsolete, and 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 which have been repealed shall be excluded from the Code by the omission thereof from reprinted pages.
- (c) When preparing a supplement to this Code, the codifier (meaning the person, agency or organization authorized to prepare the supplement) may make formal, nonsubstantive changes in ordinances and parts of ordinances included in the supplement, insofar as it is necessary to do so to embody them into a unified code. For example, the codifier may:
- (1) Organize the ordinance material into appropriate subdivisions.
  - (2) Provide appropriate catchlines, headings and titles for sections and other subdivisions of the Code printed in the supplement, and make changes in such catchlines, headings and titles.
  - (3) Assign appropriate numbers to sections and other subdivisions to be inserted in the Code and, where necessary to accommodate new material, change existing section or other subdivision numbers.
  - (4) Change the words "this ordinance" or words of the same meaning to "this chapter," "this article," "this division," etc., as the case may be, or to "sections \_\_\_\_\_ to \_\_\_\_\_" (inserting section numbers to indicate the sections of the Code which embody the substantive sections of the ordinance incorporated into the Code).

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- (5) Make other nonsubstantive changes necessary to preserve the original meaning of ordinance sections inserted in the Code; but in no case shall the codifier make any change in the meaning or effect of ordinance material included in the supplement or already embodied in the Code.

**Sec. 1-12. Severability.**

- (a) It is the legislative intent of the council in adopting this Code that all provisions and sections of this Code be liberally construed to protect and preserve the peace, health, safety and welfare of the inhabitants of the city and should any provision or section of this Code be held unconstitutional or invalid, such holding shall not be construed as affecting the validity of any of the remaining provisions or sections, it being the intent that this Code shall stand, notwithstanding the invalidity of any provision or section thereof.
- (b) The provisions of this section shall apply to the amendment of any section of this Code whether or not the wording of this section is set forth in the amendatory ordinance.

**Sec. 1-13. General penalty.**

- (a) Unless another penalty is expressly provided by this Code for any particular provision or section, any person violating any provision of this Code or any rule, regulation or order adopted or issued in pursuance thereof shall be guilty of a misdemeanor and/or responsible for a civil infraction.
- (1) If guilty of a misdemeanor, upon entry of a plea or conviction by a judge or jury, at the discretion of the court, the following penalties may be imposed:
- a. Imprisonment of not more than 90 days,
  - b. Fines up to \$500.00 and the costs of prosecution,
  - c. Both fines and/or imprisonment.
- (2) If responsible for a civil infraction, the civil fines payable to the bureau upon admissions of responsibility by persons served with municipal ordinance violation notices shall be determined pursuant to the following schedule and on the basis of the date of the violation(s):
- a. First violation \$50.00
  - b. Second violation within a four-year period 125.00
  - c. Third violation within a four-year period 250.00
  - d. Fourth or subsequent violation within a four-year period 400.00
- In addition to the above fines, the responsible party shall be liable for the costs of prosecution.
- (b) The decision to charge the alleged violator with a misdemeanor and/or civil infraction as a result of a violation of this ordinance shall be at the sole discretion of the city.

(Ord. No. 05-280, § 1, 10-24-05)

State law reference(s)—Limitation on penalties, MCL 117.4i, MSA 5.2082.

**Sec. 1-14. Serving notice.**

Notice regarding sidewalk repairs, sewer or water connections, dangerous structures, abating nuisances or any other 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:

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- (1) By delivering the notice to the owner personally or by leaving the same at his or her residence, office or place of business with some person of suitable age and discretion;
  - (2) By mailing the notice by certified or registered mail to such owner at his or her last known address;
  - (3) If the owner is unknown, by posting the notice in some conspicuous place on the premises at least five days before the act or action concerning which the notice is given. 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 the officer to remove the notice.

**Sec. 1-15. Aiding violation.**

Whenever any act is prohibited by this Code, by an amendment thereof, or by any rule or regulation adopted thereunder, such prohibition shall extend to and include the causing, securing, aiding or abetting of another person to do such act.

(Code 1963, § 1.7)

**Sec. 1-16. Fees and charges.**

All fees and charges imposed in this Code may be set and changed by resolution of the city council from time to time.

**Chapter 2 ADMINISTRATION<sup>2</sup>**

***ARTICLE I. IN GENERAL***

**Secs. 2-1—2-25. Reserved.**

***ARTICLE II. COUNCIL<sup>3</sup>***

**Secs. 2-26—2-45. Reserved.**

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<sup>2</sup>Charter reference(s)—Corporate powers, §§ 1, 2.

Cross reference(s)—Fire prevention and protection, Ch. 8; hospital, Ch. 10; library, Ch. 11; administration and procedure of industrial pretreatment regulations, §§ 21-111—21-201; administration and enforcement of zoning, § 22-291 et seq.

State law reference(s)—Standards of conduct and ethics, MCL 15.341 et seq.; open meetings act, MCL 15.261 et seq.; freedom of information act, MCL 15.231 et seq.

<sup>3</sup>Charter reference(s)—Governmental organization, § 11 et seq.

State law reference(s)—Standards of conduct and ethics, MCL 15.341 et seq., MCL 15.261 et seq.

**ARTICLE III. ELECTIONS<sup>4</sup>**

*DIVISION 1. GENERALLY*

**Secs. 2-46—2-55. Reserved.**

*DIVISION 2. PRECINCTS AND POLLING PLACES<sup>5</sup>*

**Sec. 2-56. Voting precinct.**

The city shall consist of one ward which ward, until otherwise provided by ordinance, shall constitute and be a single voting precinct.

(Code 1963, § 1.31)

**Sec. 2-57. Polling place.**

The polling place for the single voting precinct of the city is hereby designated as the city hall.

(Code 1963, § 1.32)

**Secs. 2-58—2-80. Reserved.**

**ARTICLE IV. OFFICERS AND EMPLOYEES**

*DIVISION 1. [CITY SUPERINTENDENT]*

**Sec. 2-81. Authorization to employ superintendent, appointment.**

The city council is hereby authorized to employ a superintendent. Such superintendent may be recommended by the mayor and hired by consent of the city council.

(Ord. No. 19-346, § 1, 12-16-19)

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<sup>4</sup>Charter reference(s)—Elections, § 3 et seq.

State law reference(s)—Michigan election laws, MCL 168.1 et seq.

<sup>5</sup>Charter reference(s)—Precinct, § 6.



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**Sec. 2-82. Bond.**

The superintendent shall furnish a bond in such amount and with such surety as may be approved by the corporate authorities, such bond to be conditioned upon the faithful performance of his or her duties. The cost of the bond shall be paid by the city. The bond of the superintendent may be part of a blanket bond.

(Ord. No. 19-346, § 1, 12-16-19)

**Sec. 2-83. Compensation and terms of employment.**

The superintendent shall receive such compensation as the city council shall, from time to time, establish. The city council may enter into an employment agreement which specifies in writing provisions, including but not limited to, establishing the level of compensation of the superintendent, specifying benefits including levels of support for the superintendent's continuing professional education and association activities, determining separation pay upon termination of the superintendent's employment and defining other conditions of employment.

(Ord. No. 19-346, § 1, 12-16-19)

**Sec. 2-84. Chief superintendent.**

The superintendent, under and subject to the direction of the city council, shall be responsible for the proper administration of the affairs of the city and policies adopted by the city council.

(Ord. No. 19-346, § 1, 12-16-19)

**Sec. 2-85. Acting superintendent.**

Whenever the superintendent is absent from the city for personal reasons, or on account of city business, or is otherwise unable to perform the duties and responsibilities of superintendent due to short term illness or disability, the superintendent may designate in writing a member of the city's senior administrative staff to serve as acting superintendent and to carry out the duties of the superintendent during the superintendent's absence. In the event of a prolonged absence, as determined by either the superintendent himself or the mayor and city council, then the mayor by and with the advice and consent of the city council of trustees, shall appoint an acting superintendent, whose office shall be temporary and who shall serve only until such time as the superintendent is able to resume the duties of his office.

(Ord. No. 19-346, § 1, 12-16-19)

**Sec. 2-86. Appointment power.**

The superintendent may appoint such assistants, department heads, or employees as are necessary to the proper functioning of the city, except that the superintendent may not appoint those city officers which are by state statute required to be appointed by the mayor.

(Ord. No. 19-346, § 1, 12-16-19)

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## Sec. 2-87. Powers and duties of superintendent.

The superintendent shall have the following powers and duties:

- (a) Provide for the enforcement of all laws and ordinances within the city.
- (b) Create the agenda for and attend all meetings of the city council and other official city boards and commissions as directed by the city council. Attend all meetings of the city council except those from which the city council determined that attendance is not required because of a conflict or other reason. The superintendent shall have the right to take part in the discussion of all matters coming before the city council or other official city boards and commissions but shall have no right to vote. The superintendent shall be entitled to notice of all special and regular meetings of the city council.
- (c) Recommend to the city council such measures as, in his or her judgment, he or she deems to be in the best interest of the city.
- (d) Employ, discipline, suspend and terminate any and all city employees, except when otherwise provided by law or contract and to the extent permitted by law and subject to the superintendent's discretion and direct supervision, to delegate to any employee any of these powers with respect to any subordinates of that employee. [The] superintendent shall bring all hiring decisions and terminations to the city council for ratification.
- (e) Propose to the mayor and city council such personnel rules and regulations as the superintendent deems necessary to manage the personnel of the city; These rules may cover procedures and policies to govern the following:
  - (1) The administration of the position description, classification and pay plans;
  - (2) Recruitment, selection, promotion, evaluation, transfer, discipline and separation of city personnel;
  - (3) Establishment of hours of work, attendance, leave regulations and working conditions;
  - (4) Rules covering the outside employment, nepotism and political activity of city personnel;
  - (5) Maintenance and use of necessary records and forms;
  - (6) System of handling all grievances.
- (f) Supervise and administer the conduct of all collective bargaining processes of the city and recommend to the city council collective bargaining agreements for consideration and approval by the city council, and administer all employee organization contracts reached through the collective bargaining process.
- (g) Direct, supervise and coordinate the activities of all departments, offices, and agencies of the city, except as otherwise provided by law, and to administer the affairs of the city to ensure that all city business is accomplished efficiently and economically.
- (h) Recommend to the city council the creating, consolidating, and combining of offices, positions, departments or units of the administrative and executive departments of the city.
- (i) Investigate all complaints in relation to matters concerning the administration of the government of the city and services maintained by the public utilities in the city, and see that all franchises, permits and privileges granted by the city are faithfully observed.
- (j) Sign on behalf of the city any contract authorized by city council, except where the city council or state statutes direct that some other officer shall do so. It shall be the duty of the superintendent to ensure that all franchises granted by, and all contracts with, the city are faithfully kept and performed; by all parties hereto.

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- (k) Keep a current inventory of all real and personal property of the city and location of such property. The superintendent shall be responsible for the care and custody of all city property which is not assigned to some other officer or body for care and control.
  - (l) Prepare and submit to the mayor and city council by the date set by the council a recommended annual budget for city operations and recommended capital programs; and administer the approved budget after adoption.
  - (m) Supervise and administer the procurement of commodities and services for all city departments, offices and agencies, and promulgate purchasing rules implementing city ordinances and which are consistent with state law, which shall be followed by employees in the procurement of goods and services.
  - (n) Report to the city council periodically the financial condition of the city.
  - (o) Submit to the mayor and city council and make available to the public a complete report on the finances and administrative activities of the city as of the end of each fiscal year.
  - (p) Represent the city in its dealings with other governmental agencies and officials, businesses, not-for-profit organizations, residents, and the general public as necessary.
  - (q) Cause to be prepared grant and/or loan applications on behalf of the city; administer grant and/or loan funds and shall have caused the preparation of relevant reports to the corporate authorities and all appropriate agencies.
  - (r) Evaluate city projects, programs, agreements and services and make recommendations on modifications and improvements thereto.
  - (s) Devote his or her entire time to the discharge of his or her official duties.
  - (t) The superintendent shall perform such other duties as may be required by the city council consistent with state statutes and the ordinances of the city.
  - (u) Hold such other appointive offices as may be consistent with law, as the mayor and city council may determine, and to faithfully and honestly discharge the duties and powers associated with such office;
  - (v) The powers assigned to the superintendent are not intended to diminish those powers otherwise assigned to other officers by statute or ordinance, including, but not limited to the mayor.

(Ord. No. 19-346, § 1, 12-16-19)

### **Sec. 2-88. Matters directed to superintendent's attention.**

All offices and departments shall submit all matters requiring city council action or attention to the superintendent, who shall submit them to the city council with recommendations as may be deemed necessary. All departmental or employee requests shall be submitted to the superintendent who shall provide instruction as to policy and action. Except as otherwise provided by state law or city ordinance, elected and appointed city officers shall deal with the administrative services of the city through the superintendent and shall not give orders to subordinates of the superintendent, either publicly or privately.

(Ord. No. 19-346, § 1, 12-16-19)

### **Sec. 2-89. Removal.**

The superintendent may be removed in accordance with law.

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(Ord. No. 19-346, § 1, 12-16-19)

**Sec. 2-90. Reserved.**

*DIVISION 2. POLICE*

**Sec. 2-91. Standards adopted.**

The minimum employment standards for law enforcement officers as established and adopted by the state law enforcement officers training council in accordance with Act No. 203 of the Public Acts of Michigan of 1965 (MCL 28.601 et seq.) are hereby adopted by reference.

(Code 1963, § 1.121)

**Secs. 2-92—2-110. Reserved.**

***ARTICLE V. BOARDS AND COMMISSIONS***

*DIVISION 1. GENERALLY*

**Secs. 2-111—2-120. Reserved.**

*DIVISION 2. PLANNING COMMISSION<sup>6</sup>*

**Sec. 2-121. Establishment and purpose.**

As authorized by the Michigan Planning Enabling Act (Public Act 33 of 2008, as amended; MCL 125.3801, et. seq.), and the Michigan Zoning Enabling Act (Public Act 110 of 2006, as amended; MCL 125.3101, et. seq.), the purpose of this division is to establish a planning commission for the city with the authority, powers, and duties provided by those Acts and subject to the terms and conditions of this division. The planning commission established by this division is hereby confirmed to be the successor to the commission established by city council resolution under the former City Planning Act (Public Act 285 of 1931, as amended; MCL 125.31, et. seq.).

(Ord. No. 14-307, § 1, 4-14-14)

**Sec. 2-122. Membership, term, compensation and removal.**

- (a) *Composition and term of commission.* The planning commission shall consist of seven members serving for terms of three years and eligible for re-appointment. Members serving on the planning commission as of the effective date of this ordinance shall continue to serve for the remainder of their existing terms so long as they continue to meet eligibility requirements.

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- (b) *Ex officio members.* The mayor and one member of the city council shall be appointed to the planning commission as ex officio members, with full voting rights. An ex officio member's term shall expire with his or her term on the city council. No other elected officer or employee of the city is eligible to be a member of the planning commission. In the event a planning commission member is elected to the city council, increasing the number of council members serving on the planning commission to more than permitted by this division, then such member's seat on the planning commission shall be deemed vacant.
  - (c) *Appointment of members.* The mayor shall appoint all planning commission members, including the ex officio member, subject to city council approval. A planning commission member shall hold office until his or her successor is appointed. Vacancies shall be filled for the unexpired term in the same manner as the original appointment.
  - (d) *Qualifications for membership.* Planning commission members shall be qualified electors of the city, except that one member may be an individual with established business or property interests in the city who is a resident and qualified elector of another local unit of government in Michigan.
  - (e) *Represented interests.* Planning commission membership shall be representative of major interests existing in the city, including but not limited to agriculture, natural resources, recreation, education, public health, government, transportation, industry, and commerce. The membership shall also be representative of the geography and population of the city to the extent practicable. This provision shall be applied as new members are appointed to fill commission vacancies, and shall not be construed to restrict the re-appointment of any member serving as of the effective date of this ordinance.
  - (f) *Holding other offices.* No member of the planning commission shall hold any other municipal office except the mayor of the city and council members, and excepting further that one of the other six members may be a member of the zoning board of adjustments or appeals.
  - (g) *Compensation.* The planning commission members may be compensated for their services as provided by city council resolution. The planning commission may request from the city council compensation for member travel, registration, and pre-authorized expenses when performing official activities authorized by the city council, including but not limited to attendance at conferences, workshops, and training programs.
  - (h) *Removal.* The city council may remove a member of the planning commission for misfeasance, malfeasance or nonfeasance in office upon written charges and after a hearing. Not less than 15 days before the date of the hearing, notice of the date, time, and place of the hearing shall be posted at the city hall and mailed to the member subject to the hearing and to all other planning commissioners.

(Ord. No. 14-307, § 1, 4-14-14; Ord. No. 15-316, § 1, 5-20-15)

## **Sec. 2-123. Officers and committees.**

The planning commission shall elect a chair, vice chair, and secretary from its membership, and may create and fill other offices as it considers advisable. The ex officio members of the planning commission shall not be eligible to serve as chair. The term of each office shall be one year, with opportunity for re-election as defined in the planning commission bylaws. There shall be no standing committees of the planning commission. The planning commission chair may appoint special or ad-hoc advisory committees, as the planning commission shall deem necessary to carry on the work of the commission. Advisory committee members may or may not be members of the planning commission. The chair shall be an ex-officio member of all committees of the commission.

(Ord. No. 14-307, § 1, 4-14-14)

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### **Sec. 2-124. Bylaws, meetings, and records.**

- (a) The planning commission shall adopt bylaws for the transaction of business. The planning commission shall hold a minimum of four regular meetings per year, and shall determine the time, place, and schedule of regular meetings by resolution.
- (b) Unless otherwise provided in the planning commission bylaws, a special meeting may be called by the chair or by two other members upon written request to the secretary.
- (c) All planning commission business shall be conducted at a public meeting held in compliance with the Open Meetings Act (Public Act 267 of 1976, as amended; MCL 15.261, et. seq.).
- (d) The planning commission shall keep a public record of its resolutions, transactions, findings, and determinations. At least one copy of all documents and materials in any format that are prepared, owned, used, in the possession of or retained by the planning commission in the performance of its official functions shall be placed on file at the city offices per State of Michigan retention guidelines and made available to the public in compliance with the Freedom of Information Act (Public Act 442 of 1976, as amended; MCL 15.231, et. seq.).

(Ord. No. 14-307, § 1, 4-14-14)

### **Sec. 2-125. Conflicts of interest.**

Before casting a vote on a matter on which a planning commission member may reasonably be considered to have a conflict of interest, the member shall disclose the potential conflict of interest to the planning commission. The member shall be disqualified from voting on the matter upon a concurring majority vote of the remaining members of the planning commission. Failure of a member to disclose a potential conflict of interest as required by this division constitutes malfeasance in office.

For the purposes of this section, the planning commission shall define "conflict of interest" in the planning commission bylaws. The city council may also adopt additional conflict of interest policies for the city by resolution.

(Ord. No. 14-307, § 1, 4-14-14)

### **Sec. 2-126. Master plan.**

- (a) The planning commission shall be responsible for making and maintaining a master plan to promote public health, safety and general welfare; encourage the use of resources in accordance with their character and adaptability; preserve the rural and agricultural character of the city; provide for planned and orderly land use and development; avoid the overcrowding of land by buildings or people; lessen congestion on public roads and streets; ensure that land uses will be situated in appropriate locations and relationships; and meet the needs of residents for food, fiber, and other natural resources, places of residence, recreation, industry, trade, service, and other uses of land within the city's planning jurisdiction.
- (b) This master plan is intended to be the plan as provided for in the Michigan Planning Enabling Act, and incorporated within this plan is the zoning plan referred to in the Michigan Zoning Enabling Act as the basis for the city's zoning ordinance.

(Ord. No. 14-307, § 1, 4-14-14)

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### **Sec. 2-127. Zoning commission authority.**

The city council hereby confirms the transfer of all authority, powers, and duties provided for "zoning commissions" under the Michigan Zoning Enabling Act to the City of Morenci Planning Commission. The planning commission shall be responsible for formulation of the zoning ordinance and amendments thereto, and reporting its findings and recommendations concerning the zoning ordinance or proposed amendments to city council. The planning commission shall also be responsible for holding hearings, reviewing, and making determinations regarding applications for approval as required by the zoning ordinance.

(Ord. No. 14-307, § 1, 4-14-14)

### **Sec. 2-128. Authority and duties.**

- (a) *Powers and duties granted by law.* The planning commission shall have and may exercise all the powers granted to it under the provisions of Act No. 33 of the Public Acts of Michigan of 2008 (MCL 125.3801 et seq.), and any and all acts amendatory thereof and shall perform all of the duties on its part to be performed as provided in such Act No. 33 and shall be subject to all of the regulations therein provided.
- (b) *Employees and consultants.* The city planning commission may appoint such employees as it may deem necessary for its work, whose appointment, promotion, demotion and removal shall be subject to the same provisions of law as govern other corresponding civil employees of the municipality. The commission may also contract with city planners, engineers, architects and other consultants for such service as it may require. The expenditures of the commission, exclusive of gifts, shall be within the amounts appropriated for the purpose by council, which shall provide the funds, equipment, and accommodations necessary for the commission's work.
- (c) *Annual report.* The planning commission shall make an annual written report to the city council concerning its operations and the status of its activities, including recommendations regarding actions by the city council related to the planning commission's scope of authority, powers, and duties under this ordinance, the Michigan Planning Enabling Act, and the Michigan Zoning Enabling Act.

(Ord. No. 14-307, § 1, 4-14-14)

### **Sec. 2-129. Capital improvements program.**

- (a) In accordance with section 65 of the Michigan Planning Enabling Act, the city council exempts the planning commission from responsibility for preparation, approval, and updating of the city's capital improvements program of public structures and improvements, and delegates this responsibility to the city administrator, subject to final approval by the city council.
- (b) Each city department with authority for public structures or improvements shall furnish, annually or upon request by the city administrator, updated lists, plans, and estimates of time and cost for recommended public structures and improvements to the administrator.
- (c) The planning commission may make recommendations to the council about programs and financing for public structures and improvements, and may advise the council on the consistency of the city's capital improvements program with the adopted master plan's goals, objectives, and policies.

(Ord. No. 14-307, § 1, 4-14-14)

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**Sec. 2-130. Land division responsibilities.**

The planning commission may recommend to the city council amendments or revisions to the city's subdivision ordinance and rules governing the subdivision of land. Before recommending such an ordinance or rule, the planning commission shall hold a public hearing, giving notice of the date, time, and place of the hearing not less than 15 days before the hearing by publication in a newspaper of general circulation within the city and posting at the city hall.

The planning commission shall review and make recommendations on any proposed plat before action thereon by the city council in accordance with the city's subdivision ordinance and the state Land Division Act (Public Act 288 of 1967, as amended; MCL 560.101, et. seq.).

(Ord. No. 14-307, § 1, 4-14-14)

*DIVISION 3. DOWNTOWN DEVELOPMENT AUTHORITY<sup>7</sup>*

**Sec. 2-131. Title.**

This division shall be known and cited as the Downtown Development Authority Ordinance.

(Ord. No. 02-255, 8-12-02)

**Sec. 2-132. Definitions.**

The terms used in this division shall have the same meaning as given to them in Act 197, as amended, or as hereinafter in this section provided unless the context clearly indicates to the contrary. As used in this division:

*Authority* means the City of Morenci downtown development authority as created by this division.

*Act 197* means Act No. 197, as amended, of the Public Acts of Michigan of 1975 as now in effect or hereafter amended being MCLA 125.1651 et seq.

*Board or board of trustees* means the board of trustees of the authority, the governing body of the authority.

*Chief executive officer* means the mayor of the city.

*City* means the City of Morenci, Michigan.

*Council or city council* means the city council of the City of Morenci, Michigan.

*Downtown district* means the downtown district designated by this division as now existing or hereafter amended.

(Ord. No. 02-255, 8-12-02)

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<sup>7</sup>Editor's note(s)—Ord. No. 02-255, adopted Aug. 12, 2002 and Ord. No. 02-256, adopted Aug. 26, 2002 did not specifically amend the Code. Hence, their inclusion herein as division 3, sections 2-131—2-141, was at the discretion of the editor.



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**Sec. 2-133. Determination of necessity.**

The city council hereby determines that it is necessary, and has so expressed its determination in adopting a resolution of intent to form a downtown development authority, for the best interests of the city to halt property value deterioration and increase property tax valuation where possible in the business district of the city, to eliminate the causes for that economic and physical deterioration and to promote economic growth and development by establishing a downtown development authority pursuant to Public Act 197, as amended.

(Ord. No. 02-255, 8-12-02)

**Sec. 2-134. Creation of authority.**

There is hereby created pursuant to Act 197, as amended, a downtown development authority for the city. The authority shall be a public body corporate and shall be known and exercise its powers under title of "Morenci Downtown Development Authority." The authority may adopt a seal, may sue and be sued in any court of law in this state and shall possess all of the powers necessary to carry out the purpose of its incorporation as provided by this division and Act 197, as amended. The enumeration of a power in this division or in Act 197, as amended, shall not be construed as a limitation upon the general powers of the authority.

(Ord. No. 02-255, 8-12-02)

**Sec. 2-135. Description of downtown district.**

The downtown district in which the authority shall exercise its powers as provided by Act 197, as amended, shall consist of the following described territory in the city, subject to such changes as may hereinafter be made pursuant to this division and Act 197, as amended:

An area in the city within the boundaries described as follows:

Lots 34 thru 36, Lots 40 thru 47, the easterly 217.5 feet of the Northerly 106 feet of Lot 48, Lot 49, the Northerly 60 feet of Lots 50 and 51, and Lot 52 of Assessor's Plat No. 2 of the city as recorded in Liber 7 of Plats, Pages 20 thru 24, Lenawee County Records.

Also Lot 74, excepting therefrom the North 132 feet of the East 65 feet, Lots 81, 82 and the Easterly 80 feet of Lot 72 of Franklin Cawley's Addition to the Village (now City) of Morenci, as recorded in Liber 50 of Deeds, Page 801, Lenawee County Records.

Also all of Lots 1 thru 4, the Northerly 115 feet of Lots 5 and 6, the Southerly 60 feet of Lot 8, all of Lots 9 thru 21, and Lots 56 and 57 of the original plat of the Village (now City) of Morenci as recorded in Liber 31 of Deeds, Page 807, Lenawee County Records.

Also the Northerly 35 feet of Lot 14, Southern Addition to the Village (now City) of Morenci as recorded in Liber 44 of Deeds on Page 796, Lenawee County Records.

Also the Northerly 106 feet of Outlot A of the Plat of Fauver's Addition to Morenci Village (now City) of Morenci, as recorded in Liber 6, of Plats, Page 20, Lenawee County Records.

(Ord. No. 02-255, 8-12-02)

**Sec. 2-136. Board of trustees.**

The authority shall be under the supervision and control of a board consisting of the chief executive officer of the municipality and not less than eight or more than 12 members as determined by the governing body of the

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

(Ord. No. 02-255, 8-12-02)

### **Sec. 2-137. Powers of the authority.**

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

(Ord. No. 02-255, 8-12-02)

### **Sec. 2-138. Director, bond of director.**

If a director is ever employed as authorized by section 5 of Act 197, as amended, he/she shall post a bond in the penal sum as may be required by the board of trustees at the time of appointment and shall be in conformance with section 5 of Act 197, as amended.

(Ord. No. 02-255, 8-12-02)

### **Sec. 2-139. By-laws.**

The board of trustees shall adopt rules and regulations governing its procedures and the holding of regular meetings subject to the approval of the governing body of the city. Said rules of operation shall be governed by Act 267 of the Public Acts of 1976 and Act 442 of the Public Acts of 1976.

(Ord. No. 02-255, 8-12-02)

### **Sec. 2-140. Fiscal year; adoption of budget.**

- (a) The fiscal year of the authority shall begin on July 1st of each year and end on the last day of June of the following year, or such other fiscal year as may hereafter be adopted by the city.
- (b) The board shall annually prepare a budget and shall submit it to the council on the same date that a proposed budget for the city is required by the City Charter to be submitted to the council. The board shall not finally adopt a budget for any fiscal year until the budget has been approved by the city council. The board may, however, temporarily adopt a budget in connection with the operation of any improvements which have been financed by revenue bonds where required to do so by the ordinance authorizing the revenue bonds.
- (c) The authority shall submit financial reports to the city council as requested by the city council. The authority shall be audited annually by the same independent auditors auditing the city and copies of the audit report shall be filed with the council.

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(Ord. No. 02-255, 8-12-02)

**Sec. 2-141. Reserved.**

Editor's note(s)—Ord. No. 15-319, § 1, adopted Nov. 9, 2015, repealed § 2-141, which pertained to By-laws and derived from Ord. No. 02-256, 8-26-02.

**Sec. 2-142. Development plan and tax increment financing plan.**

(a) *Findings.*

- (1) The development plan portion of the plan meets the requirements set forth in section 17(2) of the Act, and the tax increment financing plan portion of the plan meets the requirements set forth in section 14(2) of the Act.
- (2) The proposed method of financing the development is feasible, and the authority has the ability to arrange the financing.
- (3) The development is reasonable and necessary to carry out the purposes of the Act.
- (4) Any land included within the development area to be acquired is reasonably necessary to carry out the purposes of the Act.
- (5) The development plan portion of the plan is in reasonable accord with the master plan of the city.
- (6) Public services, such as fire and police protection and utilities, are or will be adequate to service the development area.
- (7) Changes in zoning, streets, street levels, intersections, and utilities, to the extent required by the plan, are reasonably necessary for the plan and for the city.

(b) *Public purpose.* The city council hereby determines that the plan constitutes a public purpose.

(c) *Best interest of the public.* The city council hereby determines that it is in the best interests of the public to halt property value deterioration, increase property tax valuation, eliminate the causes of the deterioration in property values, and to promote growth in the downtown district to proceed with the plan.

(d) *Approval and adoption of plan.* The plan is hereby approved and adopted. A copy of the plan and all later amendments thereto shall be maintained on file in the city clerk's office.

(Ord. No. 04-275, §§ 1—4, 11-8-04)

Editor's note(s)—Ord. No. 04-275, §§ 1—4, adopted Nov. 8, 2004, did not specifically amend the Code. Hence, its inclusion herein as section 2-142 was at the discretion of the editor.

***DIVISION 4. CIVIL INFRACTIONS AND VIOLATIONS BUREAU<sup>8</sup>***

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<sup>8</sup>Editor's note(s)—Ord. No. 05-279, §§ 1—10, adopted Sept. 12, 2005, did not specifically amend the Code. Hence, its inclusion herein as division 4, sections 2-143—2-152, was at the discretion of the editor.

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**Sec. 2-143. Title.**

This division shall be known and cited as the City of Morenci Civil Infractions and Violations Bureau Ordinance.

(Ord. No. 05-279, § 1, 9-12-05)

**Sec. 2-144. Definitions.**

As used in this division:

*Act* means Act No. 236 of the Public Acts of 1961, as amended.

*Authorized city official* means a city police officer, the city code and zoning administrator, the city zoning administrator, a city building inspector, a city building code enforcement official, and any other city personnel now or hereafter authorized by this code of ordinances to issue municipal civil infractions or municipal civil infraction violation notices.

*Municipal civil infraction* means an act or omission that is prohibited by any ordinance of the city, but which is not a crime under the ordinance, and for which civil sanctions, including, without limitation, fines, damages, expenses and costs, may be ordered, as authorized by chapter 87 of Act No. 236 of the Public Acts of 1961, as amended. A municipal civil infraction is not a lesser included offense of a violation of any city ordinance that is a criminal offense.

*Municipal civil infraction citation* means a written complaint prepared by an authorized city official and filed with the court, in those cases where the alleged violator either denies responsibility or admits responsibility with explanation following the issuance of a municipal civil infraction notice.

*Municipal civil infraction violation notice* means a written notice, prepared by an authorized city official, directing a person to appear at the municipal ordinance violations bureau and to pay the fine and costs, if any, prescribed for the violation by the schedule of civil fines adopted by the city, as authorized under sections 8396 and 8707(6) of the Act.

*Person* means any person, firm, partnership, limited liability company, corporation or association of persons.

(Ord. No. 05-279, § 2, 9-12-05; Ord. No. 11-295, § 1, 8-8-11; Ord. No. 15-316, § 2, 5-20-15)

**Sec. 2-145. Establishment, location and personnel of municipal ordinance violations bureau.**

- (a) *Establishment of bureau.* The City of Morenci Municipal Ordinance Violations Bureau (hereafter the "bureau") is hereby established pursuant to section 8396 of the Act (MCL 600.8396), for the purpose of accepting admissions of responsibility for ordinance violations designated as municipal civil infractions, and to collect and retain civil fines/costs for such violations as prescribed herein.
- (b) *Location of bureau.* The bureau shall be located at the city hall or other such location in the city as may be designated by the city council.
- (c) *Personnel.* All personnel of the bureau shall be city employees. The city council may by resolution designate bureau personnel and a bureau clerk with the duties prescribed herein and as otherwise may be delegated by the city council.

(Ord. No. 05-279, § 3, 9-12-05)

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### **Sec. 2-146. Bureau authority.**

The bureau shall only have authority to accept admissions of responsibility without explanation for municipal civil infractions for which a municipal ordinance violations notice has been issued and served, and to collect and retain the scheduled civil fines/costs for such violations specified pursuant to this division or other applicable ordinance. The bureau shall not accept payment of fines/costs from any person who denies having committed the alleged violation or who admits responsibility only with explanation. The bureau shall not determine or attempt to determine the truth or falsity of any fact or matter relating to an alleged ordinance violation.

(Ord. No. 05-279, § 4, 9-12-05)

### **Sec. 2-147. Civil infraction action.**

- (a) *Commencing action.* A municipal civil infraction action shall be commenced by the issuance of a municipal civil infraction notice by an authorized city official directing the alleged violator to contact the bureau for purposes of admitting or denying responsibility for the violation.
- (b) *Grounds for issuing notice.* An authorized city official may issue a municipal civil infraction notice to a person if:
  - (1) The authorized city official witnesses that person commit a municipal civil infraction;
  - (2) Based upon investigation, the official has reasonable cause to believe that the person is responsible for a municipal civil infraction; or
  - (3) Based upon investigation of a complaint by someone who allegedly witnessed that person commit a municipal civil infraction, the official has reasonable cause to believe that that person is responsible for an infraction and if the city attorney approves in writing the issuance of the municipal civil infraction notice.

(Ord. No. 05-279, § 5, 9-12-05)

### **Sec. 2-148. Civil infraction notice.**

- (a) *Contents of notice.* A municipal ordinance notice shall at a minimum contain the following information:
  - (1) The name and address of the alleged violator;
  - (2) The municipal civil infraction alleged;
  - (3) The address and telephone number of the bureau;
  - (4) The days and hours that the bureau is open;
  - (5) The amount of the scheduled fines/costs for the violation;
  - (6) The time within which the person must contact the bureau for purposes of admitting or denying responsibility for the violation;
  - (7) The methods by which the violation may be admitted or denied; and
  - (8) The consequences of failing to pay the required fines/costs or contact the bureau within the required time.
- (b) *Rights of violator.* Further, the municipal civil infraction notice shall inform the alleged violator that he or she may do one of the following:

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- (1) Admit responsibility for the municipal civil infraction by mail, in person, or by representation, at or by the time specified for appearance;
  - (2) Admit responsibility for the municipal civil infraction "with explanation" by mail by the time specified for appearance or, in person, or by representation; or
  - (3) Deny responsibility for the municipal civil infraction by doing either of the following:
    - a. Request an informal hearing in which event he or she shall appear in person for a hearing before a judge or district court magistrate, without the opportunity of being represented by an attorney, unless a formal hearing before a judge is requested by the city; or
    - b. Request a formal hearing before a judge, with the opportunity of being represented by an attorney.
- (c) *Effect of failure to admit.* The municipal civil infraction notice shall also inform the alleged violator that in the event the alleged violator admits responsibility "with explanation," denies responsibility or fails to contact the bureau within the prescribed time, a municipal civil infraction citation shall be issued and served.
- (Ord. No. 05-279, § 6, 9-12-05)

### **Sec. 2-149. Civil infraction citation.**

- (a) *When citation shall issue.* Where a person fails to admit responsibility without explanation for a violation within the jurisdiction of the bureau and pay the required civil fines/costs within the designated time period, the bureau clerk or other designated city employee(s) shall advise the authorized city official to issue and file a municipal civil infraction citation for such violation with the court having jurisdiction of the matter.
- (b) *Contents of citation.* The citation filed with the court and served on the alleged violator shall contain the following information:
  - (1) The name and address of the alleged violator;
  - (2) A sworn complaint containing all the allegations regarding the violation as set forth in the municipal civil infraction notice;
  - (3) The place where the alleged violator shall appear in court;
  - (4) The address and telephone number of the court;
  - (5) The time as or by which the appearance shall be made;
  - (6) Clear and unambiguous information on how the alleged violator must respond to the citation; and
  - (7) Notice in boldfaced type that the failure of the alleged violator to appear within the time specified in the citation or at the time scheduled for a hearing or appearance is a misdemeanor and will result in entry of a default judgment against the alleged violator on the municipal civil infraction.
- (c) *Rights of violator.* The citation shall also inform the alleged violator of his or her right to admit or deny the violation, as more fully set forth subsection 2-148(b) of this division.
- (d) *Service of the citation.* A copy of the citation may be served on the alleged violator either by personal service or by first class mail sent to the alleged violator's last known address. The citation shall thereafter be processed in the manner required by law.

(Ord. No. 05-279, § 7, 9-12-05)

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**Sec. 2-150. Schedule of civil fines/costs.**

Unless a different schedule of civil fines is provided for by an applicable ordinance, the civil fines payable to the bureau upon admissions of responsibility by persons served with municipal ordinance violation notices shall be determined pursuant to the following schedule and on the basis of the of the date of the violation(s):

- (1) First violation \$50.00
- (2) Second violation within a four-year period 125.00
- (3) Third violation within a four-year period 250.00
- (4) Fourth or subsequent violation within a four-year period 400.00

In addition to the above prescribed civil fines, costs in the amount of ten dollars shall be assessed by the bureau if the fine and costs are paid within ten days of the date of service of the municipal ordinance violation notice. Otherwise, costs of \$20.00 shall be assessed by the bureau.

(Ord. No. 05-279, § 8, 9-12-05)

**Sec. 2-151. Record and accounting.**

The bureau clerk or other designated city official/employee shall retain a copy of all municipal ordinance violation notices and shall account to the city council once a month or at such other intervals as the city council may require concerning the number of admissions and denials of responsibility for ordinance violations within the jurisdiction of the bureau and the amount of fines/costs collected with respect to such violations. The civil fines/costs collected shall be delivered to the city treasurer at such intervals as the treasurer shall require, and shall be deposited in the general fund of the charter city.

(Ord. No. 05-279, § 9, 9-12-05)

**Sec. 2-152. Availability of other enforcement options.**

Nothing in this division shall be deemed to require the city to initiate its municipal civil infraction ordinance enforcement activity through the issuance of an ordinance violation notice. As to each ordinance violation designated as a municipal civil infraction, the city may, at its sole discretion, proceed directly with the issuance of a municipal civil infraction citation or take such other enforcement action as is authorized by law.

(Ord. No. 05-279, § 10, 9-12-05)

**Sec. 2-153. Penalty for failure to answer and/or appear on civil infraction citation.**

Any person(s) who shall receive a civil infraction violation and fails to pay the civil infraction fine or otherwise answer and/or appear before the bureau shall be guilty of a misdemeanor. Penalties may be imposed up to 90 days incarceration in the county jail and/or fines up to \$500.00 plus the costs of prosecution.

(Ord. 11-295, § 2, 8-8-11)

*DIVISION 5. BOARD OF REVIEW*

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**Sec. 2-154. Board of review composition.**

- (a) The board of review shall be composed of three freeholders of the city who shall be property taxpayers of the city 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.
- (b) Members appointed to the board of review shall serve for terms of two years beginning at noon on January 1 of each odd-numbered year. Each member of the board of review shall qualify by taking the constitutional oath of office within ten days after appointment. The city council may fill any vacancy that occurs in the membership of the board of review.
- (c) A member of the city council is not eligible to serve on the board or to fill any vacancy. A spouse, mother, father, sister, brother, son, or daughter, including an adopted child, of the assessor is not eligible to serve on the board or to fill any vacancy.
- (d) A majority of the board of review constitutes a quorum for the transaction of business, but a lesser number may adjourn. At least two members of the three member board of review shall be present to conduct any business or hearings of the board of review and a majority vote of those present shall decide all questions.

(Ord. No. 15-313, § 1, 2-23-15)

**Sec. 2-155. Duties and functions of board of review.**

For the purpose of revising and correcting assessments, the board of review shall have the same powers and perform like duties in all respects as are by statute conferred upon and required of boards of reviews in townships. 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.

(Ord. No. 15-313, § 1, 2-23-15)

***ARTICLE VI. FINANCE***

***DIVISION 1. GENERALLY***

**Secs. 2-156—2-160. Reserved.**

***DIVISION 2. PURCHASING, CONTRACTING AND SELLING PROCEDURES***



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### **Sec. 2-161. Purchasing agent.**

The city superintendent and/or city clerk shall act as purchasing agent of the city except as the city council may from time to time otherwise provide by resolution. The city council shall also, from time to time, adopt by resolution any necessary rules respecting requisitions or purchase orders.

(Code 1963, § 1.91; Ord. No. 199, 5-9-94)

### **Sec. 2-162. Purchasing.**

Rules applicable to all purchases:

- (a) All purchases require that the appropriate funds are budgeted and sufficient funds are available at the time of purchase.
- (b) No employee or any person shall make purchases or commit city funds without authorization.
- (c) All purchases that require a check drawn on city funds shall have an accompanying purchase order presented prior to the processing of the check.
- (d) Employees/designated persons are authorized to make purchases of goods and services up to \$100.00 with their department head's or the purchasing agent's verbal approval.
- (e) Department heads are authorized to make purchases of goods and services up to \$500.00 provided the funds are budgeted and available.
- (f) The purchasing agent is authorized to make purchases of goods and services up to \$2,500.00 provided the funds are budgeted and available.
- (g) Expenditures greater than what the city has budgeted within its various fund budgets requires the city council approval in advance of any purchase or commitment of funds.
- (h) The purchasing agent shall report to council the details of all purchases of goods and services or commitment of funds.

(Code 1963, § 1.92; Ord. No. 199, 5-9-94; Ord. No. 02-247, 5-13-02; Ord. No. 15-316, § 3, 5-20-15; Ord. No. 15-318, § 1, 9-14-15)

### **Sec. 2-163. Policies.**

- (a) All purchases must have an accompanying receipt or invoice prior to issuing a check.
- (b) All purchases above \$500.00 must have an accompanying detailed receipt or invoice prior to issuing a check.
- (c) All expenditures above \$2,500.00 but less than \$10,000.00 may be made in the open market, but such purchases shall, except when the city council shall determine that no advantage to the city would result, be based on at least three competitive bids and shall be awarded to the lowest responsible bidder meeting specifications. The purchasing agent may solicit bids verbally or by telephone, or may contact prospective bidders by written communication. A record shall be kept of all open market orders and the bids submitted thereon above \$2,500.00 but less than \$10,000.00, which records shall be available for public inspection. Any or all bids may be rejected. In cases where competitive bidding is not practical or it is to the city's advantage to contract without competitive bidding, the city council may, upon recommendation of the purchasing agent, authorize the execution of a purchase without competitive bidding. The city council shall approve all expenditures above \$2,500.00 but less than \$10,000.00.

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- (d) All expenditures of \$10,000.00 or more must follow the bid procedures set forth in section 2-164. The requirement of following the bid procedure may be waived if in the opinion of city council efforts to obtain three quotes were exhausted or are impractical to obtain.

(Code 1963, § 1.93; Ord. No. 199, 5-9-94; Ord. No. 15-316, § 4, 5-20-15; Ord. No. 15-318, § 1, 9-14-15)

## **Sec. 2-164. Bid procedure and awarding of contracts.**

(a) *Bid Procedure.*

- (1) Notice inviting bids shall be published in some newspaper of general circulation or posted in three places in the city, at least five days before the final date for submitting bids thereon. Such notice shall give briefly the specifications of the supplies, services, materials or equipment or construction project or other matter to be contracted for and subject to the provisions of section 2-164(c), shall state the amount of bond or other security if any is required, to be given with the bid (the bid bond), and the amount of bond or other security, if any is required, to be given with the contract (the performance bond). 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.
- (2) The purchasing agent shall also solicit bids from a reasonable number of such qualified prospective bidders as are known to him by sending each a copy of the notice requesting bids. Bids shall be solicited from responsible prospective suppliers who have requested that their names be added to a bidder's list to be maintained by the city. Invitations shall be limited to vendors whose commodities or services are similar in character and ordinarily handled by the trade group to which the invitations are sent.
- (3) Bids shall be sealed and identified as a bid on the envelope and submitted to the city clerk.
- (4) Late bids, at the city's discretion, may be returned unopened to the bidder.
- (5) Bids shall be opened in public at the time and place designated in the notice requesting bids in the presence of the purchasing agent and either the clerk or the treasurer. The bids shall thereupon be carefully examined and tabulated and reported to the council with the recommendation of the purchasing agent at the next council meeting. After tabulation all bids may be inspected by the competing bidders.

(b) *Award of contract and rejection of bid.*

- (1) The city council shall have the authority to reject any and all bids when the best interest of the public is served.
- (2) The city council shall not accept the bid of a contractor who is in default on the payment of taxes, licenses, or other monies due the city.
- (3) In determining the best responsible bidder, in addition to price, the city shall consider the ability, capacity, and skill of the bidder to perform as contracted; whether the bidder can perform in a timely manner consistent with city requirements; the character, integrity, reputation, judgment, experience, and efficiency demonstrated by the bidder; the performance experienced with previous contracts; and the predictable ability of the bidder to provide future maintenance and service.
- (4) When the award is not given to the lowest bidder, a statement of the reasons for placing the order with the successful contractor shall be prepared and filed with other award documentation.
- (5) After a bid is awarded, a contract will be executed with the successful bidder.

(c) *Bonds.*

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- (1) *Bid bond.* The council 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. All bids, deposits of cash or 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 same has been awarded, or file any bond required within the same time, the deposit accompanying his bid shall be forfeited to the city, and the council, may, in its discretion, award the contract to the next low responsible bidder unless the council shall determine that the public interest will be better served by accepting a higher bid, or a bid for such contract advertised again.
  - (2) *Performance bond.* The city shall have the authority to require a performance bond before entering a contract in an amount necessary to protect the interests of the city. At the time the contract is executed, 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 such contract and saving the city harmless from all losses or damage caused to any person or property by reason of any carelessness or negligence by the contractor and from all expense of inspection, engineering and otherwise, caused by the delay in the completion of any improvements and further conditioned to pay all laborers, mechanics, subcontractors and material men as well as all just debts, dues and demands incurred in the performance of such work.

(Code 1963, § 1.94; Ord. No. 15-318, § 1, 9-14-15)

### **Sec. 2-165. Exceptions to competitive bidding.**

Competitive bidding shall not be required in the following cases:

- (a) Where the product or material contracted for is not competitive in nature, and the purchasing agent so certifies to the council in writing.
- (b) In the employment of the following professional services:
  - (1) Legal.
  - (2) Accounting.
  - (3) Engineering.
  - (4) Specialized services.
- (c) As otherwise provided for in section 2-163.
- (d) Where the council shall determine that the public interest will be best served by joint purchase with, or purchase from, another unit of government.

(Code 1963, § 1.95; Ord. No. 15-318, § 1, 9-14-15)

### **Sec. 2-166. Sale of real estate.**

Real estate may be purchased or sold or leased when not required for corporate purposes, upon the affirmative vote of four members of the council. Council in its discretion may require that a sale of real estate be subject to the requirements of section 2-163. The notice inviting bids shall contain a brief description of the property in addition to the information specified in section 2-162.

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However, if council elects to make such sale subject to the requirements of section 2-163 and no bids are received after advertisement and compliance with the requirements of section 2-163, council may, upon affirmative vote of four members of council, sell or lease real property, not devoted to public use, in such manner and under such conditions as may be determined in the discretion of council.

(Code 1963, § 1.96; Ord. No. 203, 6-12-95; Ord. No. 98-228, 8-24-98)

**Sec. 2-167. Sale of property.**

Whenever any personal property belonging to the city is no longer needed for corporate or public purposes, the same may be offered for sale, on approval by the council. Items may, at the discretion of council, be sold either by competitive bids pursuant to the bid process set forth in section 2-163 or by posting the item for sale on a website such as Craigslist, EBay, or similar e-commerce seller. Council shall set a minimum reserve price for any item sold online. In the purchase of automotive equipment, bidders may include in their bid, a trade-in allowance for old equipment and such equipment may be disposed of in trade without further bidding requirements.

(Ord. No. 16-321, § 1, 1-25-16)

Editor's note(s)—Ord. No. 16-321, § 1, adopted January 25, 2016, set out provisions intended for use as 2-165. At the editor's discretion, and to prevent the duplication of numbers, these provisions have been included herein as 2-167.

**Secs. 2-168—2-175. Reserved.**

*DIVISION 3. BUDGET AND ASSESSMENT PROCEDURE*

**Sec. 2-176. Authority.**

Pursuant to the provisions of Act No. 285 of the Public Acts of Michigan of 1949 (MCL 211.2 et seq.), as amended, the provisions of this division relative to the making, completing and reviewing of the assessment roll and budget for the city shall supersede any conflicting provisions of the city charter.

(Code 1963, § 1.51)

**Sec. 2-177. Assessment roll completion.**

Each year the city assessor shall, on or before the first Monday in March, make and complete the assessment roll of taxable property in the city, and shall submit the roll, over his signature, to the city council.

(Code 1963, § 1.52)

**Sec. 2-178. Inspection of roll.**

The assessment roll shall be open to inspection during the rest of the week following the Tuesday after the first Monday of March, and the first meeting of the board of review shall be held on the first Tuesday after the first Monday of March. Within such inspection period any person may file in writing with the city clerk a complaint of any assessment, stating specifically the grounds of such complaint.

(Code 1963, § 1.53)

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**Sec. 2-179. Board of review meetings.**

Each year the board of review shall meet on the second Monday of March to review the roll and to consider any complaints which may have been filed with the clerk and to hear any complaints which property owners may make in person or by attorney; the board may continue its meetings on such successive days as may be necessary to hear all complaints. The board shall complete its review of such roll and the hearing of such complaints on or before the first Monday of April, and such roll shall, during the next fiscal year, be the basis for the levy and collection of taxes.

(Code 1963, § 1.54; Ord. No. 15-313, § 2, 2-23-15)

**Sec. 2-180. Notice.**

The city clerk shall give notice by publication at least ten days prior to the opening of the roll for public inspection, and like notice at least ten days prior to the second meeting of the board of review.

(Code 1963, § 1.55)

**Sec. 2-180A. 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.

(Ord. No. 15-313, § 3, 2-23-15)

**Sec. 2-181. Budget preparation.**

Each city officer shall, on or before the second Monday in April in each year, submit to the city clerk an itemized estimate of the expenditures for the next fiscal year, of the department or departments under his control. The clerk shall prepare a complete itemized budget for the next fiscal year and shall submit it to the council on or before the fourth Monday in April, which budget shall contain the information set forth in section 37 of the city charter.

(Code 1963, § 1.56)

**Sec. 2-182. Hearing on budget.**

Each year a public hearing on the proposed budget shall be held on or before the second Monday in May and at least one week before its final adoption, and notice of such hearing shall be published by the clerk at least one week in advance. The budget shall be finally adopted on or before the fourth Monday in May.

(Code 1963, § 1.57)

**Sec. 2-183. Property tax administration fee.**

On the sum of local property taxes voluntarily paid before March 1 of the succeeding year, the city through the city treasurer shall add one percent for a property tax administration fee. Also, on the sum of city property

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taxes billed in July and voluntarily paid before August 11 of the year in which they are billed, the city through the city treasurer shall add one percent for a property tax administration fee.

(Ord. No. 178, 4-13-92; Ord. No. 03-261, 5-12-03)

**Sec. 2-184. Property tax penalty charge.**

On all property taxes paid after February 14 and before March 1, the city council authorizes the city treasurer to add a late penalty charge equal to three percent of the tax.

**Sec. 2-185. Late penalty charge on city tax.**

On all city property taxes billed in July and paid after August 10, the city council authorizes the city treasurer to add a late penalty charge equal to three percent of the tax.

(Ord. No. 03-262, 5-12-03)

**Secs. 2-186—2-195. Reserved.**

*DIVISION 4. PROPERTY TAX EXEMPTION*

**Sec. 2-196. Prohibition against tax exemption.**

The tax exemption provided by MCL 125.1415a(1) for certain qualified housing projects shall not apply to any housing projects within the city's boundaries. The city hereby exercises its full power under MCL 125.1415a(5) to prohibit and deny any tax exemption which is provided by section 15a(1) of the forgoing state statute.

(Code 1963, § 1.130; Ord. No. 151, 7-9-84)

**Chapter 3 ALCOHOLIC LIQUOR AND MEDICAL MARIJUANA FACILITIES<sup>9</sup>**

***ARTICLE I. ALCOHOLIC LIQUOR***

**Sec. 3-1. Definitions.**

The meaning of "alcoholic liquor," "beer," "wine," "spirits," "club" and "license" when used in this chapter shall be as defined in Act No. 8 of the Public Acts of Michigan of 1933, Extra Session (MCL 436.2), as amended.

(Code 1963, § 9.111)

Cross reference(s)—Definitions and rules of construction generally, § 1-2.

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<sup>9</sup>Editor's note(s)—Ord. No. 17-334, §§ 1—3, adopted October 23, 2017, amended the title of ch. 3 as herein set out. Formerly, said chapter was entitled "Alcoholic Liquor".

State law reference(s)—Liquor control act, MCL 436.1 et seq.

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### **Sec. 3-2. Consumption in public.**

No alcoholic liquor shall be consumed on the public streets, parks or in any other public places, including any store or establishment doing business with the public not licensed to sell alcoholic liquor for consumption on the premises; nor shall anyone who owns, operates or controls any such public establishment or store permit the consumption of alcoholic liquor therein.

(Code 1963, § 9.112)

### **Sec. 3-2.5. Rental or banquet hall exception.**

Notwithstanding anything contained in the preceding section 3-2 to the contrary, consumption of alcoholic liquor shall be permitted in an establishment whose exclusive business is the rental of facilities for private parties or private social gatherings, the proprietor of the establishment does not sell or furnish the alcoholic liquor and the establishment is otherwise in compliance with any applicable statutes of the state governing the conduct of such an establishment.

(Ord. No. 97-223, 12-8-97)

### **Sec. 3-3. Liquor sales.**

- (a) No licensee, by himself or another, shall sell, furnish, give or deliver any alcoholic liquor to any person:
  - (1) Who is so intoxicated as not to be in control of all his faculties.
  - (2) On any day during the hours not permitted by state law or the liquor control commission of the state.
- (b) This section shall not apply to alcoholic liquor served to bona fide guests in the residence of any person or sold or furnished for medicinal purposes as provided by law.

(Code 1963, § 9.113; Ord. No. 185, 11-9-92; Ord. No. 14-305, § 1, 2-24-14)

### **Sec. 3-4. State license.**

No person shall engage in the business of selling alcoholic liquor, beer, wine or spirits for consumption in the city without first obtaining a license therefor, as required by the statutes of the state.

(Code 1963, § 9.114)

### **Sec. 3-5. Council approval.**

No person shall sell alcoholic liquor, beer, wine or spirits for consumption on the premises within the city without having obtained the approval of the city council of application for a license so to sell, as required by the statutes of the state.

(Code 1963, § 9.115)

State law reference(s)—Similar provisions, MCL 436.17.

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**Sec. 3-6. Sales to minors.**

No person, either directly or indirectly by himself, clerk, agent, servant or employee shall at any time sell, furnish, give or deliver any alcoholic liquor to any person unless such person shall have attained the age of 21 years; nor shall any person, either directly or indirectly by himself, clerk, agent, servant or employee, at any time, sell, furnish, give or deliver any alcoholic liquor to any person who is so intoxicated as not to be in control of all his faculties; provided, however, that nothing contained in this section shall prohibit the sale of alcoholic liquor to a minor upon authority of and pursuant to a prescription of a duly licensed physician.

(Code 1963, § 9.116)

**Sec. 3-7. Purchases by minors.**

No person under the age of 21 years shall at any time purchase, offer or attempt to purchase, obtain, consume, or bring into any premises within the city, for which a license has been issued to sell intoxicating liquor on the premises, any alcoholic liquor as defined by this chapter. Nor shall any person in order to procure the sale and furnishing of alcoholic liquor to any person under the age of 21 years, make any false representations as to the age of the person for whom such alcoholic liquor is desired. Nor shall any person under the age of 21 years furnish any false information regarding his age or make any false representation as to his age to any law enforcement officer, or to any person in charge of or employed in a place of business where alcoholic liquor is sold, for the purpose of obtaining a sale of any alcoholic liquor to himself or herself; provided, however, that nothing contained in this section shall prohibit the purchase of alcoholic liquor by a minor under authority of and pursuant to a prescription of a duly licensed physician.

(Code 1963, § 9.117)

**Sec. 3-8. Consumption or possession on public property.**

No person shall possess or consume alcoholic liquor in any public park, public place of amusement, or publicly owned area that is owned or administered, or both, by the city, except, notwithstanding section 3-2, such possession and/or consumption may be allowed upon application of the representative or representatives of a specific organized event for a portion of Wakefield Park to be designated by city council upon approval of such application and such designated area of Wakefield Park shall be clearly marked by the city police department. Approval of such application shall be only for a specific event and shall designate the dates and times during which such approval shall be effective.

(Ord. No. 182, 7-27-92; Ord. No. 04-274, 8-9-04)

**Secs. 3-9—3-20. Reserved.**

***ARTICLE II. MEDICAL MARIJUANA FACILITIES***

**Sec. 3-21. Purpose.**

- (a) It is the intent of this article to authorize the establishment of certain types of medical marijuana facilities in the City of Morenci and provide for the adoption of reasonable restrictions to protect the public health, safety, and general welfare of the community at large; retain the character of neighborhoods; and mitigate potential impacts on surrounding properties and persons. It is also the intent of this article to help defray

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administrative and enforcement costs associated with the operation of a marijuana facility in the city through imposition of an annual, nonrefundable fee \$5,000.00 on each medical marijuana facility licensee. Authority for the enactment of these provisions is set forth in the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq.

- (b) 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 marijuana, in any form, that is not in compliance with the Michigan Medical Marihuana Act, Initiated Law 1 of 2008, MCL 333.26421 et seq.; the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq.; the Marihuana Tracking Act, MCL 333.27901 et seq.; and all other applicable rules promulgated by the state of Michigan.
- (c) As of the effective date of this article, marijuana 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 marijuana, or possess marijuana with intent to manufacture, distribute, or dispense marijuana. Nothing in this article is intended to grant immunity from any criminal prosecution under federal laws.

(Ord. No. 17-334, § 4, 10-23-17)

### **Sec. 3-22. Definitions.**

For the purposes of this article:

Any term defined by the Michigan Medical Marihuana Act, MCL 333.26421 et seq., shall have the definition given in the Michigan Medical Marihuana Act.

Any term defined by the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq., shall have the definition given in the Medical Marihuana Facilities Licensing Act.

Any term defined by the Marihuana Tracking Act, MCL 333.27901 et seq., shall have the definition given in the Marihuana Tracking Act.

*City* means the City of Morenci.

*Grower* means a licensee that is a commercial entity located in this state that cultivates, dries, trims, or cures and packages marihuana for sale to a processor or provisioning center.

*Licensee* means a person holding a state operating license issued under the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq.

*Marijuana or 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 Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq.; and the Marihuana Tracking Act, MCL 333.27901 et seq.

*Marijuana facility* means an enterprise at a specific location at which a licensee is licensed to operate under the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq., including a marijuana grower, marijuana processor, marijuana provisioning center, marijuana secure transporter, or marijuana safety compliance facility. The term does not include or apply to a "*primary caregiver*" or "*caregiver*" as that term is defined in the Michigan Medical Marihuana Act, MCL 333.26421 et seq.

*Medical marijuana facilities permit or permit* means a permit issued by the city pursuant to the provisions of this article.

*Person* means an individual, corporation, limited liability company, partnership, limited partnership, limited liability partnership, limited liability limited partnership, trust, or other legal entity.

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*Processor* means a licensee that is a commercial entity located in Michigan 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* means a licensee that is a commercial entity located in Michigan 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 includes any commercial property where marihuana is sold at retail to registered qualifying patients or registered primary caregivers. A noncommercial location used by a primary caregiver to assist a qualifying patient connected to the caregiver in accordance with the Michigan Medical Marihuana Act, MCL 333.26421 et seq., is not a provisioning center for purposes of this article.

*Safety compliance facility* means a licensee that is a commercial entity that receives marihuana from a 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 marihuana facility.

*Secure transporter* means a licensee that is a commercial entity located in this state that stores marihuana and transports marihuana between marihuana facilities for a fee.

(Ord. No. 17-334, § 4, 10-23-17)

### **Sec. 3-23. Authorization of facilities and fee.**

(a) The maximum number of each type of marijuana facility allowed in the city shall be as follows.

Facility	Number
Grower	Unlimited
Processor	Unlimited
Secure transporter	Unlimited
Safety compliance center	Unlimited
Provisioning center	5

(b) At least every two years after adoption of this article, city council shall review the maximum number of each type of marijuana facility allowed and determine whether this maximum number should be changed. The review and its findings shall be recorded in the minutes of the relevant meeting of the city council.

(c) A nonrefundable fee shall be paid by each marijuana facility permitted under this article in an annual amount of not more than \$5,000.00 as set by resolution of the city council.

(Ord. No. 17-334, § 4, 10-23-17; Ord. 17-335, § 1, 1-8-18; Ord. No. 19-342, § 1, 10-14-19; Ord. No. 21-352, § 1, 3-15-21)

### **Sec. 3-24. Requirements and procedure for issuing permit**

(a) No person shall operate a marijuana facility in the city without a valid marijuana facility permit issued by the city pursuant to the provisions of this article.

(b) Every applicant for a permit to operate a medical marijuana facility shall file an application in the city clerk's office upon a form provided by the city. The application shall contain any information required by the Act and the following information:

(1) Name, address, and telephone number of property owner of the land where the marijuana facility will conduct business.

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- (2) Name, address, and telephone number of the licensee.
  - (3) If the property owner and licensee are not the same person, a document signed by the property owner authorizing the licensee to operate on the property owner's land.
  - (4) Any other information deemed by the city to be required for the consideration of a permit.
- (c) Every applicant for a permit to operate a grow operation shall submit with the application a photocopy of the applicant's valid and current license issued by the State of Michigan in accordance with the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq.
- (d) Upon an applicant's completion of the above-provided form and furnishing of all required information and documentation, the city clerk shall accept the application and assign it a sequential application number by facility type based on the date and time of acceptance. The city clerk shall act to approve or deny an application not later than 14 days from the date the application was accepted. If approved, the city clerk shall issue the applicant a provisional permit.
- (e) A provisional permit means only that the applicant has submitted a valid application for a marijuana facility permit, and the applicant shall not locate or operate a marijuana facility without obtaining all other permits and approvals required by all other applicable ordinances and regulations of the city. A provisional permit will lapse and be void if such permits and approvals are not diligently pursued to completion, but in any event no later than 90 days after the provisional permit is issued. A provisional permit may automatically be renewed without a fee within the 90 days timeframe if state licensure is not received within the timeframe but shall not be valid for more than one year. Marijuana facilities with a provisional permit may operate under the definition of a temporary operation pursuant to rules established under the Medical Marihuana Facilities Licensing Act (MCL 333.27101).
- (f) Within 14 days from the applicant submitting proof of obtaining all other required permits and approvals and payment of the permit fee, the city clerk shall approve or deny the marijuana facility permit. The clerk shall issue marijuana facility permits in order of the sequential application number previously assigned.
- (g) Maintaining a valid marijuana facility license issued by the state is a condition for the issuance and maintenance of a marijuana facility permit under this article and continued operation of any marijuana facility.
- (h) A marijuana facility permit issued under this article is not transferable.
- (i) Applicant must own land within the City of Morenci or control land under a lease in order to apply for a license for any type of medical marihuana facility.

(Ord. No. 17-334, § 4, 10-23-17; Ord. 17-335, § 2, 1-8-18)

### **Sec. 3-25. Regulations for marijuana facilities.**

All marijuana facilities permitted under this article shall be subject to the following regulations:

- (1) *Lighting.* Light cast by light fixtures inside any building used for marijuana production or marijuana processing shall not be visible outside the building from 7:00 p.m. to 7:00 a.m. the following day.
- (2) *Odor.* As used in this subsection, building means the building, or portion thereof, used for marijuana production or marijuana processing.
  - a. The building shall be equipped with an activated carbon filtration system for odor control to ensure that air leaving the building through an exhaust vent first passes through an activated carbon filter.

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- b. The filtration system shall consist of one or more fans and activated carbon filters. At a minimum, the fan(s) shall be sized for cubic feet per minute (CFM) equivalent to the volume of the building (length multiplied by width multiplied by height) divided by three. The filter(s) shall be rated for the applicable CFM.
  - c. The filtration system shall be maintained in working order and shall be in use. The filters shall be changed a minimum of once every 365 days.
  - d. Negative air pressure shall be maintained inside the building.
  - e. Doors and windows shall remain closed, except for the minimum length of time needed to allow people to ingress or egress the building.
  - f. An alternative odor control system is permitted if the municipality's building inspector accepts a report by a mechanical engineer licensed in the state of Michigan demonstrating that the alternative system will control odor as well or better than the activated carbon filtration system otherwise required. The municipality may hire an outside expert to review the alternative system design and advise as to its comparability and whether in the opinion of the expert it should be accepted.
  - g. No equipment or process shall be used in growing/cultivation of marihuana (marijuana), which creates noise, dust, vibration, glare, fumes, odors or electrical interference detectable to the normal senses beyond the property boundary. A \$5,000.00 fine shall exist each day this occurs.
- (3) *Security cameras.* All medical marijuana facilities shall be equipped with security cameras. Security cameras shall be directed to record only the subject property and may not be directed to public rights-of-way as applicable, except as required to comply with licensing requirements of the State of Michigan.
  - (4) *Hours of operation.* A provisioning center may only sell to consumers or allow consumers to be present in the building space occupied by the provisioning center between the hours of 9:00 a.m. and 9:00 p.m.
  - (5) *Marijuana and tobacco products.* The following regulations shall apply to marijuana processing facilities, marijuana growing facilities, safety compliance centers, provisioning centers, and secure transporters:
    - a. Marijuana and tobacco products shall not be smoked, ingested, or otherwise consumed in the building space occupied by marijuana processing facilities, marijuana growing facilities, safety compliance centers, provisioning centers, and secure transporters.
  - (6) *Outside activities for a marihuana growing and processing facility.* Marihuana shall not be taken outside of a building where an odor control system has been installed to do any sort of processing of it, including grinding marihuana or cutting marihuana. A \$2,500.00 fine shall exist each day this occurs.
  - (7) *Marihuana waste for a marihuana growing and processing facility.* All marihuana waste shall be stored in a building where an odor control system has been installed and shall not be stored outside of the building. A \$2,500.00 fine shall exist each day this occurs.

(Ord. No. 17-334, § 4, 10-23-17; Ord. 17-335, § 3, 1-8-18; Ord. No. 20-350, § 1, 5-11-20)

### **Sec. 3-26. Permit renewal.**

- (a) A marijuana facility license shall be valid for one year from the date of issuance, unless revoked as provided by law.

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- (b) A valid marijuana facility permit may be renewed on an annual basis by submitting a renewal application upon a form provided by the city and payment of the annual permit fee. Application to renew a marijuana facility permit shall be filed at least 30 days prior to the date of its expiration.

(Ord. No. 17-334, § 4, 10-23-17)

### **Sec. 3-27. Applicability.**

The provisions of this article shall be applicable to all persons and facilities described herein, whether the operations or activities associated with a marijuana facility were established without authorization before the effective date of this article.

(Ord. No. 17-334, § 4, 10-23-17)

### **Sec. 3-28. Penalties and enforcement.**

- (a) Any person who violates any of the provisions of this article shall be responsible for a municipal civil infraction and subject to the payment of a civil fine and costs as set forth in the City of Morenci Civil Infractions Ordinance. Each day a violation of this article continues to exist constitutes a separate violation. A violator of this article shall also be subject to such additional sanctions, remedies and judicial orders as are authorized under Michigan law.
- (b) In addition to being responsible for a civil infraction, the medical facility permit of any licensee who is found to be in violation of any of the provisions of this article shall be suspended until the violation is cured.
- (c) A violation of this article is deemed to be a nuisance per se. In addition to any other remedy available at law, the city may bring an action for an injunction or other process against a person to restrain, prevent, or abate any violation of this article.
- (d) This article shall be enforced and administered by the city police department or such other city official as may be designated from time to time by resolution of the board.

(Ord. No. 17-334, § 4, 10-23-17)

### **Sec. 3-29. Prohibition.**

Pursuant to the Michigan Regulation and Taxation of Marihuana Act, Section 6.1, the City of Morenci elects to prohibit marihuana establishments within its boundaries in any area where such facilities are not otherwise permitted under the provisions of the City of Morenci's zoning regulations.

(Ord. No. 18-339, 11-26-18)

### **Sec. 3-29.1 Allowance of recreational marihuana facilities.**

Recreational marihuana facilities are allowed through the Michigan Regulation and Taxation of Marihuana Act (Initiated Law 1 of 2018) with the same structure for licensing as medical marihuana facilities outlined in Chapter 3 of the City Code.

(Ord, No. 19-343, § 1, 10-28-19)

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Editor's note(s)—Ord. No. 19-343, § 1, adopted 10-28-19, amended the Code by adding provisions designated as § 3-29. Inasmuch as there were already provisions so designated, the provisions have been redesignated as § 3-29.1, at the discretion of the editor.

**Sec. 3-29.2. Number of licenses for recreational marihuana facilities.**

Facility	Number
Grower	Unlimited
Processor	Unlimited
Secure transporter	Unlimited
Safety compliance center	Unlimited
Retailer	5

(Ord, No. 19-343, § 1, 10-28-19)

Editor's note(s)—Ord. No. 19-343, § 1, adopted 10-28-19, amended the Code by adding provisions designated as § 3-30. Inasmuch as there were already provisions so designated, the provisions have been redesignated as § 3-29.2, at the discretion of the editor.

**Sec. 3-30. Violations and penalties.**

- (a) Any person who disobeys, neglects, or refuses to comply with any provision of this article or who causes allows or consents to any of the same shall be deemed to be responsible for the violation of this article. A violation of this article is deemed to be a nuisance per se.
- (b) A violation of this article is a misdemeanor, for which the fines shall as set forth in Morenci City Municipal Code. The foregoing sanctions shall be in addition to the rights of the city to proceed at law or equity with other appropriate and proper remedies. Additionally, the violator shall pay costs which may include all expenses, direct and indirect, which the city incurs in connection with the municipal civil infraction.
- (c) Each day during which any violation continues shall be deemed a separate offense.
- (d) In addition, the city may seek injunctive relief against persons alleged to be in violation of this article, and such other relief as may be provided by law.
- (e) Multiple violations, which may occur all at once or during a 30 day period time, of this ordinance will result in a license suspension for the following:
  - (1) Five day suspension for three violations;
  - (2) Ten day suspension for five violations;
  - (3) Thirty day suspension for seven violations; and
  - (4) License revocation for a year for eight or more violations and a \$10,000.00 fine.
- (f) This section shall be administered and enforced by the Morenci Police Department, ordinance enforcement officer of the city, city superintendent, or by such other person (s) as designated by the city council from time to time.

(Ord. No. 18-339, 11-26-18; Ord, No. 19-343, § 1, 10-28-19; Ord. No. 20-350, § 2, 5-11-20)

## Chapter 4 AMUSEMENTS AND ENTERTAINMENTS<sup>10</sup>

### ARTICLE I. IN GENERAL

#### Sec. 4-1. 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:

*Card room* shall mean any place open to the public for card playing.

*Jukebox* shall mean any music vending machine, contrivance or device which, upon the insertion of a coin, slug, token, plate, disc or key into any slot, crevice or other opening, or by the payment of any price, operates or may be operated, for the emission of songs, music or similar amusement.

*Mechanical amusement device* shall mean any machine which, upon the insertion of a coin, slug, token, plate or disc, may be operated by the public generally for use as a game, entertainment or amusement, whether or not registering a score. It shall include such devices as video game machines, marble machines, pinball machines, skill ball, pool tables, billiard tables, mechanical grab machines and all games, operations, or transactions similar thereto under whatever name they may be indicated.

*Traveling show* shall mean any traveling show, circus, animal caravan, entertainment, theatrical entertainment or exhibition, exhibition of natural or artificial curiosities, tent shows, carnivals and any amusement device usually associated therewith, such as swings, merry-go-rounds, Ferris wheels or similar devices.

(Code 1963, §§ 7.111, 7.151; Ord. No. 154, 2-11-85)

#### Secs. 4-2—4-25. Reserved.

### ARTICLE II. COIN-OPERATED AMUSEMENT DEVICES AND CARD TABLES

#### DIVISION 1. GENERALLY

#### Sec. 4-26. Gambling devices not permitted.

Nothing in this article shall in any way be construed to authorize, license or permit any gambling devices whatsoever, or any mechanism that has been judicially determined to be a gambling device, or in any way contrary to law, or that may be contrary to any future laws of the state, and the use, and permitting the use, of any such device for gambling is prohibited.

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<sup>10</sup>Cross reference(s)—Fees and bonds, § 12-46.

State law reference(s)—Crimes relating to public exhibitions and entertainment, MCL 750.463 et seq., MSA 28.718 et seq.

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(Ord. No. 154, 2-11-85)

**Sec. 4-27. Seizure and destruction of machine.**

If the chief of police shall have reason to believe any mechanical amusement device or card table is used as a gambling device, such machine or card table may be seized by the police and impounded, and, if upon trial of the exhibitor for allowing it to be used as a gambling device, such exhibitor be found guilty, such machine or card table shall be destroyed by the police.

(Ord. No. 154, 2-11-85)

**Sec. 4-28. Hours of operation.**

No licensee under this article shall permit a mechanical amusement device or card table under his control or management or on the premises under his control or management to be operated between the hours of 2:00 a.m. and 7:00 a.m., nor permit the same to be operated by any minor under the age of 18 years during the period between one-half hour before the opening of school and one-half hour after the closing of school, Monday through Friday, on those days during which the schools in the city are in session.

(Ord. No. 154, 2-11-85)

**Sec. 4-29. Responsibility to control premises.**

The licensee under this division shall control the actions and behavior of all customers upon the premises upon which the licensed devices or card tables are located so as not to endanger or disrupt those persons on the premises or otherwise cause disturbances.

(Ord. No. 154, 2-11-85)

**Sec. 4-30. Exemption.**

This article shall not apply to or effect any person as defined by MCL 436.2k, MSA 18.972(11), who is regulated or controlled by the Michigan Liquor Control Act, MCL 436.1 et seq., MSA 18.971 et seq.

(Ord. No. 154, 2-11-85)

**Secs. 4-31—4-40. Reserved.**

*DIVISION 2. LICENSE*

**Sec. 4-41. Required.**

No person shall display for public patronage or keep for operation any jukebox, mechanical amusement device or card room without first obtaining a license therefor. No such license shall be issued except on certification of the chief of police and the city electrical inspector. The electrical inspector shall inspect all wiring and connections to the machine. The licensee shall be responsible for the cost of the required electrical inspections.

(Ord. No. 154, 2-11-85)



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**Sec. 4-42. Application.**

The application for a license under this division shall be made to the city clerk and shall contain the following information:

- (1) Name and address of the applicant, age, date and place of birth.
- (2) Prior convictions of applicant, if any.
- (3) Place where machine, device or card table is to be displayed or operated and the business conducted at that place.
- (4) Description of machine or card table to be covered by the license, mechanical features, name of manufacturer, serial number or the name of the vendor of the machine or machines or card table or tables if same are leased by the licensee.

(Code 1963, § 7.153(1); Ord. No. 154, 2-11-85)

**Sec. 4-43. Grounds for denial.**

- (a) No license shall be issued under this division to any applicant unless he shall be at least 18 years of age.
- (b) No license shall be issued to any applicant unless the proposed premises for the license is located in an area zoned C-1, C-2 or C-3.

(Code 1963, § 7.153(2), (3); Ord. No. 154, 2-11-85)

**Sec. 4-44. Display.**

- (a) The license provided for in this division shall be posted permanently and conspicuously in the area of the machine or card table in the premises wherein the device or card table is to be operated or maintained to be operated.
- (b) Such license shall specify the number of machines or card tables authorized to be operated. No licensee shall increase the authorized number of machines or card tables unless a new license application is made to the city clerk.

(Code 1963, § 7.154; Ord. No. 154, 2-11-85)

**Secs. 4-45—4-65. Reserved.*****ARTICLE III. TRAVELING SHOWS******DIVISION 1. GENERALLY*****Secs. 4-66—4-75. Reserved.*****DIVISION 2. LICENSE***

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**Sec. 4-76. Required.**

No person shall conduct any traveling show without first obtaining a license therefor. No such license shall be granted except upon certification of the fire chief and the chief of police. The fee for such license shall be as prescribed in chapter 12.

(Code 1963, § 7.112)

**Sec. 4-77. Exemptions.**

The provisions of this division shall not apply to any fair held under the direct management and supervision of any recognized agricultural association or society, nonprofit association or corporation, at which are exhibited agricultural or industrial products, principally. This division shall not apply to exhibitions or shows given for charity or for the benefit of schools or benevolent, educational, fraternal or religious societies.

(Code 1963, § 7.113)

**Chapter 5 ANIMALS<sup>11</sup>**

***ARTICLE I. IN GENERAL***

**Sec. 5-1. Cruelty to animals.**

- (a) No person shall torture an animal, deprive an animal of necessary sustenance, unnecessarily or cruelly beat, needlessly mutilate or kill, or impound or confine an animal without supplying it during the confinement with a sufficient quantity of good wholesome food and water.
- (b) No person shall impound or confine an animal without affording it, during the confinement, access to shelter from wind, rain, snow, or excessive sunlight, if it can reasonably be expected that the animal would otherwise become sick or in some other way suffer. For the purpose of this section shelter means an artificial enclosure, windbreak, sunshade, or natural windbreak or sunshade that is developed from the earth's contour, tree development, or vegetation.

(Code 1963, § 9.1; Ord. No. 01-243, 12-10-01)

State law reference(s)—Cruelty to animals, MCL 752.21 et seq.

**Sec. 5-2. Poisoning animals.**

No person shall throw or deposit any poisonous substance on any exposed public or private place where it endangers, or is likely to endanger, any animal or bird.

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<sup>11</sup>Cross reference(s)—Animals in parks, § 15-3.

State law reference(s)—Authority to adopt animal control ordinance, MCL 287.290; crimes related to animals and birds, MCL 750.49 et seq.

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(Code 1963, § 9.2; Ord. No. 01-243, 12-10-01)

State law reference(s)—Poisoning of animals, MCL 750.377, 750.437.

**Sec. 5-3. Animals running at large; trespass on private property.**

It shall be unlawful for any cattle, horses, mules, sheep, swine, goats, poultry, or livestock to run at large in any public street, lane, alley, park, place, highway, or to trespass on any private property in the city.

(Ord. No. 192, § 93.1, 9-13-93; Ord. No. 01-243, 12-10-01)

**Sec. 5-4. Raising or maintaining cattle, horses, mules, other livestock and wild or exotic animals.**

- (a) It shall be unlawful to raise, maintain, or harbor any cattle, horses, mules, sheep, swine, goats, poultry, livestock or exotic animals in the city; except as allowed by the zoning ordinance in an agricultural district.
- (b) No person, corporation or organization shall keep house, harbor or maintain, in any dwelling or building or upon any lot located within the city, any wild, dangerous or exotic animal.
- (c) Wild, dangerous or exotic animals include, but are not limited to the following:
  - (1) Any poisonous animals, fish, reptiles or insects;
  - (2) Alligators;
  - (3) Apes, chimpanzees, gibbons, gorillas, orangutans and siamangs;
  - (4) Baboons;
  - (5) Bears;
  - (6) Bisons;
  - (7) Bobcats;
  - (8) Cheetahs;
  - (9) Crocodilian;
  - (10) Constriction snakes;
  - (11) Coyotes;
  - (12) Deer;
  - (13) Elephants;
  - (14) Foxes;
  - (15) Game cocks and other fighting birds;
  - (16) Hippopotami;
  - (17) Hyenas;
  - (18) Jaguars;
  - (19) Leopards;
  - (20) Lions;

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- (21) Lynxes;
  - (22) Ostriches;
  - (23) Piranha fish;
  - (24) Pumas, a.k.a cougars, mountain lions and panthers;
  - (25) Rhinoceroses;
  - (26) Sharks;
  - (27) Snow leopards;
  - (28) Tigers;
  - (29) Wolves;
  - (30) Zebra;
  - (31) Any other traditional farm animals.

(Ord. No. 193, § 93.2, 9-13-93; Ord. No. 01-243, 12-10-01; Ord. No. 06-289, § 1, 9-11-06)

**Sec. 5-5. Defecation on public or private property.**

- (a) No owner, keeper, or harbinger of any dog, cat, or other animal shall permit the animal to defecate on the property, either public or private, of another without the owner, keeper, or harbinger having in his possession the necessary tools or equipment to remove the defecation.
- (b) The owner, keeper, or harbinger shall use the necessary tools and equipment to remove the defecation from the property forthwith.

(Ord. No. 01-243, 12-10-01)

**Sec. 5-6. Abandoning animals.**

No owner or keeper of a dog, cat, or other domestic animal shall abandon the animal.

(Ord. No. 01-243, 12-10-01)

**Sec. 5-7. Injuring animals.**

No person shall maliciously, or willfully and without the consent of the owner, kill or injure a dog, cat, or other domestic animal that is the property of another. This section does not apply to a licensed veterinarian acting in an official capacity.

(Ord. No. 01-243, 12-10-01)

**Sec. 5-8. Animal fights.**

No person shall knowingly engage in or be employed at cockfighting, or pitting an animal against another, no person shall receive money for the admission of another to a place kept for this purpose; no person shall use, train, or possess any animal for seizing, detaining, or maltreating a domestic animal. Any person who knowingly purchases a ticket of admission to such place, or is present thereat, or witnesses such spectacle, is an aider and abettor.

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(Ord. No. 01-243, 12-10-01)

**Sec. 5-9. Reporting escape of wild, exotic or dangerous animals.**

The owner, keeper or harbinger of any exotic animal or any animal that presents a risk of serious physical harm to persons or property, or both, shall, within one hour after he or she discovers or reasonably should have discovered the escape, report it to a law enforcement officer of the city and to the county sheriffs department.

(Ord. No. 01-243, 12-10-01; Ord. No. 06-289, § 1, 9-11-06)

**Sec. 5-10. Control.**

- (a) For the purpose of this section, an animal shall be deemed under such reasonable control when such animal is with the owner or some member of the owner's family, or some other person with permission of the owner, of suitable age; and the person or property.
- (b) For the purposes of the section, an animal shall be deemed not to be under reasonable control when such animal commits damage to the person or property of anyone other than the owner, except if the animal acts in the defense of the owner, his family or his property.

(Ord. No. 06-289, § 1, 9-11-06; Ord. No. 15-314, § 1, 3-9-15)

**Sec. 5-11. Harboring and ownership of cats.**

It shall be unlawful for any person to own, possess or harbor more than three cats four months of age or over in the city. Every person in possession of any cat, or who shall suffer such cat to remain about his premises for a period of five days or more, shall be deemed to be the owner of such cat for the purposes of this chapter.

(Ord. No. 14-308, § 1, 9-8-14; Ord. No. 15-314, § 1, 3-9-15)

**Sec. 5-12. Penalties.**

Any person violating any of the provisions of this article shall, upon conviction in the district court, be subject to a fine as prescribed in section 1-13 of this Code.

(Ord. No. 01-243, 12-10-01; Ord. No. 06-289, § 1, 9-11-06)

**Secs. 5-13—5-25. Reserved.**

***ARTICLE II. DOGS<sup>12</sup>***

**Sec. 5-26. Presumption of ownership.**

- (a) It shall be unlawful for any person to own, possess or harbor more than three dogs four months of age or over in the city. Every person in possession of any dog, or who shall suffer such dog to remain about his

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<sup>12</sup>State law reference(s)—Dog law, MCL 287.261 et seq.

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premises for a period of five days or more, shall be deemed to be the owner of such dog for the purposes of this chapter.

- (b) No owner of a dog shall fail to require the dog to wear, at all times, a valid tag issued in connection with a certificate of registration. A dog's failure at any time to wear a valid tag shall be evidence of a lack of registration and shall subject any dog found not wearing such tag to impoundment, sale, or destruction.
- (c) No person shall own, keep or harbor a dog wearing a fictitious, altered, or invalid registration tag or a registration tag not issued by the county in connection with registration of that animal.
- (d) No person shall obstruct or interfere with anyone lawfully engaged in capturing an unlicensed dog or making an examination of a dog wearing a tag.

(Code 1963, § 9.11; Ord. No. 148, 8-8-83; Ord. No. 01-243, 12-10-01; Ord. No. 06-289, § 1, 9-11-06)

### **Sec. 5-27. Immunization and control.**

- (a) No dog shall be permitted upon the public streets or off the premises of the owner unless such dog has been immunized against rabies in a manner approved by the health department, and unless such dog is under the reasonable control of the owner, or such dog is confined in the process of being transported to and from the premises of the owner.
- (b) For the purpose of this section, a dog shall be deemed under such reasonable control when such dog is with the owner or some member of the owner's family, or some other person with permission of the owner, of suitable age; and the person with the dog can control the animals behavior by leash as to prevent it from causing injury to any person or property.
- (c) For the purposes of the section, a dog shall be deemed not to be under reasonable control when such dog commits damage to the person or property of anyone other than the owner, except if the dog acts in the defense of the owner, his family or his property. A female dog while in heat shall not be under reasonable control when off the premises of the owner, unless confined in the process of being transported to or from the premises of the owner.

(Code 1963, § 9.12; Ord. No. 148, 8-8-83; Ord. No. 01-243, 12-10-01)

### **Sec. 5-28. Barking and nuisance.**

No person owning, possessing or having charge of any dog, shall permit such dog to be an annoyance or nuisance in the vicinity where kept because of loud or frequent or habitual barking, yelping or howling; or by reason of damaging or trespassing on the property of others.

(Code 1963, § 9.13; Ord. No. 148, 8-8-83; Ord. No. 01-243, 12-10-01)

### **Sec. 5-29. Seizure and impounding of dogs.**

Any dog found at large or not under reasonable control in the city is in violation of section 5-27 or 5-28, or which is suspected of having rabies or of having bitten any person or animal, may be seized and impounded by the dog warden or any police officer of the city.

(Code 1963, § 9.14; Ord. No. 148, 8-8-83; Ord. No. 01-243, 12-10-01)

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**Sec. 5-30. Penalties.**

Any person violating any of the provisions of this article shall, upon conviction in the district court, be subject to a fine as prescribed in section 1-13 of this code.

(Code 1963, § 9.15; Ord. No. 148, 8-8-83; Ord. No. 01-243, 12-10-01)

State law reference(s)—Dog law, MCL 287.261 et seq.

**Secs. 5-31—5-37. Reserved.**

***ARTICLE III. DANGEROUS AND VICIOUS DOGS<sup>13</sup>***

**Sec. 5-38. Definitions.**

As used in this article, the following definitions shall apply.

*Dangerous dog.* A dog that, without provocation, and subject to the following sentence, has chased or approached in either a menacing fashion or an apparent attitude of attack, or has attempted to bite or otherwise endangered any person while that dog is off the premises of its owner, keeper or harbinger or some other responsible person, or not physically restrained or confined in a locked pen which has a top, locked fenced yard, or other locked enclosure which has a top. Dangerous dog does not include a police dog that has chased or approached in either a menacing fashion or an apparent attitude of attack, or has attempted to bite or otherwise endangered any person while the police dog is being used to assist law enforcement officers in the performance of their official duties.

*Menacing fashion.* A dog that would cause any person being chased or approached to reasonably believe that the dog will cause physical injury to that person.

*Police dog.* A dog that has been trained and may be used to assist one or more law enforcement officers in the performance of their official duties.

*Vicious dog.* A dog that, without provocation, meets any of the following criteria:

- (1) Has killed or caused injury to any person;
- (2) Has caused injury, other than killing or serious injury, to any person, or has killed another dog;
- (3) Belongs to a breed that is commonly know as a pit bull dog. The ownership, keeping, or harboring of such a breed of dog shall prima facie evidence of the ownership, keeping or harboring of a vicious dog.

Vicious dog does not include either of the following:

- (1) A police dog that has killed or caused serious injury to any person or that has caused injury, other than killing or serious injury, to any person while the police dog is being used to assist law enforcement officers in the performance of their official duties.

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<sup>13</sup>Editor's note(s)—Ord. No. 01-243, adopted Dec. 10, 2001 added a new article III, sections 5-39, 5-40, 5-45. The provisions of said ordinance have been included herein as article III, sections 5-38—5-41 at the discretion of the editor.

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- (2) A dog that has killed or caused serious injury to any person while a person was committing or attempting to commit a trespass or other criminal offence on the property of the owner, keeper or harbinger of the dog.

*Without provocation.* A dog acts without provocation when it was not teased, tormented, or abused by a person, or it was not coming to the aid or the defense of a person who has not engaged in illegal or criminal activity and who was not using the dog as a means of carrying out such activity.

(Ord. No. 01-243, 12-10-01)

### **Sec. 5-39. Presumption of ownership.**

It shall be unlawful for any person to own, possess or harbor a dog six months of age or over in the city without first having obtained a license therefor. Every person in possession of any dog, or who shall suffer such dog to remain about his premises for a period of five days or more, shall be deemed the owner of such dog for the purpose of this chapter.

(Ord. No. 01-243, 12-10-01)

### **Sec. 5-40. Dogs running at large, dangerous or vicious dogs.**

- (a) As used in this article, dog, dangerous dog and vicious dog have the same meaning.
- (b) No owner, keeper, or harbinger of any female dog shall permit it to go beyond the premises of the owner, keeper or harbinger and any time the dog is in heat, unless the dog is properly leashed.
- (c) No owner, keeper, or harbinger of any dog shall fail at any time to keep it either physically confined or restrained upon the premises of the owner, keeper, or harbinger by leash, tether, adequate fence, supervision, or secure enclosure to prevent escape, or under reasonable control of some person, except when the dog is lawfully engaged in hunting accompanied by the owner, keeper, or harbinger or handler.
- (d) No owner, keeper, or harbinger of a dangerous or vicious dog shall fail to do either of the following, except when the dog is lawfully engaged in hunting or training for the purpose of hunting, accompanied by the owner, keeper, or harbinger, or a handler:
- (1) While the dog is on the premises of the owner, keeper, or harbinger, securely confine it at all times in a locked pen which has a top, locked fenced yard, or other locked enclosure which has a top, except that a dangerous dog may, in the alternative, be tied with a leash or tether so that the dog is adequately restrained.
- (2) While the dog is off the premises of the owner, keeper, or harbinger, keep it on a chain link leash or tether that is not more than six feet in length and additionally do at least one of the following:
- a. Keep the dog in a locked pen which has a top, locked fenced yard, or other locked enclosure which has a top.
- b. Have the leash or tether controlled by a person who is of suitable age and discretion or securely attach, tie, or affix the leash or tether to the ground or a stationery object or fixture so that the dog is adequately restrained and station a person in close enough proximity to that dog so as to prevent it from causing injury to any person.
- c. Muzzle the dog.
- (e) No owner, keeper, or harbinger of a vicious dog shall fail to obtain liability insurance with an insurer authorized to write liability insurance in this state providing coverage in each occurrence, subject to a limit,

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exclusive of interest and costs, of not less than \$50,000.00 because of damage or bodily injury to or death of a person caused by a vicious dog.

(Ord. No. 01-243, 12-10-01)

### **Sec. 5-41. Penalties.**

Any person violating any of the provisions of the this article shall, upon conviction in the district court, be subject to a fine as prescribed in section 1-13 of this code.

(Ord. No. 01-243, 12-10-01)

## **Chapter 6 BUILDINGS AND BUILDING REGULATIONS<sup>14</sup>**

### **ARTICLE I. IN GENERAL**

#### **Sec. 6-1. Building code.**

- (a) Pursuant to the provisions of section 8 of the State Construction Code Act, Act No. 230 of the Public Acts of Michigan of 1972 (MCL 125.8501 et seq.), as amended, the Michigan State Construction Code is hereby adopted by reference as the building code of the city.
- (b) Complete copies of the Michigan Construction Code adopted in subsection (a) above are available for public use and inspection at the city offices located at 118 Orchard Street, Morenci, Michigan.
- (c) References in the Michigan State Construction Code to "state" shall mean the State of Michigan; references to "municipality" shall mean the City of Morenci; and references to "local ordinance" shall mean the ordinances of the city.

(Ord. No. 179, 4-13-92; Ord. No. 97-224, 12-22-97)

#### **Sec. 6-2. Agency designation; electrical; plumbing; mechanical; building.**

- (a) *Electrical.* Pursuant to the provisions of the Michigan Electrical Code, in accordance with Act 230 of the Public Acts of 1972, as amended, the electrical inspector of the City of Morenci is hereby designated as the enforcing agency to discharge the responsibilities of the City of Morenci under Act 230 of the Public Acts of 1972, as amended, State of Michigan. The City of Morenci assumes responsibility for the administration and enforcement of said Act through its corporate limits.
- (b) *Plumbing.* The City of Morenci does not assume responsibility for the administration and enforcement of the Michigan Plumbing Code throughout its corporate limits. The State of Michigan Bureau of Construction Codes is the enforcing agency of the Michigan Plumbing Code.

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<sup>14</sup>Cross reference(s)—Planning commission, § 2-121; fire prevention and protection, Ch. 8; dangerous structures, § 13-26 et seq.; streets, sidewalks and other public places, Ch. 18; subdivision regulations, Ch. 19; utilities, Ch. 21; zoning, Ch. 22.

State law reference(s)—State construction code act, MCL 125.1501 et seq.

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- (c) *Mechanical.* Pursuant to the provisions of section 8b(7) of the state Construction Code Act of 1972, as amended, the city hereby transfers responsibility for the administration and enforcement of its mechanical code provisions to the bureau of construction codes.
  - (d) *Building.* Pursuant to the provisions of the Michigan Building Code, in accordance with section 9 of Act 230 of the Public Acts of Michigan of 1972 (MCL 125.8501 et seq.) the building official of the City of Morenci is hereby designated as enforcing agency to discharge the responsibility of the city under Act 230 of Public Acts of 1972, as amended, of the State of Michigan. The city assumes responsibility for the administration and enforcement of said act throughout its corporate limits.

(Ord. No. 179, 4-13-92; Ord. No. 196, 11-22-93; Ord. No. 174, 1-13-92; Ord. No. 97-224, 12-22-97; Ord. No. 98-227, 7-22-98; Ord. No. 98-232, 12-14-98; Ord. No. 04-267, 1-12-04; Ord. No. 06-290, § 1, 12-11-06; Ord. No. 11-298, § 1, 11-14-11)

### **Sec. 6-3. Enforcement.**

- (a) Pursuant to the provisions of section 9 of Act No. 230 of the Public Acts of Michigan of 1972 (MCL 125.1501 et seq.), the building inspector of the city is designated as the enforcement agency to discharge responsibilities of the city as it pertains to the building code.
- (b) The mechanical and plumbing code shall be enforced by the executive director of the bureau of construction codes.

(Ord. No. 179, 4-13-92; Ord. No. 196, 11-22-93)

### **Sec. 6-4. Copies available.**

Complete printed copies of the Michigan State Construction Code adopted in section 6-1 and the state electrical code, the state plumbing code, and the state mechanical code are available for public use and inspection at the office of the city clerk and Stair Public Library.

(Ord. No. 179, 4-13-92; Ord. No. 97-224, 12-22-27)

### **Sec. 6-5. References in codes.**

References in the Michigan State Construction Code, the state electrical code, the state plumbing code, and the state mechanical code to "state" shall mean the State of Michigan; references to "municipality" shall mean the City of Morenci; references to the "municipal charter" shall mean the Charter of the City of Morenci; and reference to "local ordinances" shall mean the Morenci City Code.

(Ord. No. 179, 4-13-92; Ord. No. 97-224, 12-22-27)

### **Secs. 6-6—6-15. Reserved.**

## **ARTICLE II. PROPERTY MAINTENANCE CODE<sup>15</sup>**

### **Sec. 6-16. Code adopted.**

That a certain document, copies of which are on file in the office of the city clerk/administrator of the City of Morenci, being marked and designated as the International Property Maintenance Code, 2009 edition, ("IPMC") as published by the International Code Council, is hereby adopted as the property maintenance code of the City of Morenci, in the State of Michigan, for regulating and governing the conditions and maintenance of all property, buildings and structures, by providing the standards for supplied utilities and facilities and other physical things and conditions essential to ensure that structures are safe, sanitary and fit for occupation and use, and the condemnation of buildings and structures unfit for human occupancy and use, and the demolition of such existing structures as herein provided providing for the issuance of permits and collection of fees therefor, and each and all of the regulations, provisions, penalties, conditions and terms of said property maintenance code on file in the office of the City of Morenci are hereby referred to, adopted, and made a part hereof, as if fully set out in this article, with the additions, insertions, deletions and changes hereafter prescribed.

(Ord. No. 03-263, 6-23-03; Ord. No. 11-296, § 1, 8-22-11)

### **Sec. 6-17. References in the IMPC.**

References in the International Property Maintenance Code to "authority" or "appointing authority" or similar terms shall mean the city council; references to "code official" shall mean the city rental inspector, city code and zoning administrator, zoning administrator, city building inspector or any other authorized personnel by the city council established through resolution; references to "department" shall mean the administrative department headed by the city administrator/clerk.

(Ord. No. 03-263, 6-23-03; Ord. No. 11-296, § 2, 8-22-11; Ord. No. 15-317, § 2, 5-20-15)

### **Sec. 6-18. Revisions.**

The following sections are hereby revised:

*Section 101.1.* Insert: City of Morenci.

*Section 103.5.* Insert: The fees for activities and services performed by the department in carrying out its responsibilities under this code shall be as established from time to time by resolution of the Morenci city council.

*Section 304.14.* Insert: April 1 to October 31.

*Section 602.3.* Insert: October 1 to April 30.

*Section 602.4.* Insert: October 1 to April 30.

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<sup>15</sup>Editor's note(s)—Ord. No. 03-263, adopted June 23, 2003, amended the Code with the addition of article II, sections 6-6—6-12. In order to allow for the future expansion of article I, the provisions of said ordinance have been included herein as article II, sections 6-16—6-22, at the discretion of the editor.

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(Ord. No. 03-263, 6-23-03; Ord. No. 11-296, § 3, 8-22-11)

**Sec. 6-19. Deletion.**

Section 302.4 of the IPMC entitled "Weeds" is deleted in its entirety.

(Ord. No. 03-263, 6-23-03; Ord. No. 11-296, § 4, 8-22-11)

**Sec. 6-20. Existing actions.**

Nothing in this article or in the property maintenance code hereby adopted shall be construed to affect any suit or proceeding pending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance hereby repealed as cited in section 6-18 of this article; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this article.

(Ord. No. 03-263, 6-23-03; Ord. No. 11-296, § 5, 8-22-11)

**Sec. 6-21. Penalties.**

The penalties provided by section 1-13 of the City of Morenci Code of Ordinances shall apply to a violation of this article. In addition, a violation of this IPMC shall be deemed a nuisance per se and shall be subject to abatement by a court of competent jurisdiction.

(Ord. No. 03-263, 6-23-03; Ord. No. 11-296, § 6, 8-22-11)

**Sec. 6-22. Copies available.**

Complete printed copies of the IPMC adopted are available for public use and inspection at the office of the city clerk.

(Ord. No. 03-263, 6-23-03; Ord. No. 11-296, § 7, 8-22-11)

**Sec. 6-23. Repealer and conflict.**

All other ordinances or parts of ordinances in conflict herewith are hereby repealed. In particular, Ordinance No. 03-263 of the City of Morenci, being chapter 6, article II of the City of Morenci Code Book, entitled "Property Maintenance Code" are repealed and shall be replaced by the provisions of this article.

(Ord. No. 11-296, § 8, 8-22-11)

**Secs. 6-24—6-35. Reserved.**

### **ARTICLE III. RENTAL PROPERTY<sup>16</sup>**

#### **Sec. 6-36. Purpose.**

The purposes of this article are to protect the public health, safety and welfare by establishing minimum standards governing the state of repair and maintenance of rental dwellings, rental units and the premises on which they are located; to establish minimum standards governing utilities, facilities and other physical components and conditions essential to make and keep such premises fit for residential occupancy and use; to prevent blight and its detrimental effects from destroying the character and viability of the community; to fix certain responsibilities and duties upon owners and tenants; to authorize and establish procedures for registering, inspecting and requiring that such premises be maintained in a compliant manner; to establish service and administrative fees to be charged through the enforcement of this article; and to fix penalties for violations of this article.

(Ord. No. 04-272, 5-24-04; Ord. No. 06-288, § 1, 7-24-06)

#### **Sec. 6-37. Scope.**

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, rooming houses and boarding houses, but excluding bed and breakfast establishments.

(Ord. No. 04-272, 5-24-04; Ord. No. 06-288, § 1, 7-24-06)

#### **Sec. 6-38. Definitions.**

As used in this article, the following terms shall have the following meanings respectively ascribed to them in this section:

*Rental inspector:* The official who is charged with the administration and enforcement of this code through a job description approved by the city council, or any duly authorized representative.

*Certificate of compliance:* A certificate issued by the rental inspector, code enforcement officer, or other person or official designated by the city, which certifies compliance with the provisions of the codes and ordinances of the city for all rental dwellings, units, property, or structures contemplated by the scope of this article.

*Occupant:* Includes all tenants, lessees and persons residing within a rental dwelling or rental unit property, or structure contemplated by this article.

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<sup>16</sup>Editor's note(s)—Ord. No. 04-272, adopted May 24, 2004, amended the Code with the addition of a new article III, sections 6-13—6-22. In order to avoid duplication of section numbers, the provisions of said ordinance have been included herein as article III, sections 6-36—6-44, at the discretion of the editor.

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*Owner:* Any person, firm, corporation, or any other legal entity having a legal or equitable interest in the premises.

*Owner's representative:* 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 ordinances.

*Rental dwelling unit:* A room or group of rooms providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation. A single-family home is one dwelling unit; each apartment within a multi-family residential building is a separate dwelling unit.

*Rental property:* Any structure, building or other facility promised and/or leased to a residential tenant or tenants for use as a home, residence or sleeping unit, but excluding bed and breakfast establishments, containing one or more rental dwelling unit. This definition includes, but without limitation, one and two family dwellings, multiple family dwellings, apartment buildings, commercial structures, boarding houses, or any other structure contemplated by the scope of this article.

This article does not apply to jails, hospitals, nursing homes, school dormitories, convalescent homes, foster homes or temporary group shelters that are inspected, certified and/or licensed by the state.

(Ord. No. 04-272, 5-24-04; Ord. No. 05-277, 6-13-05; Ord. No. 06-288, § 1, 7-24-06; Ord. No. 15-317, §§ 1, 3, 5-20-15)

## **Sec. 6-39. Registration required.**

- (a) *Compliance.* All rental properties are required to be registered pursuant to this article and shall comply with the following:
- (1) All existing rental properties shall be registered within 90 days of the effective date of this article and every three years thereafter.
  - (2) All newly constructed rental properties shall be registered prior to any use or occupancy as a rental dwelling unit and every three years thereafter.
  - (3) Any new owner shall register a rental property, which is sold, transferred or conveyed, within 30 days of the date of sale/closing. Any existing certificate of compliance shall be transferred to the new owner and shall be valid until its expiration or revocation for noncompliance with the city codes and ordinances.
  - (4) All existing residential properties, which are converted to rental properties, shall be registered on or prior to the date on which the property is first occupied for rental purposes and every three years thereafter. Any rental property which ceases being used as rental property is thereafter exempt from registration, however, the mere fact that a rental property is vacant does not exempt the rental property from being registered.
  - (5) Any change in address of the owner, owner representative or agent shall notify the city within 30 days of such change.
- (b) *Registration forms.* Application for registration shall be made in such form and in accordance with such instruction as may be provided by the rental inspector or otherwise designated by the city clerk/administrator and shall include at least the following information:
- (1) The name, address and telephone number of the owner; no post office box shall be accepted.
  - (2) The rental property owner has the option to appoint a representative. The owner representative's name, address and phone number must be included on the registration form.

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- (3) The owner shall be responsible for notifying the rental inspector of any change of address of the owner and/or representative.
  - (4) Upon registration, the rental inspector shall inform applicants of the certificate of compliance requirements.
  - (5) The number of rental dwelling units contained within the rental property.
- (c) *Registration fee.* At the time of registration of a rental property, the owner or owner's representative shall pay a registration fee as adopted by resolution of the city council. Any unpaid registration fees shall become a lien on the property and collected as an assessment pursuant to section 17-31 through 17-35 of the City Code.
- (Ord. No. 04-272, 5-24-04; Ord. No. 06-288, § 1, 7-24-06; Ord. No. 15-317, § 1, 5-20-15)

**Sec. 6-40. Applicable standards.**

The standards used to determine rental property and rental dwelling unit compliance with city codes and ordinances shall be the International Property Maintenance Code as adopted by the city council.

(Ord. No. 04-272, 5-24-04; Ord. No. 06-288, § 1, 7-24-06)

**Sec. 6-41. Certificate of compliance required.**

- (a) No person shall lease or rent a rental dwelling unit, unless there is a valid certificate of compliance issued by the rental inspector in the name of the owner for the specific rental dwelling unit. The certificate shall be issued after registration and inspection by the rental inspector to determine that each rental dwelling unit complies with the provisions of the codes and ordinances of the city.
  - (b) The rental inspector shall attempt to inspect the premises before the certificate of compliance is initially issued. Upon failure of the rental inspector to conduct an inspection prior to occupancy, the owner may rent the property until the rental inspector has conducted an inspection, and the owner will not be deemed in violation during that time. If, however, the rental inspector's failure to inspect the premises is due to the owner's or representative's action, failure to act, or refusal to permit an inspection after reasonable notice of the intent to inspect, the owner or representative shall not rent the property without a current certificate of compliance as required.
  - (c) Between 30 and 60 days before the expiration date of the certificate of compliance, the city will notify the owner of the inspection date and time and the fee amount due, Notice shall be by first class mail to the address provided by the owner.
  - (d) The rental inspector shall attempt to inspect the premises before the certificate of compliance expires. Upon failure of the rental inspector to conduct an inspection prior to expiration of the certificate of compliance, the owner may rent the property until the rental inspector has conducted an inspection, and the owner will not be deemed in violation during that time. If, however, the rental inspector's failure to inspect is due to the owner's or representative's action, failure to act, or refusal to permit an inspection after reasonable notice of the intent to inspect, the owner or representative shall not rent the property without a current certificate of compliance as required. A certificate shall expire three years from the date of issuance.
- (Ord. No. 04-272, 5-24-04; Ord. No. 06-288, § 1, 7-24-06; Ord. No. 15-317, §§ 1, 4, 5-20-15)

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## **Sec. 6-42. Inspections.**

- (a) The rental 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 property.
  - (2) Upon receipt of a complaint from an owner, owner's agent or occupant that the premises are in violation of this article. If the rental 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 a referral from the police department, the fire department, a public or private school, or another public agency.
  - (4) Required by this article.
  - (5) Upon evidence of an existing ordinance violation observed by the rental inspector.
  - (6) At the request of the owner to determine compliance with the International Property Maintenance Code.
- (b) The rental inspector shall make an appointment for an inspection of the rental dwelling unit(s) with the owner or representative. The owner/representative must give the rental inspector at least a 24-hour notice when changing the scheduled appointment, with an alternative date and time.
- (c) The rental inspector shall give a confirmation notice, by first class mail, to the owner/representative at least ten days before the scheduled inspection. If the owner/representative and/or tenant refuse to permit a scheduled inspection, the rental inspector may through the city attorney, seek a search warrant to conduct the inspection.
- (d) The rental inspector shall issue a written inspection report noting any violations of this article or of any other provision of the city ordinances and shall provide a copy of the report to the owner or representative. The rental inspector shall direct the owner/representative to correct violations within the time set forth in the report. A reasonable time for correcting violations shall be determined by the rental 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 conditions. Upon request of the person responsible for correcting violations, the rental inspector may extend the time for correcting violations not to exceed an additional 30 days.

(Ord. No. 04-272, 5-24-04; Ord. No. 05-277, 6-13-05; Ord. No. 06-288, § 1, 7-24-06; Ord. No. 15-317, § 1, 5-20-15)

## **Sec. 6-43. Inspection fees.**

Fees for registration of rental properties, inspections, re-inspections and certificates of compliance shall be as established from time to time by resolution of the city council. This 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 17-31 through 17-35 of the City Code.

(Ord. No. 04-272, 5-24-04; Ord. No. 06-288, § 1, 7-24-06)



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**Sec. 6-44. Penalty.**

- (a) In the event the owner or representative does not correct a violation of any provision of this article, the rental 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, including but not limited to injunctive relief. Any structure not in compliance with this article is deemed a nuisance per se.
- (b) Any owner or representative of a rental dwelling unit who fails to register or who fails to obtain a certificate of compliance for each rental dwelling unit shall be guilty of a misdemeanor. Any owner or representative who fails to comply with any of the other parts of this article shall be guilty of a misdemeanor.
- (c) An owner or representative may be charged with more than one violation of the provisions of this article in a single civil complaint or misdemeanor complaint and warrant, provided that each violation so charged relates to the same property.
- (d) A violation of any provision of this article shall be punishable in accordance with section 1-13 of the City Code. Each day that a violation exists is considered a separate punishable offense. The imposition of any sentence shall not except the offender from compliance with the requirements of this article.
- (e) The rights and remedies provided herein are cumulative and in addition to any other remedies provided by law.

(Ord. No. 04-272, 5-24-04; Ord. No. 06-288, § 1, 7-24-06; Ord. No. 15-317, § 1, 5-20-15)

## **Chapter 7 CEMETERIES<sup>17</sup>**

**Sec. 7-1. 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:

*Burial space* shall mean a lot or portion of lot in any cemetery designated and maintained for the interment of a human body and for no other purpose.

*Cemetery* shall mean the Oak Grove Cemetery as heretofore established, and any other public cemetery owned, managed or controlled by the city.

*Owner* shall mean any person owning or possessing the privilege, license or right of interment in any burial space.

*Superintendent* shall mean the city superintendent.

(Code 1963, § 3.21)

Cross reference(s)—Definitions and rules of construction generally, § 1-2.

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<sup>17</sup>State law reference(s)—Municipal control and perpetual maintenance of cemetery lots, MCL 128.1 et seq., MSA 5.3165 et seq.

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### **Sec. 7-2. General management.**

The cemeteries which have been or may hereafter be established by the city and maintained either within or without its limits, 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 city superintendent. He shall, if necessary, cause such cemeteries to be laid out in lots, drives and walks; the lots to be numbered; drives and walks therein to be named; and plats thereof to be made. The city council shall fix the price of lots and other services necessary thereto.

(Code 1963, § 3.22)

### **Sec. 7-3. Rules and regulations.**

The city council 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 same, as may be deemed necessary. The superintendent shall see that this chapter and all rules and regulations in respect to cemeteries are strictly enforced. The superintendent shall cause to be kept a register of all interments made in any city cemetery, in which shall appear the name of the deceased, the date and place of interment and such other information as may be required.

(Code 1963, § 3.23)

### **Sec. 7-4. Sale of lots.**

All deeds for lots shall be executed on behalf of the city by the city clerk. Any person desiring to purchase a burial space in any city cemetery shall make application and pay the required amount for the lot selected 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 the right of interment only, and shall be held subject to the provisions of this chapter, existing rules and regulations, and such ordinances, rules and regulations as may be adopted by the city council.

(Code 1963, § 3.24)

### **Sec. 7-5. Lot owner's 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 be filed in writing in the office of the city clerk, with the consent of the superintendent endorsed thereon.

(Code 1963, § 3.25)

### **Sec. 7-6. Lot records.**

The city clerk shall keep proper records in which the deeds to all burial spaces shall be recorded at length. In connection with all such records, the city clerk shall also keep a general index in which shall be noted alphabetically the names of the parties to every such instrument of conveyance.

(Code 1963, § 3.26)

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**Sec. 7-7. 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 from time to time fixed by the city council. All such fees shall be paid to the city clerk or his agent. No person other than an employee of the city, acting under the direction 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 be done under supervision of the city employee in charge of such cemetery.

(Code 1963, § 3.27)

**Sec. 7-8. Trespass.**

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. The superintendent shall make such additional rules and regulations not inconsistent with the terms of this chapter, subject to the approval of the city council, as may be deemed necessary for the operation and control of city cemeteries.

(Code 1963, § 3.28)

## **Chapter 7.5 EMERGENCY MEDICAL SERVICES**

**Sec. 7.5-1. Title.**

This chapter shall be known and cited as the City of Morenci Emergency Medical Services Ordinance.

(Ord. No. 233, § 1, 2-8-99; Ord. No. 02-251, § 1, 6-24-02)

**Sec. 7.5-2. Designation of service provider.**

The city designates Morenci Area Emergency Medical Services as the provider for emergency medical care services for the residents of the city.

(Ord. No. 233, § 2, 2-8-99; Ord. No. 02-251, § 2, 6-24-02)

**Sec. 7.5-3. Use of designated service provider.**

All city agencies, including the city fire department and police department, shall primarily utilize the services of Morenci Area Emergency Medical Services whenever emergency medical services are required.

(Ord. No. 233, § 3, 2-8-99; Ord. No. 02-251, § 3, 6-24-02)

**Sec. 7.5-4. Provision of advanced life support services.**

Advanced life support services shall be utilized for all emergency medical calls within the limits of the city and within the limits of any other jurisdiction in which the city is contractually obligated to provide emergency medical services.

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(Ord. No. 233, § 4, 2-8-99; Ord. No. 02-251, § 4, 6-24-02)

## Chapter 8 FIRE PREVENTION AND PROTECTION<sup>18</sup>

### ARTICLE I. IN GENERAL

#### Sec. 8-1. Open fires.

- (a) *Public grounds.* No person shall kindle or maintain any open fire or authorize any such fire to be kindled or maintained on or in any public street, alley, road, or other public ground.
- (b) *Private land.* No person shall kindle or maintain any open fire or authorize any such open fire to be kindled or maintained on any private land, nor shall any open fire be kindled or maintained in any outdoor container (for example, burn barrel, trash barrel, etc.) unless such container:
  - (1) Has been manufactured according to nationally accepted standards for refuse-burning equipment and bears the label of approval of any nationally recognized testing agency such as, but not limited to, Underwriter's Laboratory or the American Gas Association; or,
  - (2) By its design and construction can be reasonably expected to operate without causing a smoke or odor nuisance or health hazard.
- (c) *Exceptions.* The provisions of this section shall not prevent:
  - (1) The burning of wood, charcoal, coke or other accepted fuel for the preparing of food in any form in an approved container or utensil while being used in a safe and sanitary manner.
  - (2) The use of approved gaseous or liquid fired salamanders commonly employed in conjunction with building and construction operations when being used in accordance with accepted safety standards.
  - (3) Roofers, tanners, plumbers or other mechanics pursuing a business requiring the use of fire or for the purpose of boiling tar, pitch or oil used in the regular course of an appropriate business or trade, and while being used in a safe manner.
  - (4) Open burning specifically permitted in writing by the fire chief for fire department purposes after determination by the fire chief that such open burning will occur under the following circumstances:
    - a. The area is adequately protected by firefighters or fire department trainees;
    - b. The fire will be of short duration;
    - c. The atmosphere is relatively free of pollutants.

(Ord. No. 177, 4-13-92)

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<sup>18</sup>Cross reference(s)—Buildings and building regulations, Ch. 6.

State law reference(s)—State fire prevention act, MCL 29.1 et seq.; crimes related to explosives and bombs, MCL 750.200 et seq.; crimes related to fires, MCL 750.240 et seq.

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**Sec. 8-2. Recovery of expenses incurred by city responding to emergency hazardous material incident.**

- (a) *Definitions.* For purposes of this section, the following definitions shall apply:
- (1) *Emergency hazardous material incident* means a spill, leakage, release, or other dissemination or threat of same of any hazardous materials requiring immediate action to mitigate a threat to public health, safety or welfare.
  - (2) *Expenses* shall include but not be limited to the actual labor costs to the city and its personnel including workers' compensation benefits, fringe benefits, administrative overhead, costs of equipment, costs of equipment operation, costs of materials, costs of disposal, costs of any contract labor and materials, and those costs associated with an emergency hazardous materials incident, in order to ensure the safety of the city and its populace. Expenses shall also include the charges or costs incurred by the city as a result of a HazMat unit response to an emergency hazardous materials incident.
  - (3) *Hazardous materials* shall include all those materials designated as hazardous by the State of Michigan in Public Act 307 of 1982, as amended, or by the Federal Superfund Amendment and Reauthorization Act (SARA), as amended.
  - (4) *HazMat Unit* means the vehicle provided by the city, individually or pursuant to an agreement with another municipality, entity or individual, equipped with apparatus designed to provide emergency service in situations involving a spill, leak, accident or other similar occurrence involving hazardous materials.
  - (5) *Owner* means any individual, firm, company, association, society, corporation, partnership, or group, including their officers and employees, who are either listed as the owner of record by the Lenawee County Register of Deeds, have a land contract vendee interest in, or are listed as the taxpayer of record for the real property where the emergency hazardous material incident occurred, or have title, use, possession or control of the hazardous material or the vehicle used to transport same.
  - (6) *Person* means any individual, firm, company, association, society, corporation, partnership, or group, including their officers and employees, who has responsibility for or actual involvement in the emergency hazardous materials incident.
- (b) *Hazardous materials incident emergency.* In the event a spill, leakage, release, or other dissemination of any hazardous material has occurred, the fire chief, or his/her authorized representative, shall determine whether such occurrence constitutes an emergency hazardous materials incident, and if so determined, the city may take immediate steps to abate and control the hazardous materials.
- (c) *Expenses of an emergency hazardous materials incident.* In the event of an emergency hazardous materials incident, all owners or persons who have responsibility for or involvement in the emergency hazardous materials incident shall be jointly and severally liable to the city for any expenses incurred in responding to said emergency hazardous materials incident. In the event said owner or person fails to pay said expenses within 60 days after the city mails its invoice of expenses to said owner or person, the city may take such collection efforts to recover said expenses that it deems appropriate, including, but not limited to, adding the unpaid expenses to the real property tax bill of the owner of the real property where the hazardous materials emergency occurred, and collecting the same in the same manner that ad valorem property taxes are collected; provided, however, such unpaid expenses may not be added to the tax bill of any real property unless the owner or person in charge of or responsible for said real property, has a connection or involvement with the hazardous material that resulted in an emergency hazardous materials incident.
- (d) *Payment of invoice.* Payment of an invoice for expenses incurred by the city under this section shall not constitute an admission of guilt or responsibility under any other ordinance, law, rule or regulation.

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(Ord. No. 212, §§ 1—4, 10-14-96)

Editor's note(s)—Ord. No. 212, §§ 1—4, adopted October 14, 1996, did not specifically amend the Code; hence, inclusion herein as § 8-2 was at the discretion of the editor.

**Sec. 8-3. Collection of fees for emergency fire service and response.**

- (a) *Authorization of fee collection.* Collection of fees for emergency fire services rendered by the fire department are hereby authorized on such fee schedule and on such terms as may be established from time to time by resolution of the city council.
- (b) *Fee collection.* Fees for emergency fire services shall be billed and collected from parties owning, occupying or otherwise having an ownership or possessory interest in the premises or property receiving the benefit of emergency fire services rendered by the fire department.
- (c) *Payment of invoice.* Payment of an invoice for fees incurred under this section shall not constitute an admission of guilt or responsibility under any other ordinance, law, rule or regulation.

(Ord. No. 213, §§ 1—3, 10-14-96)

Editor's note(s)—Ord. No. 213, §§ 1—3, adopted October 14, 1996, did not specifically amend the Code; hence, inclusion herein as § 8-3 was at the discretion of the editor.

**Secs. 8-4—8-25. Reserved.**

**ARTICLE II. FIRE PREVENTION CODE**

**Sec. 8-26. Adoption of BOCA National Fire Prevention Code.**

Pursuant to the provisions of section 8 of the State Construction Code Act (Act No. 230 of the Public Acts of Michigan of 1972, MCL 125.1508), as amended, and any other applicable provisions of the laws of the state permitting adoption of nationally recognized codes by reference the city hereby adopts the BOCA National Fire Prevention Code, 1990 edition, as published by the Building Officials and Code Administrators International, Inc. The city is hereby designated the enforcing agency to enforce the provisions of such code within the boundaries of the city.

State law reference(s)—Authority to adopt technical codes by reference, MCL 117.3(k).

**Sec. 8-27. Fees.**

Any fees required in the fire prevention code shall be those established from time to time by resolution of the city council.

**Secs. 8-28—8-50. Reserved.**

### **ARTICLE III. FIRE DEPARTMENT<sup>19</sup>**

#### **Sec. 8-51. Department organization.**

- (a) The fire department of the city shall consist of positions established by resolution of the Morenci City Council. All officers and firefighters shall be appointed by the fire chief with approval by the city superintendent/city clerk.
- (b) The chief of the fire department, or in his absence the assistant chief, shall have control of the fire department in directing their movements. At fires he shall take such measures as he may deem advisable, and officers and members of the fire department shall be under his control. The fire chief shall report and be supervised by the city superintendent/city clerk.
- (c) The fire chief shall attend all meetings of the fire department. He/she shall at all times be responsible for the proper functioning of the fire department and shall report directly and at frequent intervals to the council.

(Ord. No. 20-348, § 1, 3-9-20)

#### **Sec. 8-52. Compensation.**

- (a) Each member and officer of the fire department shall be paid compensation for meetings and fires attended as shall be provided for by resolution of the city council.
- (b) In no case shall any firefighter who does not respond to a fire call be paid any sum for services.
- (c) It shall be the duty of the treasurer of the fire department to render a statement once each month to the city council detailing the number and location of all city and rural fires attended by the department, the number of men and pieces of equipment used, the approximate property loss of each fire and the payment due the individual members of the fire department who responded to the calls.
- (d) The statement shall also include the monthly payment to firefighters authorized for attendance at regular fire department meetings. Upon such statement being allowed, the city treasurer shall be directed to draw an order for the total amount shown on such statement payable to the treasurer of the fire department. It shall be the duty of the treasurer to disburse such money among the members entitled to the same.

(Ord. No. 20-348, § 1, 3-9-20)

#### **Sec. 8-53. Fire department sinking fund.**

Donations from individuals specifically designated toward the purchase of new fire department equipment shall be entrusted to the city treasurer and shall be deposited in a separate account to be known as the fire

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<sup>19</sup>Editor's note(s)—Ord. No. 20-348, § 1, adopted March 9, 2020, repealed the former Art. III, §§ 8-51—8-60, and enacted a new Art. III as set out herein. The former Art. III pertained to similar subject matter and derived from Code 1963, §§ 1.71—1.81; Ord. No. 205, Jan. 22, 1996; Ord. No. 206, Aug. 26, 1996; Ord. No. 208, Oct. 14, 1996; Ord. No. 209, Oct. 14, 1996; Ord. No. 210, Oct. 14, 1996; Ord. No. 211, Oct. 14, 1996; Ord. No. 215, March 10, 1997; Ord. No. 02-250, June 10, 2002; Ord. No. 08-291, § 1, June 9, 2008.

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department sinking fund and to be subject to city audit and management by the city council the same as other city funds. All such donations received for the purpose of purchasing new or replacing old or obsolete fire department equipment shall be credited to this account and deposited therein. Expenditures from this account shall be at the will of the city council but shall be used only for fire department equipment. Any monies received from townships or other entities contracting for fire service shall be deposited in the city general fund.

(Ord. No. 20-348, § 1, 3-9-20)

**Secs. 8-54—8-74. Reserved.**

## ***ARTICLE IV. FREE-STANDING WOOD BURNING FURNACES***

### **Sec. 8-75. Definition.**

For purposes of this section, the term "free-standing 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; and
- (3) Is not located within a residential structure.

Excluded from the definition of a free-standing wood burning furnace is any device which is not designed or used to heat a structure other than the structure in which it is located.

(Ord. No. 06-285, § 1, 4-10-06)

### **Sec. 8-76. 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.

(Ord. No. 06-285, § 1, 4-10-06)

### **Sec. 8-77. Conflicts.**

This section shall not be construed as an exemption or exception to any other provision of these codified ordinances, including the building 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 provision of law, the more restrictive provision shall apply.

(Ord. No. 06-285, § 1, 4-10-06)

### **Sec. 8-78. 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. However, this section shall not be deemed as specific authorization for the use of any preexisting 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.

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(Ord. No. 06-285, § 1, 4-10-06)

**Sec. 8-79. Violations; declaration of nuisance.**

Any free-standing wood burning furnace installed or operated in violation of this section is declared to be nuisance per se.

(Ord. No. 06-285, § 1, 4-10-06)

**Sec. 8-80. Penalty.**

Any person violating any of the provisions of this article shall, be subject to either or both criminal or civil penalties as prescribed in section 1-13 of this Code. Each day that a violation exists is considered a separate punishable offense. The imposition of any sentence shall not exempt the offender from compliance with the requirements of this article.

(Ord. No. 06-285, § 1, 4-10-06)

## Chapter 9 GARBAGE AND REFUSE<sup>20</sup>

**Sec. 9-1. 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* shall mean the public works department of the city.

*Garbage* shall mean all putrescible wastes, except sewage and body wastes, including vegetable and animal offal and carcasses of dead animals, but excluding recognizable industrial byproducts and shall include all such substances from all public establishments and from all residences.

*Refuse* shall mean rubbish, garbage or any combination thereof.

*Rubbish* shall mean dirt, leaves, grass trimmings, tin cans, wastepaper, ashes, straw, shavings, junk and in general, nonputrescible wastes normally incident to the lawful use of the premises on which accumulated.

*Superintendent* shall mean the superintendent of the public works department of the city.

(Code 1963, § 6.61; Ord. No. 142, 4-23-73)

Cross reference(s)—Definitions and rules of construction generally, § 1-2.

**Sec. 9-2. Refuse collection.**

The refuse collection service of the city shall be under the supervision and direction of the superintendent or by such deputies of his department as the superintendent may delegate. The city council shall make such reasonable rules and regulations concerning the collection of refuse as they shall deem proper. Such rules and

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<sup>20</sup>State law reference(s)—Authority to regulate disposal of garbage and rubbish, MCL 123.241 et seq., 123.361 et seq., littering, MCL 752.901.

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regulations shall be published in the local newspaper two weeks prior to the date they shall take effect. No person shall fail to observe any such rule or regulation so adopted and approved. Upon order of the superintendent the refuse collection service may be discontinued to any premises where the occupant fails or refuses to comply with the provisions of this chapter or any rule or regulation adopted pursuant hereto, and such service need not thereafter be reinstated until such violation is remedied to the satisfaction of the superintendent.

(Code 1963, § 6.62; Ord. No. 142, 4-23-73)

**Sec. 9-3. Reserved.**

Editor's note(s)—Ord. No. 12-301, § 1, Sept. 10, 2012, repealed § 9-3, which pertained to refuse collectors and derived from Code 1963, § 6.63; Ord. No. 142, adopted Apr. 23, 1973.

**Sec. 9-4. Littering and accumulation.**

No person shall throw or deposit any garbage or rubbish or refuse upon or into any street, alley or other property, public or private. It shall be the duty of every occupant of property and of the owner of unoccupied property, at all times, to maintain the premises occupied or owned by him in a clean and orderly condition, permitting no deposit or accumulation of garbage or rubbish or refuse upon such premises, unless stored or accumulated as permitted by this chapter.

(Code 1963, § 6.64; Ord. No. 142, 4-23-73)

**Sec. 9-5. Landfill.**

No person shall use any land in the city as a dump for garbage or rubbish or refuse, unless operated by the city as part of the city refuse collection service. Clean fill dirt may be placed upon land within the city by the owner thereof and, upon written authorization of the superintendent, other types of rubbish may be used for land fill purposes, but no such authorization shall be given unless the superintendent is satisfied that the rubbish proposed to be used is suitable for landfill purposes and does not contain garbage or objectionable rubbish.

(Code 1963, § 6.65; Ord. No. 142, 4-23-73)

**Sec. 9-6. Placement, removal of containers.**

No garbage, rubbish or refuse shall be placed for pickup more than 24 hours prior to 7:00 a.m. the day of pickup and all receptacles and containers shall be removed within 24 hours after 7:00 a.m. the day of pickup. Any violation of this regulation shall result in a \$10.00 fine for each day any violation occurs.

(Code 1963, § 6.66; Ord. No. 142, 4-23-73)

**Sec. 9-7. Bringing refuse into the city for collection.**

No garbage or refuse or rubbish is allowed to be brought from outside the city limits of Morenci and placed for collection within the city limits of Morenci.

(Ord. No. 12-301, § 2, 9-10-12)

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**Sec. 9-8. Generation of refuse in the city for collection.**

No garbage or refuse or rubbish is allowed to be placed at the curbside within the city limits of Morenci unless it was generated in a structure located on the property where such curbside is located.

(Ord. No. 16-324, § 1, 7-11-16)

**Chapter 11 LIBRARY<sup>21</sup>**

**Sec. 11-1. Purpose.**

It is the purpose of this chapter to establish the authority and control necessary for the operation, regulation and protection of the Stair Public Library, a public library, (hereafter referred to as the "library") established by the City of Morenci pursuant to Act 164 of the Public Acts of 1877, as amended, (MCL 397.201 et seq.), hereafter referred to as Act 164, and located in and established by the City of Morenci.

(Ord. No. 13-304, § 1, 10-28-13)

**Sec. 11-2. Definitions.**

As used in this chapter, certain terms and words used herein are defined as follows:

*Director* shall mean the appointed and unpaid library board member or trustee.

*Librarian* shall mean the library director, a paid administrative position hired by the library board.

*Library fund* means all monies collected or allocated to the credit of the library.

(Ord. No. 13-304, § 1, 10-28-13)

**Sec. 11-3. Management, supervision and operation.**

Subject to the provisions of Act 164, the management, supervision and operation of the library shall be vested in the library board.

(Ord. No. 13-304, § 1, 10-28-13)

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<sup>21</sup>Editor's note(s)—Ord. No. 13-304, § 1, adopted October 28, 2013, repealed the former Ch. 11, §§ 11-1—11-3, 11-31—11-36 and enacted a new Ch. 11 as set out herein. The former Ch. 11 pertained to similar subject matter. See Code Comparative Table for complete derivation.

State law reference(s)—Establishment and maintenance of free public libraries, MCL 397.201 et seq., MSA 15.1661 et seq.

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**Sec. 11-4. Library board: membership, qualifications, number, term of office and compensation.**

- (a) The mayor shall, with the approval of the city council, appoint a board of seven directors for the library, chosen from the citizens at large, with reference to their fitness for that office. Not more than one member of the city council shall at any time serve as a member of the board.
- (b) The term of office of each member of the appointed board of directors shall be for three years. Members presently serving on the library board, at the time of the adoption of this ordinance, shall continue to serve for the length of their existing terms.
- (c) No director shall receive compensation for serving on the library board.

(Ord. No. 13-304, § 1, 10-28-13)

**Sec. 11-5. Library board: removal and vacancies.**

- (a) The mayor may, by and with the consent of the city council, remove any director for misconduct or neglect of duty.
- (b) Vacancies in the library board occasioned by removals, resignation or otherwise, shall be reported to the city council, and be filled in like manner as original appointments.

(Ord. No. 13-304, § 1, 10-28-13)

**Sec. 11-6. Library board: meetings, officers.**

- (a) The library board shall elect one of its members as president and shall elect such other officers as the board may deem necessary.
- (b) A majority of the library board shall constitute a quorum for the purpose of conducting business.
- (c) All meetings of the library board shall be held in compliance with the provisions of the Michigan Open Meetings Act. MCL 15.261 et seq.

(Ord. No. 13-304, § 1, 10-28-13)

**Sec. 11-7. Library board: powers and duties.**

- (a) The library board shall make and adopt such bylaws, rules, and regulations for their own guidance and for the government of the library, as may be expedient, not inconsistent with Act 164.
- (b) The library board shall have the exclusive control of the expenditure of all moneys collected to the credit of the library fund, the construction and maintenance of any library building, and the supervision, care, and custody of the grounds, rooms, or buildings constructed, leased, or set apart for that purpose; provided that all moneys received for the library shall be deposited in the treasury of the city to the credit of the library fund, and shall be kept separate and apart from other moneys of the city, and may only be drawn upon by the proper officers of the city, upon the properly authenticated vouchers of the library board.
- (c) An annual request for allocation shall be submitted to the city no later than the second Monday in April of each year for approval by the city.
- (d) The library board shall have power to:

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- (1) Purchase or lease grounds;
  - (2) Occupy, lease, or erect an appropriate building or buildings for the use of the library;
  - (3) Appoint a suitable librarian and necessary assistants, and fix their compensation; and to remove such appointees; and
  - (4) Perform all other acts authorized by Act 164 or other applicable law.

(Ord. No. 13-304, § 1, 10-28-13)

### **Sec. 11-8. Regulations.**

The right of any person to use the library shall be subject to such rules and regulations as the library board may adopt and persons who violate such rules may be excluded from using the library.

(Ord. No. 13-304, § 1, 10-28-13)

### **Sec. 11-9. Annual report, contents.**

The library board shall make, at the end of each and every fiscal year, a report to the city council, 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, with such other statistics, information, and suggestions as the city council may deem of general interest.

(Ord. No. 13-304, § 1, 10-28-13)

### **Sec. 11-10. Injury to property, ordinances, penalties.**

The city council shall have power to pass ordinances imposing suitable penalties for the punishment of persons committing injury to the grounds and property of the library, including damaging or failing to return any book belonging to the library.

(Ord. No. 13-304, § 1, 10-28-13)

### **Sec. 11-11. Donations; acceptance.**

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 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.

(Ord. No. 13-304, § 1, 10-28-13)

## **Chapter 13 NUISANCES<sup>22</sup>**

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<sup>22</sup>Cross reference(s)—Buildings and building regulations, Ch. 6.

State law reference(s)—Air pollution act, MCL 336.11 et seq.; environmental protection act, MCL 691.1201 et seq.

## ***ARTICLE I. IN GENERAL***

### **Sec. 13-1. Generally.**

Whatever 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 is hereby declared to be a public nuisance. Public nuisances shall include, but not be limited to, whatever is forbidden by any provision of this chapter. No person shall commit, create or maintain any nuisance.

### **Sec. 13-2. Remedial rights of city.**

Any action taken by the city to abate any nuisance shall not affect the right of the city to institute proceedings against the person committing, creating or maintaining any nuisance for violation of this Code, nor affect the imposition of the penalty prescribed for such violation. As an additional remedy, upon application by the city to any court of competent jurisdiction, the court may order the nuisance abated and/or the violation or threatened violation restrained and enjoined.

### **Secs. 13-3—13-25. Reserved.**

## ***ARTICLE II. DANGEROUS STRUCTURES***

### **Sec. 13-26. Prohibited.**

No person shall maintain any structure which is unsafe or which is a menace to the health, morals or safety of the public.

(Code 1963, § 9.61)

### **Sec. 13-27. Notice and hearing.**

The city council may, after notice to the owner and after holding a public hearing thereon, condemn any dangerous structure by giving notice to the owner of the land upon which such structure is located, specifying in what respects such structure is a public nuisance and requiring such owner to alter, repair, tear down or remove the same within such reasonable time, not exceeding 60 days, as may be necessary to do or have done the work required by such notice. The notice may also provide a reasonable time within which such work shall be commenced.

(Code 1963, § 9.62)

### **Sec. 13-28. Abatement.**

If, at the expiration of any time limit in a notice issued under this article, the owner has not complied with the requirements thereof, the city superintendent shall carry out the requirements of such notice. The cost of such

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abatement shall be charged against the premises and the owner thereof in accordance with the provisions of section 17-31.

(Code 1963, § 9.63)

**Sec. 13-29. Emergency abatement.**

The city superintendent, with approval of the mayor, may abate any public nuisance under this article if the public safety requires immediate action without preliminary order of the council. Thereafter, the cost of abating such nuisance shall be charged against the premises and the owner thereof in accordance with the provisions of section 17-31.

(Code 1963, § 9.64)

**Secs. 13-30—13-50. Reserved.**

**ARTICLE III. NOISE CONTROL**

**Sec. 13-51. Noises enumerated.**

Each of the following acts is declared unlawful and prohibited, but this enumeration shall not be deemed to be exclusive:

- (1) *Animal and bird noises.* The keeping of any animal or bird which, by causing frequent or long continued noise, shall disturb the comfort or repose of any person.
- (2) *Construction noises.* The erection, including excavating therefor, demolition, alteration, or repair of any building, and the excavation of streets and highways, on Sundays and other days, except between the hours of 7:00 a.m. and 6:00 p.m., unless a permit be first obtained from the city superintendent.
- (3) *Sound amplifiers.* Use of any loudspeaker, amplifier or other instrument or device, whether stationary or mounted on a vehicle for any purpose except by speakers in the course of a public address which is noncommercial in character and when so used shall be subject to the following restrictions:
  - a. The only sounds permitted are music or human speech.
  - b. Operations are permitted for four hours each day, except on Sundays and legal holidays when no operations shall be authorized. The permitted four hours of operation shall be between the hours of 11:30 a.m. and 1:30 p.m., and between the hours of 4:30 p.m. and 6:30 p.m.
  - c. Sound amplifying equipment mounted on vehicles shall not be operated unless the sound truck upon which such equipment is mounted is operated at a speed of at least ten miles per hour except when such truck is stopped or impeded by traffic. Where stopped by traffic, the sound amplifying equipment shall not be operated for longer than one minute at each such stop.
  - d. Sound shall not be issued within 100 yards of hospitals, schools, churches or court- houses.
  - e. The volume of sound shall be controlled so that it will not be audible for a distance in excess of 100 feet from the sound amplifying equipment and so that the volume is not unreasonably loud, raucous, jarring, disturbing or a nuisance to persons within the area of audibility.
  - f. No sound amplifying equipment shall be operated with an excess of 15 watts of power in the last stage of amplification.

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- (4) *Engine exhausts.* The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, or motor vehicle except through a muffler or other device which effectively prevents loud or explosive noises therefrom.
  - (5) *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.
  - (6) *Blowers.* The discharge into the open air from any noise creating blower or power fan unless the noise from such blower or fan is muffled sufficiently to deaden such noise.
  - (7) *Hawking.* The hawking of goods, merchandise or newspapers in a loud and boisterous manner.
  - (8) *Horns and signal devices.* The sounding of any horn or signal device on any automobile, motorcycle, bus or other vehicle while not in motion, except as a danger signal if another vehicle is approaching, apparently out of control, or to give warning of intent to get under motion, or if motion, only as a danger signal after or as brakes are being applied and deceleration of the vehicle is intended; the creation by means of any such signal device of any unreasonably loud or harsh sound; and the sounding of such device for an unnecessary and unreasonable period of time.
  - (9) *Radio and musical instruments.* The playing of any radio, television set, phonograph or any musical instrument in such a manner or with such volume, particularly during the hours between 11:00 p.m. and 7:00 a.m., or at any time or place, so as to annoy or disturb the quiet, comfort, or repose of persons in any office or in any dwelling, hotel or other type of residence, or of any persons in the vicinity.
  - (10) *Shouting and whistling.* Yelling, shouting, hooting, whistling, or singing or the making of any other loud noise on the public street, between the hours of 11:00 p.m. and 7:00 a.m., or the making of any such noise at any time so as to annoy or disturb the quiet, comfort or repose of persons in any school, place of worship or office, or in any dwelling, hotel or other type of residence, or of any persons in the vicinity.

(Code 1963, § 9.71)

### **Sec. 13-52. Exceptions.**

None of the terms or prohibitions of section 13-51 shall apply to:

- (1) Any police or fire vehicle or any ambulance, while engaged upon emergency business.
- (2) Excavations or repairs of bridges, streets or highways by or on behalf of the city, county or state during the night, when the public safety, welfare, and convenience renders it impossible to perform such work during the day.

(Code 1963, § 9.72)

### **Secs. 13-53—13-75. Reserved.**

## **ARTICLE IV. WEED CONTROL<sup>23</sup>**

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<sup>23</sup>State law reference(s)—Control and eradication of noxious weeds, MCL 247.61 et seq.



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### **Sec. 13-76. Definition.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section:

"Noxious weeds" shall include Canada thistle (*Cirsium arvense*), dodders (any species of *Cuscuta*), mustards (charlock, black mustard and Indian mustard, species of *Brassica* or *Sinapis*), wild carrot (*Daucus carota*), bindweed (*Convolvulus arvensis*), perennial sowthistle (*Sonchus arvensis*), hoary alyssm (*Berteroa incana*), ragweeds (*Ambrosia*) and poison ivy (*Rhus toxicodendron*), poison sumac (*Toxicodendron vernix*), burdocks (any species of *Arctium*), purple loosestrife (*Lythrum salicaria*) and wild-growing bushes.

"Developed property" means a lot or parcel of ground, all or a portion of which has been graded or land balanced to an extent that would reasonably allow the mowing or cutting of grass/weeds with typical residential-type mowing or cutting equipment.

"Undeveloped property" means a parcel of ground remaining, for the most part, in the natural state and on which no grading or land balancing has taken place to an extent that would reasonably allow the mowing or cutting of grass/weeds with typical residential-type mowing or cutting equipment.

(Code 1963, § 9.81; Ord. No. 11-294, § 1, 8-8-11)

### **Sec. 13-77. Public nuisance declared.**

All grasses, including without limitation, crabgrass and quack grass, and all noxious weeds (hereafter referred to collectively as "grasses and weeds") growing on property must be maintained at a height of eight inches or less. Any such grasses and weeds which attain an average height of eight inches or higher are hereby declared to be a public nuisance.

(Code 1963, § 9.81; Ord. No. 216, 6-23-97; Ord. No. 11-294, § 1, 8-8-11)

### **Sec. 13-78. Duty of owner and occupant.**

It shall be the duty of the owner and/or occupant of any lot or parcel of ground within the city to cut and remove or destroy, by lawful means, all grasses and weeds as often as may be necessary to comply with the provisions of section 13-77 herein.

(Code 1963, § 9.82; Ord. No. 11-294, § 3, 8-8-11)

### **Sec. 13-79. Exempt properties.**

The vegetation height limits and the provisions of this article shall not apply to:

- a. Vegetation in woodlands, wetlands or conservation easements.
- b. On portions of undeveloped property behind a wooded tree line.
- c. Open space, landscaped areas and stormwater retention and detention facilities developed in accordance with a site plan approved by the planning commission.
- d. Areas beside ponds, lakes, and open waterways.
- e. On steep slopes subject to erosion.
- f. On parcels used for public parks or governmental purposes.

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- g. Weeds growing in fields devoted to growing agricultural crops.
  - h. Areas within a golf course that typically are overgrown as part of the facility design.

(Code 1963, § 9.83; Res. of 3-6-85; Ord. No. 11-294, § 4, 8-8-11)

**Sec. 13-80. Performance of work by city.**

If grasses and weeds are permitted to attain an average height of eight inches or greater, on any nonexempt property, the city superintendent may cause such grasses and weeds to be cut, removed or destroyed and to cover the costs associated with enforcement a cutting fee of \$200.00, or the actual cost of cutting, 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 payment in full is not received, the amount owed to the city shall be collected as a special assessment against the premises as provided in chapter 17, article II of the Code Book for the City of Morenci.

(Code 1963, § 9.84; Ord. No. 11-294, § 5, 8-8-11)

**Sec. 13-81. Notice.**

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 through September of each year, which notice is deemed and declared to be adequate and sufficient notice to all persons affected hereby.

(Ord. No. 11-294, § 6, 8-8-11)

**Sec. 13-82. Violations and penalties.**

In addition to any other remedy provided for herein, a person who violates any of the provisions of this article is responsible for a municipal civil infraction.

(Ord. No. 11-294, § 7, 8-8-11)

**Sec. 13-83. Repealer.**

All other ordinances or parts of ordinances in conflict herewith are hereby repealed. In particular, the provisions set forth in chapter 13, article IV entitled "Weeds" are repealed and shall be replaced by the provisions of this article.

(Ord. No. 11-294, § 8, 8-8-11)

**Secs. 13-84—13-89. Reserved.**

***ARTICLE V. DISMANTLED/JUNK VEHICLES***

**Sec. 13-90. Name.**

This article shall be known and cited as the Morenci City Dismantled Vehicle Ordinance.

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(Ord. No. 03-266, 8-25-03)

**Sec. 13-91. Purpose.**

The purpose of this article is to limit and restrict the outdoor storage, parking or unreasonable accumulation of junk, unused, partially dismantled or non-operating motor vehicles, house trailers, or tractor trailers, or new or used parts thereof upon premises primarily used or zoned for any type of residential purpose within the city; to thereby avoid injury and hazards to children and others attracted to such vehicles or trailers; the devaluation of property values and the psychological ill effect of the presence of such vehicles or trailers upon adjoining residents and property owners.

(Ord. No. 03-266, 8-25-03)

**Sec. 13-92. Regulations.**

- (a) No person, firm, or corporation shall park, store, or place upon any public right-of-way, or upon any premises that is primarily used or is zoned for any type of residential purpose within the city, any motor vehicle, house trailer, motor home, camper or tractor trailer or new or used parts of junk therefrom, unless the same is wholly contained within a fully enclosed building and does not violate any zoning or building laws of the city, county, or state, except for the following:
  - (1) Duly licensed and operable vehicles or trailers with substantially all main component parts attached.
  - (2) Vehicles or trailers that are temporarily inoperable, because of minor mechanical failure, but which are not, in any manner, dismantled and have substantially all main component parts attached, which may remain upon such private property for not to exceed 14 days.
  - (3) Not more than one vehicle in fully operating condition, such as stock car or modified car that has been re-designed or reconstructed for a purpose other than that for which it was manufactured, provided no building or garage is located upon the premises in which the same could be parked or stored. In no event shall any such vehicle be parked in the front or side street yard area of any such residential premises.
- (b) No repairing, redesigning, modifying or dismantling work or operations shall be allowed upon any vehicle or trailer or parts thereof upon any public right-of-way or on any property primarily used or zoned for any type of residential purpose for a period in excess of 24 hours in any seven-day period except such as shall be accomplished within fully enclosed buildings; will not constitute a nuisance or annoyance to adjoining property owners or occupants; and does not violate any provision of the city zoning ordinance or other provisions of the City Code. Any such work within such 24-hour period heretofore allowed shall not, however, consist of any major repair, re-designing, modifying or dismantling work, but only such occasional minor work as may frequently be required to maintain a vehicle or trailer or parts thereof in normal operating condition.
- (c) In the event the foregoing regulations create any special or peculiar hardship beyond the control of the particular violator thereof because of unforeseen circumstances, the city chief of police is hereby given the authority to grant permission to an applicant to operate contrary to the provisions hereof for a limited period of not to exceed 14 days provided no adjoining property owner or occupant is unreasonably adversely affected thereby and the spirit and purpose of this article are still substantially observed.

(Ord. No. 03-266, 8-25-03)

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**Sec. 13-93. Definitions.**

- (a) Vehicles are hereby defined as any wheeled vehicles that are self-propelled or intended or designed to be self propelled.
- (b) Inoperable vehicles are defined as vehicles which by reason of dismantling, lack of repair, or other cause are incapable of being propelled under their own power. In addition, any vehicle and/or trailer that lacks a current and valid registration and plates necessary for operation on a public street or highway shall be deemed inoperable.
- (c) Dismantled or partially dismantled vehicles and/or trailers are defined as vehicles and/or trailers from which some part or parts that are ordinarily a component of such motor vehicle has been removed or is missing.

(Ord. No. 03-266, 8-25-03)

**Sec. 13-94. Nuisance.**

Any parking, storage, placement, or operation in violation of the provisions of this article are hereby declared to be a nuisance per se and public nuisance which may be enjoined or which may subject the violator to civil damages and the fines and penalties herein provided for.

(Ord. No. 03-266, 8-25-03)

**Sec. 13-95. Construction.**

This article shall not prevent the operation of any licensed junk yard, salvage yard, garage, body, or paint shop legally operating within a proper zone as defined in the city zoning ordinance, and shall be in addition to any other laws or ordinances respecting rubbish, refuse, litter, trash, or junk control and regulations.

(Ord. No. 03-266, 8-25-03)

**Sec. 13-96. Severability clause.**

The provisions of this article are hereby declared to be severable and if any clause, sentence, word, section or provision is declared void or unenforceable for any reason by any court of competent jurisdiction, it shall not affect any portion of the article other than said part or portion thereof.

(Ord. No. 03-266, 8-25-03)

**Sec. 13-97. Penalty.**

Any person, firm or corporation who violates any of the provisions of this article shall be deemed guilty of a misdemeanor and shall be punished by a fine of not more than \$500.00, or by imprisonment in the county jail for not to exceed 90 days, or by both such fine and imprisonment. Each day that a violation continues to exist shall constitute a separate offense.

(Ord. No. 03-266, 8-25-03)

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**Sec. 13-98. Effective date.**

This article will be in effect in this governmental unit 30 days after the publication of the ordinance from which this article is derived.

(Ord. No. 03-266, 8-25-03)

**Chapter 14 OFFENSES<sup>24</sup>**

**ARTICLE I. IN GENERAL**

**Sec. 14-1. 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:

*Act or doing of an act* shall include "omission to act."

*Controlled substance* shall mean any substance currently listed by the state board of pharmacy as a controlled substance pursuant to the requirements and procedures of Article 7 of Act No. 368 of the Public Acts of Michigan of 1978 (MCL 333.7101 et seq.).

*Property* shall include any matter or thing upon or in respect to which any offense may be committed.

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

*Written, writing* and any term of like import shall include the words printed, painted, engraved, lithographed, photographed or otherwise copied, traced or made visible to the eye.

Cross reference(s)—Definitions and rules of construction generally, § 1-2.

**Sec. 14-2. Accessorial liability.**

Every person concerned in the commission of an offense, whether such person directly commits the act constituting the offense or procures, counsels, aids or abets in its commission, may hereafter be prosecuted, indicted and tried and, on conviction, shall be punished as if such person had directly committed the offense.

State law reference(s)—Similar provisions, MCL 767.39.

**Sec. 14-3. Attempt.**

Any person who attempts to commit an offense prohibited by law, and in such attempt does an act toward the commission of such offense, but fails in the perpetration or is intercepted or prevented in the execution of the same, shall, upon:

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<sup>24</sup>Cross reference(s)—Nuisances, Ch. 13; traffic and motor vehicles, Ch. 20.

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- (1) Conviction of a misdemeanor thereof, be punished by imprisonment in the county jail for not more than 45 days or by a fine of not more than \$250.00, or by both such fine and imprisonment in the discretion of the court.
  - (2) Admission or determination of responsibility for civil infraction, be fined for an amount one-half that which would be otherwise owed for the completed offense.

(Ord. No. 06-286, § 1, 6-12-06)

State law reference(s)—Similar provisions, MCL 750.92.

#### **Sec. 14-4. Illegal occupation or business—Engaging in.**

It shall be unlawful for any person to engage in any illegal or immoral occupation or business.

State law reference(s)—Such person defined as a disorderly person, MCL 750.167(1)(d).

#### **Sec. 14-5. Same—Loitering.**

It shall be unlawful for any person to knowingly loiter in or about any place where any illegal occupation or business is being conducted.

State law reference(s)—Such person defined as a disorderly person, MCL 750.167(1)(j).

#### **Sec. 14-6. Window peeping.**

It shall be unlawful for any person within the city to look into the windows or doors of any house, apartment or other residence in the city in such a manner that would be likely to interfere with the occupant's reasonable expectation of privacy and without the occupant's express or implied consent.

State law reference(s)—Such person defined as a disorderly person, MCL 750.167(1)(c).

#### **Sec. 14-7. Loitering at public buildings for certain purposes unlawful.**

It shall be unlawful for any person to loiter in or about any police station, police headquarters building, county jail, hospital, court building or any other public building or place for the purpose of soliciting employment of legal services or the services of sureties upon criminal recognizances.

State law reference(s)—Such person defined as a disorderly person, MCL 750.167(1)(k).

#### **Sec. 14-8. Begging.**

It shall be unlawful for any person to beg in any public place, except for a recognized charitable organization.

State law reference(s)—Such person defined as a disorderly person, MCL 750.167(1)(h).

#### **Secs. 14-9—14-35. Reserved.**

Editor's note(s)—Ord. No. 06-286, § 2, adopted June 12, 2006, repealed section 14-9 in its entirety. Former section 14-9 pertained to spitting, and derived from the Code of 1963, § 9.32(dd).

## ***ARTICLE II. OFFENSES AGAINST GOVERNMENTAL FUNCTIONS***

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**Sec. 14-36. Interference with police authority.**

It shall be unlawful for any person to resist any police officer, any member of the police department or any person duly empowered with the police authority while in the lawful discharge of his duty, or in any way interfere with or hinder such person in the discharge of his duty.

State law reference(s)—Obstruction of police officer, MCL 750.479.

**Sec. 14-37. Furnishing false identification to peace officer.**

It shall be unlawful for any person while legally detained or charged with an offense to furnish to a peace officer false, forged, fictitious or misleading information concerning his identification, including his name, address, date of birth, social security number, driver's license number, or any combination thereof.

**Sec. 14-38. Disguising with intent to obstruct law or intimidate officer.**

It shall be unlawful for any person within the city to disguise himself with the intent to obstruct the due execution of the law or with the intent to intimidate, hinder or interrupt any officer or any other person in the legal performance of his duty or the exercise of his rights under the constitution and laws of this state, whether such intent is effected or not.

State law reference(s)—Similar provisions, MCL 750.217.

**Sec. 14-39. Obstructing, disobeying firefighters.**

It shall be unlawful for any person within the city to knowingly and willfully hinder, obstruct or interfere with any firefighter in the performance of his duties or while in the vicinity of any fire to willfully disobey any reasonable order, rule or regulation of the officer commanding any fire department at such fire.

State law reference(s)—Similar provisions, MCL 750.241.

**Sec. 14-40. False alarms generally.**

It shall be unlawful for any person to knowingly summon, as a joke or prank or otherwise without any good reason therefor, by telephone or otherwise, the police or the fire department or any public or private ambulance to go to any address where the service called for is not needed.

State law reference(s)—False fire alarms, MCL 750.240.

**Sec. 14-41. False fire alarms.**

It shall be unlawful for any person within the city to knowingly and willfully commit any one or more of the following actions:

- (1) Raise a false alarm of fire at any gathering or in any public place.
- (2) Ring any bell or operate any mechanical apparatus, electrical apparatus or combination thereof for the purpose of creating a false alarm of fire.
- (3) Raise a false alarm of fire orally by telephone or in person.

State law reference(s)—Similar provisions, MCL 750.240.

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**Sec. 14-42. False report of crime.**

It shall be unlawful for any person to knowingly make or file with the police department of the city any false, misleading or unfounded statement or report concerning the commission of any crime occurring within the city.

State law reference(s)—False report on crime, MCL 750.411a.

**Sec. 14-43. Impersonating an officer.**

It shall be unlawful for any person within the city to falsely assume or pretend to be a justice of the peace, sheriff, deputy sheriff, conservation officer, coroner, constable, police officer or member of the state police, to take upon himself to act as such, to require any person to aid and assist him in any matter pertaining to the duty of a justice of the peace, sheriff, deputy sheriff, conservation officer, coroner, constable, police officer or member of the state police or to falsely take upon himself to act or officiate in any office or place of authority.

State law reference(s)—Similar provisions, MCL 750.215.

**Sec. 14-44. Escape from custody or confinement.**

It shall be unlawful for any person, while a prisoner in the jail, or at any place where the prisoners are confined, or otherwise in the custody of and confined by the city, to escape or attempt to escape or assist others to escape or to attempt to escape from such custody or confinement.

State law reference(s)—Escapes, rescues, jail and person breaking, MCL 750.183 et seq.

**Sec. 14-45. Aiding escape from custody or confinement.**

- (a) It shall be unlawful for any person to offer or endeavor to assist any person in the custody of a police officer, a member of the police department or a person duly empowered with police authority to escape or attempt to escape from such custody.
- (b) It shall be unlawful for any person to assist or aid, or attempt to assist or aid, any person in the custody of or confined under the authority of the city to escape from jail, place of confinement or custody.

State law reference(s)—Escapes, rescues, jail and prison breaking, MCL 750.183 et seq.

**Sec. 14-46. Providing alcoholic liquor, controlled substances or tools to confined persons.**

It shall be unlawful for any person to make available to, present to or place within the reach of any person confined under the authority of the city any alcoholic liquor or, except as authorized by state law, any controlled substance, or any tool, implement or other thing calculated to aid the escape of such person so confined, or any other person so confined, under authority of the city.

State law reference(s)—Escapes, rescues, jail and prison breaking, MCL 750.183 et seq.; liquors in jail prohibited, MCL 801.116, 801.117.

**Secs. 14-47—14-70. Reserved.**

Editor's note(s)—Ord. No. 06-286, § 2, adopted June 12, 2006, repealed section 14-47 in its entirety. Former section 14-47 pertained to the unauthorized practice of law.

***ARTICLE III. OFFENSES AGAINST THE PERSON***



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**Sec. 14-71. Assault; assault and battery.**

It shall be unlawful for any person to commit an assault, or an assault and battery, on any person.

State law reference(s)—Assaults, MCL 750.81 et seq.

**Sec. 14-72. Harassment.**

It shall be unlawful for any person with intent to harass, annoy or alarm another person to:

- (1) Follow a person in or about a public place; or
- (2) Engage in a course of conduct or repeatedly commit acts that alarm or seriously annoy another person and that serve no legitimate purpose.

**Sec. 14-73. Malicious annoyance by writing.**

It shall be unlawful for any person to knowingly send or deliver or make and, for the purpose of being delivered or sent, to part with the possession of any letter, postal card or writing containing any obscene language with or without a name subscribed thereto, or signed with a fictitious name, or with any letter, mark or other designation, with the intent thereby to cause annoyance to any person, or with the view or intent to extort or gain any money or property of any description belonging to another.

State law reference(s)—Similar provisions, MCL 750.390.

**Sec. 14-74. Annoying conduct by telephone.**

It shall be unlawful for any person to telephone any other person repeatedly or cause the same to be done for the primary purpose of harassing such other person or such person's family, whether or not conversation ensues. The described conduct shall be unlawful if the telephone call or calls are either placed within the City of Morenci or the call or calls are received within the City of Morenci.

(Ord. No. 204, 12-11-95)

**Sec. 14-75. Misuse of communications common carrier.**

It shall be unlawful for any person to maliciously use any service provided by a communications common carrier with an intent to terrorize, frighten, intimidate, threaten, harass, molest or annoy any other person, or to disturb the peace and quiet of any other person by any of the following:

- (1) Threatening physical harm or damage to any person or property in the course of a telephone conversation.
- (2) Falsely and deliberately reporting by telephone or telegraph message that any person has been injured, has suddenly taken ill, has suffered death or has been the victim of a crime or of an accident.
- (3) Deliberately refusing or failing to disengage a connection between a telephone and another telephone or between a telephone and other equipment provided for the transmission of messages by telephone, thereby interfering with any communications service.
- (4) Using any vulgar, indecent, obscene or offensive language or suggesting any lewd or lascivious act in the course of a telephone conversation.

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The described conduct shall be unlawful if the telephone call or calls are either placed within the City of Morenci or the call or calls are received within the City of Morenci.

(Ord. No. 204, 12-11-95)

State law reference(s)—Similar provisions, MCL 750.540e.

**Secs. 14-76—14-95. Reserved.**

***ARTICLE IV. OFFENSES AGAINST PROPERTY***

***DIVISION 1. GENERALLY***

**Sec. 14-96. Littering.**

It shall be unlawful for a person knowingly, without the consent of the public authority having supervision of public property or the owner of private property, to dump, deposit, place, throw or leave, or cause or permit the dumping, depositing, placing, throwing or leaving of litter on public or private property or water other than property designated and set aside for such purposes. The phrase "public or private property or water" includes, but is not limited to, the right-of-way of a road or highway, a body of water or watercourse, or the shore or beach thereof, including the ice above the water; a park, playground, building, refuge or conservation or recreation area; and residential or farm properties or timberlands. It shall be unlawful for a person who removes a vehicle wrecked or damaged in an accident on a highway, road or street to fail to remove all glass and other injurious substances dropped on a highway, road or street as a result of the accident, and to knowingly, without the consent of the public authority having supervision of public property or the owner of private property, to dump, deposit, place, throw or leave, or cause or permit the dumping, depositing, placing, throwing or leaving of any vehicle wrecked or damaged in an accident, on any highway, road or street, on public or private property other than property designated and set aside for such purposes.

State law reference(s)—Littering, MCL 752.901 et seq.

**Sec. 14-97. Reserved.**

Editor's note(s)—Ord. No. 06-286, § 2, adopted June 12, 2006, repealed section 14-97 in its entirety. Former section 14-97 pertained to prowling.

**Sec. 14-98. Trespassing.**

It shall be unlawful for any person to willfully enter upon the lands or premises of another without lawful authority, after having been forbidden to do so by the owner or occupant, or for any person upon the land or premises of another to neglect or refuse without lawful authority to depart therefrom upon being notified to depart therefrom by the owner or occupant, the agent or servant of either, or for any person to be upon lands or premises of another without lawful authority when such premises are clearly posted against trespassing. The term "clearly posted" shall mean that the signs prohibiting trespassing shall be located around the entire perimeter of the property so posted and shall not be more than 100 feet apart. In the absence of facts to the contrary, it shall be presumed, without the necessity of the above-referenced posting, that the owner or occupant of property located in a developed residential area has not given lawful authority to any person to be on or about such property.

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State law reference(s)—Similar provisions, MCL 750.552.

**Secs. 14-99—14-110. Reserved.**

*DIVISION 2. DESTRUCTION OF PROPERTY<sup>25</sup>*

**Sec. 14-111. Tampering with, damaging property.**

It shall be unlawful for any person to willfully destroy, remove, damage, alter or in any manner deface any property not his own, or any public school building, bridge, fire hydrant, alarm box, streetlight, street sign or mark or post handbills on, or in any manner mar the walls of, any public building, tree or pole within the city, or destroy, take or meddle with any property belonging to the city or remove the same from the building or place where it may be kept, placed or stored, without proper authority, or disturb, tamper with, disconnect or damage any city water meter without proper authority.

**Sec. 14-112. Motor vehicles.**

- (a) It shall be unlawful for any person to intentionally and without authority from the owner, start or cause to be started the motor of any motor vehicle, or maliciously shift or change the starting device or gears of a standing motor vehicle to a position other than that in which it was left by the owner or driver of the motor vehicle.
- (b) It shall be unlawful for any person to intentionally cut, mark, scratch or damage the chassis, running gear, body, sides, top, covering or upholstering of any motor vehicle which is the property of another, or intentionally cut, mash, mark, destroy or damage such motor vehicle, or any of the accessories, equipment, appurtenances or attachments thereof, or any spare or extra parts thereon or attached thereto, without the permission of the owner thereof.
- (c) It shall be unlawful for any person to intentionally release the brake upon any standing motor vehicle, with intent to injure the machine or cause the same to be removed without the consent of the owner; provided, that this section shall not apply in case of moving or starting of motor vehicle by the police under authority of local ordinance or by members of fire departments in case of emergency in the vicinity of a fire.
- (d) It shall be unlawful for any person to enter in or upon any vehicle of another, whether on public or private property, without consent of the owner or other person having control of the vehicle.

State law reference(s)—Similar provisions, MCL 750.416.

**Sec. 14-113. Malicious destruction of real or personal property.**

It shall be unlawful for any person to willfully and maliciously destroy or injure the real or personal property of another by any means not particularly mentioned or described in this article if the resulting damages shall be \$500.00 or less.

(Ord. No. 06-286, § 1, 6-12-06)

State law reference(s)—Similar provisions, MCL 750.377a.

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<sup>25</sup>State law reference(s)—Malicious and willful mischief and destruction, MCL 750.377 et seq.

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**Sec. 14-114. Malicious destruction of buildings.**

It shall be unlawful for any person to willfully and maliciously destroy or injure any house, barn or other building of another, or the appurtenances thereof if the resulting damages shall be \$500.00 or less.

(Ord. No. 06-286, § 1, 6-12-06)

State law reference(s)—Similar provisions, MCL 750.380.

**Sec. 14-115. Malicious destruction of library property.**

It shall be unlawful for any person to willfully, maliciously or wantonly tear, deface or mutilate or write upon or by other means injure or mar any book, pamphlet, map, chart, painting, picture, photograph, periodical, newspaper, magazine, manuscript, exhibit or any part thereof belonging to or loaned to any public library, or to the library of any literary, scientific, historical or library society or association, whether incorporated or unincorporated.

State law reference(s)—Similar provisions, MCL 750.391.

**Secs. 14-116—14-125. Reserved.**

*DIVISION 3. THEFT AND RELATED OFFENSES<sup>26</sup>*

**Sec. 14-126. Larceny.**

It shall be unlawful for any person to commit the offense of larceny by stealing, converting or wrongfully withholding the property of another, including, but not limited to: chattels or services; any bank note, bank bill, bond, promissory note, due bill, bill of exchange or other bill, draft, order or certificate; any book of accounts for or concerning money or goods due or to become due or to be delivered; any deed or writing containing a conveyance of land; any other valuable contract in force; any receipt, release or defeasance; or any writ, process or public record.

State law reference(s)—Similar provisions, MCL 750.356.

**Sec. 14-127. Receiving, concealing, etc., stolen, embezzled or converted property; presumption.**

- (a) It shall be unlawful for any person to buy, receive or aid in the concealment of any stolen, embezzled or converted money, goods or property knowing the same to have been stolen, embezzled or converted, if the property purchased, received or concealed shall be of the value of \$500.00 or less.
- (b) The acquisition of merchandise or personal property at a consideration less than 50 percent of its fair market value, other than by a bona fide gift, creates a rebuttable presumption that the acquiree knew the merchandise or personal property was stolen, embezzled or converted.
- (c) Any person being a dealer in or collector of any merchandise or personal property, or the agent, employee or representative of such dealer or collector who fails to make reasonable inquiry that the person selling or

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<sup>26</sup>State law reference(s)—Larceny, MCL 750.356 et seq.

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delivering any stolen, embezzled or converted property to him has a legal right to do so, shall be presumed to have bought or received such property knowing it to have been stolen, embezzled or converted. This presumption may, however, be rebutted by proof.

(Ord. No. 06-286, § 1, 6-12-06)

State law reference(s)—Similar provisions, MCL 750.535.

**Sec. 14-128. Unauthorized taking of newspapers.**

Newspapers, when placed at or near the right-of-way for collection with the normal refuse pickup, become the property of the city, and it shall be unlawful for any person other than the owner, lessee or occupant of the premises or a designated licensee or agent of the city to take or carry away such newspapers.

**Sec. 14-129. Conversion of library property.**

It shall be unlawful for any person to procure or take in any way from any public library or the library of any literary, scientific, historical or library society or association, whether incorporated or unincorporated, any book, pamphlet, map, chart, painting, picture, photograph, periodical, newspaper, magazine, manuscript or exhibit, or any part thereof, with intent to convert the same to his own use, or with intent to defraud the owner thereof, or who having procured or taken any such book, pamphlet, map, chart, painting, picture, photograph, periodical, newspaper, magazine, manuscript or exhibit or any part thereof to thereafter convert the same to his own use or fraudulently deprive the owner thereof.

State law reference(s)—Similar provisions, MCL 750.364.

**Sec. 14-130. Fortunetelling, etc.**

- (a) It shall be unlawful for any person to pretend for money or gain to predict future events by cards, tokens, trances, the inspection of the hands or the conformation of the skull of any person, so-called mindreading or by consulting the movements of the heavenly bodies.
- (b) It shall be unlawful for any person to pretend for money or gain to tell fortunes or foretell future events by other means than those mentioned in subsection (a) of this section.
- (c) It shall be unlawful for any person to pretend by or through means of palmistry, phrenology, clairvoyance, astrology or fortunetelling by cards or other devices for money or gain, to enable anyone to get or recover lost or stolen property, or to give success in business, enterprise, speculation or games of chance, or to make one person dispose of property, business or valuable things in favor of another.
- (d) It shall be unlawful for any person to publish by card, circular, sign, newspaper or any other means whatsoever, that he shall or will predict future events. The publication may be given in evidence to sustain an indictment under this section. Any person whose fortune may have been told as aforesaid shall be competent witness against all persons charged with any violation of this section.

State law reference(s)—Similar provisions, MCL 750.267 et seq.

**Sec. 14-131. Fraudulent procurement of food and lodging.**

- (a) It shall be unlawful for any person to stop, put up, board or lodge at any boardinghouse as a guest or boarder by the day, week or month, or to procure any food, entertainment or accommodation without paying therefor, unless there is a distinct and express agreement made by such person with the owner, proprietor or keeper of such boardinghouse for credit, with intent to defraud such owner, proprietor or keeper out of

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the pay for such board, lodging, food, entertainment or accommodations, or for any person with intent to so defraud to obtain credit at any boardinghouse for such board, lodging, food, entertainment or accommodation, by means of any false show of baggage or effects brought thereto; provided, that no conviction shall be made within ten days of the time of the violation hereof.

- (b) It shall be unlawful for any person to put up at any hotel, motel, inn, restaurant or cafe as a guest and to procure any food, entertainment or accommodation without paying therefor, except when credit is given therefor by express agreement, with intent to defraud such keeper thereof out of the pay for the same, or for any person with intent to defraud such keeper out of the pay therefor to obtain credit at any hotel, motel, inn, restaurant or cafe for such food, entertainment or accommodation, by means of any false show of baggage or effects brought thereto.
- (c) Obtaining such food, lodging or accommodation by false pretense or by false or fictitious show of baggage or other property or refusal or neglect to pay therefor on demand, or payment thereof with check, draft or order upon a bank or other depository on which payment was refused, or absconding without paying or offering to pay therefor, or surreptitiously removing or attempting to remove baggage, shall be prima facie evidence of such intent to defraud mentioned in this section.

State law reference(s)—Similar provisions, MCL 750.291 et seq.

### **Sec. 14-132. Payment by check with knowledge of insufficient funds.**

- (a) It shall be unlawful for any person, with intent to defraud, to make or draw or utter or deliver any check, draft or order for the payment of money, to apply on account or otherwise, upon any bank or other depository, knowing at the time of such making, drawing, uttering or delivering that the maker or drawer has not sufficient funds in or credit with such bank or other depository for the payment of such check, draft or order in full upon its presentation. It shall be unlawful for any person with the intent to defraud to make, draw, utter or deliver any check, draft or order for the payment of money, to apply on account or otherwise, upon any bank or other depository, and not to have sufficient funds for the payment for same when presentation for payment is made to the drawee, except where such lack of funds is due to garnishment, levy or other lawful cause and such fact was not known to the person who made, drew, uttered or delivered the instrument at the time of so doing, if the amount payable in the check is \$50.00 or less.
- (b) 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 fee, within five days after receiving notice that such check, draft or order has not been paid by the drawee.
- (c) Where such check, draft or order is protested, on the grounds of insufficient funds or credit, the notice of protest thereof shall be admissible as proof of presentation, nonpayment and 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.
- (d) The word "credit," as used in this section, shall be construed to mean 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.
- (e) In addition to any fines or costs assessed upon conviction or a misdemeanor or determination of civil liability, any person violating this section shall also be responsible for reimbursing the city for the actual costs of prosecution.

(Ord. No. 06-286, § 1, 6-12-06)

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State law reference(s)—Similar provisions, MCL 750.131 et seq.

**Sec. 14-133. False pretenses with intent to defraud.**

It shall be unlawful for any person, with intent to defraud or cheat, to designedly, by color or any false token or writing or by any false or bogus check or token, written, printed or engraved instrument, by spurious coin or metal in the similitude of coin, or by any other false pretense, cause any person to grant, convey, assign, demise, lease or mortgage any land or interest in land, or obtain the signature of any person to any written instrument, the making of which would be punishable as forgery, or to obtain from any person any money or personal property, or the use of any instrument, facility or article or other valuable thing or service, or by means of any false weights or measures to obtain a larger amount or quantity of property other than was bargained for, or by means of any false weights or measures to sell or dispose of a less amount or quantity of property than was bargained for, if such land or interest in land, money, personal property, use of such instrument, facility or article, valuable thing, service, larger amount obtained or less amount disposed of, shall be of the value of \$100.00 or less.

State law reference(s)—Similar provisions, MCL 750.218.

**Sec. 14-134. Obtaining credit by false device.**

It shall be unlawful for any person to knowingly obtain or attempt to obtain credit, or to purchase or attempt to purchase any goods, property or service, by the use of any false, fictitious or counterfeit credit card, credit number, telephone number or other credit device, or by the use of any credit card, without the authority of the person to whom such card, number or device was issued, or by the use of any credit card, credit number, telephone number or other credit card, which credit number or device has been revoked and notice of revocation has been given to the person to whom issued.

State law reference(s)—Written false statement of property valuation, etc., to obtain credit, MCL 750.220.

**Secs. 14-135—14-155. Reserved.**

***ARTICLE V. OFFENSES AGAINST PUBLIC PEACE***

**Sec. 14-156. Disturbing the peace.**

It shall be unlawful for any person to disturb the public peace and quiet by shouting, whistling, loud, boisterous or vulgar conduct, the playing of musical instruments, phonographs, radios, televisions, tape players or any other means of sound amplification at any time or place so as to unreasonably annoy or disturb the quiet, comfort and repose of persons in the vicinity.

**Sec. 14-157. Disturbance in public place.**

It shall be unlawful for any person to make or excite any disturbance or contention in any public place.

**Sec. 14-158. Reserved.**

Editor's note(s)—Ord. No. 06-286, § 2, adopted June 12, 2006, repealed section 14-158 in its entirety. Former section 14-158 pertained to language or gestures causing public disorder.

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**Sec. 14-159. Loading or unloading of trucks.**

- (a) As used in this section:
- (1) *Truck* shall mean every motor vehicle designed, used or maintained primarily for the transportation of property, including trailer-pulling tractors.
  - (2) *Trailer* shall mean every vehicle with or without motive power, designed for carrying property and persons, or property alone.
  - (3) *Building or land use* shall mean and/or include all zoning districts and land uses permitted or allowed therein by the city zoning ordinance, including by way of example and not by way of limitation, restaurants, grocery stores, gasoline stations, department stores, clothiers, drugstores, warehouses, vacant land storage areas, open air businesses or land uses, clubs, churches, hospitals and dwellings.
- (b) It shall be unlawful for any person to cause to be loaded or unloaded any truck, trailer or combination thereof between the hours of 8:00 p.m. and 7:00 a.m., except that on Sundays no such loading or unloading shall be permitted at any time where such building or land use at which such loading or unloading operation is taking place is located within 500 feet of any dwelling.
- (c) During all loading or unloading, the engine of any truck or trailer shall be stopped for the time it takes to load or unload such truck or trailer, if such operation shall take in excess of 20 minutes.
- (d) All loading, unloading or other handling of merchandise shall be conducted in a manner to avoid loud and unnecessary noise by persons or equipment used in such operation.
- (e) No person in charge of a building or land use shall permit the loading, unloading or other handling of merchandise, supplies, inventory or property for its use or sale to be conducted in a manner prohibited by this section.

**Sec. 14-160. Disorderly persons.**

It shall be unlawful for any person to permit or suffer any place occupied or controlled by such person to be a resort of noisy, boisterous or disorderly persons.

**Sec. 14-161. Disorderly intoxication.**

It shall be unlawful for any person to be intoxicated in a public place who is either endangering directly the safety of another person or of property or is acting in a manner that causes a public disturbance.

State law reference(s)—Such person defined as a disorderly person, MCL 750.167(1)(e).

**Sec. 14-162. Jostling, crowding.**

It shall be unlawful for any person to be found jostling or roughly crowding people unnecessarily in a public place.

State law reference(s)—Such person defined as a disorderly person, MCL 750.167(1)(l).

**Sec. 14-163. Fighting.**

It shall be unlawful for any person to engage in any disturbance, fight or quarrel in a public place.



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**Sec. 14-164. Loitering.**

It shall be unlawful for any person to be found standing or idling in or about any store, shop or business or commercial establishment and/or its premises, if such standing and/or idling in or about the above-described locations causes interference or disorder of the normal course of business of the store, shop, business or commercial establishment or in any way tends to hinder or impede the passage of pedestrians or vehicles en route to or from the establishment or premises. No person shall be issued a citation under this section unless the person fails to leave any of the above-described locations after having been requested to leave by the lawful owner or occupant or by a representative of the owner or occupant or a duly authorized police officer.

(Ord. No. 06-286, § 1, 6-12-06)

State law reference(s)—Certain loiterers defined as disorderly persons, MCL 750.167.

**Sec. 14-165. Obstructing public passage.**

It shall be unlawful for any person to loiter in any public place so as to obstruct the free and uninterrupted passage of the public, or in such a way as to prevent other members of the public from going on or making use of the premises after having been requested to leave by a duly authorized police officer.

**Secs. 14-166—14-185. Reserved.**

***ARTICLE VI. OFFENSES AGAINST PUBLIC MORALS***

***DIVISION 1. GENERALLY***

**Sec. 14-186. Indecent or obscene conduct.**

It shall be unlawful for any person to engage in any indecent or obscene conduct in any public place.

State law reference(s)—Such person defined as a disorderly person, MCL 750.167(1)(f).

**Sec. 14-187. Indecent exposure.**

It shall be unlawful for any person to knowingly make any open or indecent exposure of his person or of the person of another.

State law reference(s)—Similar provisions, MCL 750.335a.

**Sec. 14-188. Inhaling fumes for purpose of intoxication.**

It shall be unlawful for any person to intentionally smell or inhale fumes into his respiratory or circulatory system for the purpose of causing a condition of intoxication, euphoria, excitement, exhilaration, stupefaction or dulling of the senses or nervous system. This shall not prohibit the inhalation of any anesthesia for medical or dental purposes.

State law reference(s)—Use of chemical agents, MCL 752.271 et seq.

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**Sec. 14-189. Controlled substances.**

- (a) Except as authorized by the Uniform Controlled Substances Act, as adopted by the state as Article VII of the Public Health Code (MCL 333.7101 et seq.), as amended, a person shall not manufacture, deliver, use or possess a controlled substance as defined by the Uniform Controlled Substances Act, including marijuana, also as defined by the Uniform Controlled Substances Act.
- (b) When a person who has not been previously convicted of an offense under the Uniform Controlled Substances Act, as adopted by the state or any statute of the United States or any other state, or any ordinance relating to controlled substances, including marijuana, pleads guilty of possessing or using a controlled substance, or marijuana, the court, without entering a judgment of guilt with the consent of the accused, may defer further proceedings and place the individual on probation upon terms and conditions. Upon violation of a term or condition, the court may enter an adjudication of guilt and proceed as otherwise provided by law. Upon fulfillment of the terms and conditions, the court shall discharge the individual and dismiss the proceedings. Discharge and dismissal under this section shall be without adjudication of guilt and is not a conviction for purposes of this section or for purposes of disqualifications or disabilities imposed by law upon conviction of a crime, including the additional penalties imposed by state law for second or subsequent convictions under the Uniform Controlled Substances Act. There may be only one discharge and dismissal under this section, any other ordinance or state law as to an individual. The records and identifications division of the department of state police shall retain a nonpublic record of an arrest and discharge or dismissal under this section. This record shall be furnished to a court or police agency upon request for the purpose of showing that a defendant in a criminal action involving the use of a controlled substance including marijuana has already once utilized the probation without judgment of guilt provisions in this section.
- (c) If an individual is convicted of a violation of this section, the court as part of the sentence, during the period of confinement or the period of probation, or both, may require the individual to attend a course of instruction or rehabilitation program on the medical, psychological and social effects of the misuse of drugs. The court may order the individual to pay a fee for the instruction or program. Failure to complete the instruction or program shall be considered a violation of the terms of probation.

**Sec. 14-190. Obscene performances.**

- (a) It shall be unlawful for any person to present, sponsor, procure, direct, act or otherwise participate in or to assist in the presentation of an obscene performance in the city.
- (b) As used in this section:
  - (1) The term "obscene performance" shall mean a play, dance, show, act, rendition, lecture, reading or other live presentation performed before an audience or intended to be performed before an audience and which in whole or in part depicts or reveals nudity, sexual conduct, sexual excitement or sadomasochistic abuse or which includes obscenities or explicit verbal descriptions or narrative accounts of nudity, sexual conduct, sexual excitement or sadomasochistic abuse, depicted or described, provided that the average person, applying contemporary community standards in the city, would find that the performance taken as a whole appeals to the prurient interest in a patently offensive way and lacks serious artistic, political or scientific value.
  - (2) The term "nudity" shall mean uncovered, or less than opaquely covered, post-pubertal human genitals, pubic areas, the post-pubertal human female breast below a point immediately above the top of the areola, and of the covered male genitals in a discernibly turgid state. For purposes of this definition, a female breast is considered uncovered if the nipple only or the nipple and the areola only are covered.

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- (3) The term "obscenities" shall mean those slang words currently generally rejected for regular use in mixed society that are used to refer to genitals, female breasts, sexual conduct or excretory functions or products either that have no other meaning or that in context are clearly used for their bodily, sexual or excretory meaning.
  - (4) The term "somasochistic abuse" shall mean flagellation or torture by or upon a person who is nude or clad in undergarments or in revealing or bizarre costume, or the condition of being fettered, bound or otherwise physically restrained on the part of one so clothed.
  - (5) The term "sexual conduct" shall mean human masturbation, sexual intercourse, or any touching of the genitals, pubic areas or buttocks of the human male or female or the breasts of the female, whether alone or between members of the same or opposite sex or between humans and animals in an act of apparent sexual stimulation or gratification.
  - (6) The term "sexual excitement" shall mean the condition of human male or female genitals or the breasts of the female when in a state of sexual stimulation or the sensual experiences of humans engaging in or witnessing sexual conduct or nudity.

State law reference(s)—Obscene material, MCL 752.361 et seq.

**Secs. 14-191—14-200. Reserved.**

*DIVISION 2. PROSTITUTION<sup>27</sup>*

**Sec. 14-201. Generally.**

- (a) It shall be unlawful for any person within the city to commit or offer or agree to commit a lewd act or an act of prostitution or moral perversion.
- (b) It shall be unlawful for any person within the city to secure or offer another for the purpose of committing a lewd act or an act of prostitution or moral perversion.
- (c) It shall be unlawful for any person within the city to be in or near any place frequented by the public or any public place for the purpose of inducing, enticing or procuring another to commit a lewd act or an act of prostitution or moral perversion.
- (d) It shall be unlawful for any person within the city to knowingly transport any person to any place for the purpose of committing a lewd act or an act of prostitution or moral perversion.
- (e) It shall be unlawful for any person within the city to knowingly receive or offer to or agree to receive any person into any place or building for the purpose of performing a lewd act or an act of prostitution or moral perversion or to knowingly permit any person to remain in any place or building for any such purpose.
- (f) It shall be unlawful for any person within the city to direct or offer to direct any person to any place or building for the purpose of committing any lewd act or act of prostitution or moral perversion.

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<sup>27</sup>State law reference(s)—Common prostitute deemed a disorderly person, MCL 750.167(1)(b); prostitution generally, MCL 750.448 et seq.

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**Sec. 14-202. Houses of ill fame—Keeping, maintaining.**

It shall be unlawful for any person within the city to keep or maintain a house of ill fame or assignation or place for the practice of prostitution or lewdness.

State law reference(s)—Similar provisions, MCL 750.452.

**Sec. 14-203. Same—Patronizing.**

It shall be unlawful for any person within the city to patronize, frequent, be found in or be an inmate of any house of ill fame or assignation or place for the practice of prostitution or lewdness.

State law reference(s)—Admitting to place for purpose of prostitution, MCL 750.449; engaging or offering to engage services of female, MCL 750.449a.

**Sec. 14-204. Same—Leasing premises for.**

It shall be unlawful for any person within the city to lease to another any house, room or other premises, in whole or in part, for any of the uses or purposes set forth in sections 14-202 and 14-203 or to knowingly permit a house, room or other premises to be used or occupied for such purposes.

**Sec. 14-205. Soliciting and accosting.**

It shall be unlawful for any person within the city, male or female, 17 years of age or older, to accost, solicit or invite another in any public place or in or from any building or vehicle by word, gesture or any other means to commit prostitution or to do any other lewd or immoral act. This section shall not apply to a law enforcement officer while in the performance of his duties as an enforcement officer.

State law reference(s)—Similar provisions, MCL 750.448.

**Secs. 14-206—14-215. Reserved.**

*DIVISION 3. GAMBLING<sup>28</sup>*

**Sec. 14-216. Prohibited.**

It shall be unlawful for any person within the city to deal in, play or engage in gambling such as faro, roulette, dice, cards or other device or game of chance, hazard or skill, either as bookmaker, dealer, keeper, player or otherwise for the purpose of gambling for money or other valuable thing or to attend or be found frequenting any place where gambling is permitted or allowed or is taking place.

**Sec. 14-217. Keeping, occupying building for gambling; using gambling apparatus.**

It shall be unlawful for any person within the city or his agent or employee to directly or indirectly keep or occupy or assist in keeping or occupying any common gambling house or any building or place where gaming is

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<sup>28</sup>State law reference(s)—Gambling, MCL 750.301 et seq.

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permitted or suffered; to suffer or permit on any premises owned, occupied or controlled by him any apparatus used for gaming or gambling or to use such apparatus for gaming or gambling in any place within the city.

State law reference(s)—Similar provisions, MCL 750.302.

**Sec. 14-218. Keeping, maintaining gaming room, table for hire.**

It shall be unlawful for any person within the city for hire, gain or reward to keep or maintain a gaming room, a gaming table or any game of skill or chance or partly of skill and partly of chance for gaming or to knowingly suffer a gaming room, gaming table or any such game to be kept, maintained or played on any premises occupied or controlled by him.

State law reference(s)—Similar provisions, MCL 750.303.

**Sec. 14-219. Keeping, maintaining building, room for registering bets, selling pools.**

It shall be unlawful for any person within the city or his agent or employee to directly or indirectly keep, maintain, operate or occupy any building or room or any part thereof or any place with apparatus, books or any device for registering bets or buying or selling pools upon the result of a game, competition, political competition, appointment, election or any purported event of like character. It shall be unlawful for any person within the city to register bets, buy or sell pools, to be concerned in buying or selling pools or to knowingly permit any grounds or premises owned, occupied or controlled by him to be used for any of the aforesaid purposes.

State law reference(s)—Similar provisions, MCL 750.304.

**Sec. 14-220. Frequenting or attending gaming places.**

It shall be unlawful for any person within the city to knowingly attend or frequent any place where gaming or gambling is suffered or permitted or any place operated or occupied as a common gaming or gambling house or room.

State law reference(s)—Similar provisions, MCL 750.309.

**Sec. 14-221. Possession of gambling articles; confiscation.**

It shall be unlawful for any person within the city to be in possession of any policy or pool tickets, slips or checks, memoranda or any combination thereof, bet slips, numbers slip or of any article associated and/or connected with commercial gambling. Any and all such articles mentioned in this section may be confiscated and destroyed by the police department or used as evidence in any prosecution for violation.

State law reference(s)—Pool tickets and other wagering memoranda declared nuisance, MCL 750.306.

**Secs. 14-222—14-230. Reserved.**

*DIVISION 4. DRUG PARAPHERNALIA<sup>29</sup>*

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<sup>29</sup>State law reference(s)—Controlled substances, MCL 333.7101 et seq.

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**Sec. 14-231. Definition.**

For the purpose of this division, the term "drug paraphernalia" shall mean all equipment, products and materials of any kind which are used, intended for use, or designed for use, in planting, propagating, cultivating, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body a controlled substance in violation of state or local law. It includes but is not limited to:

- (1) Kits used, intended for use or designed for use in planting, propagating, cultivating, growing or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived.
- (2) Kits used, intended for use or designed for use in manufacturing, compounding, converting, producing, processing or preparing a controlled substance.
- (3) Isomerization devices used, intended for use or designed for use in increasing the potency of any species of plant that is a controlled substance.
- (4) Testing equipment used, intended for use or designed for use in identifying or analyzing the strength or effectiveness or purity of controlled substances.
- (5) Scales and balances used, intended for use or designed for use in weighing or measuring controlled substances.
- (6) Dilutents and adulterants, such as quinine hydrochloride mannitol, mannite, dextrose and lactose, used, intended for use or designed for use in cutting controlled substances.
- (7) Separation gins and sifters used, intended for use or designed for use in removing twigs and seeds from, or otherwise cleaning or refining, marijuana.
- (8) Blenders, bowls, containers, spoons and mixing devices used, intended for use or designed for use in compounding controlled substances.
- (9) Capsules, balloons, envelopes and other containers used, intended for use or designed for use in packaging small quantities of controlled substances.
- (10) Containers and other objects used, intended for use or designed for use in storing or concealing controlled substances.
- (11) Hypodermic syringes, needles and other objects used, intended for use or designed for use in parenterally injecting controlled substances into the human body.
- (12) Objects used, intended for use or designed for use in ingesting, inhaling or otherwise introducing marijuana, cocaine, hashish or hashish oil into the human body, such as:
  - a. Metal, wooden, acrylic, glass, stone, plastic or ceramic pipes with or without screens, permanent screens, hashish heads or punctured metal bowls.
  - b. Water pipes.
  - c. Carburetion tubes and devices.
  - d. Smoking and carburetion masks.
  - e. Roach clips: meaning objects used to hold burning materials, such as a marijuana cigarette, that has become too small or too short to be held in the hand.
  - f. Miniature cocaine spoons and cocaine vials.
  - g. Chamber pipes.

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- h. Carburetor pipes.
  - i. Electric pipes.
  - j. Air-driven pipes.
  - k. Chillums.
  - l. Bongs.
  - m. Ice pipes or chillers.

Cross reference(s)—Definitions and rules of construction generally, § 1-2.

### **Sec. 14-232. Determination of drug paraphernalia by authorities.**

In determining whether an object is drug paraphernalia, a court or other authority should consider in addition to all other logically relevant factors, the following:

- (1) Statements by an owner or by anyone in control of the object concerning its use.
- (2) Prior convictions, if any, of an owner or anyone in control of the object under any state or federal law relating to a controlled substance.
- (3) The proximity of the object, in time and space, to a direct violation of the state law.
- (4) The proximity of the object to controlled substances.
- (5) The existence of any residue of controlled substances on the object.
- (6) Direct or circumstantial evidence of the intent of an owner or of anyone in control of the object to deliver it to a person whom he knows intends to use the object to facilitate a violation of state or local law; innocence of an owner or of anyone in control of the object as to a direct violation of state law shall not prevent a finding that the object is intended for use or designed for use as drug paraphernalia.
- (7) Instruction, oral or written, provided with the object concerning its use.
- (8) Descriptive material accompanying the object which explains or depicts its use.
- (9) National and local advertising concerning its use.
- (10) The manner in which the object is displayed for sale.
- (11) Whether the owner or anyone in control of the object is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products.
- (12) Direct or circumstantial evidence of the ratio of sales of such objects to total sales of the business enterprise.
- (13) The existence and scope of legitimate uses for the object in the community.
- (14) Expert testimony concerning its use.

### **Sec. 14-233. Possession.**

It shall be unlawful for any person, including minors, to use, or to possess with the intent to use, drug paraphernalia 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 into the human body, a controlled substance in violation of state or local law.

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**Sec. 14-234. Manufacture, delivery or sale.**

It shall be unlawful for any person to deliver, sell, possess with the intent to deliver or sell, or manufacture with the intent to deliver or sell, drug paraphernalia knowing that it will be used to plant, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance in violation of state law or local law.

**Sec. 14-235. Advertisements.**

It is unlawful for any person to place in any newspaper, magazine, handbook, sign, poster or other publication an advertisement knowing that the purpose of the advertisement, in whole or in part, is to promote the sale of objects designed or intended for use as drug paraphernalia.

**Sec. 14-236. Exceptions.**

This article shall not apply to manufacturers, wholesalers, jobbers, licensed medical technicians, technologists, nurses, hospitals, research teaching institutions, clinical laboratories, medical doctors, osteopathic physicians, dentists, chiropractors, veterinarians, pharmacists and embalmers in the normal legal course of their respective business or profession, nor to persons suffering from diabetes, asthma or any other medical condition requiring self-injection.

**Sec. 14-237. Violations; civil forfeiture.**

Any drug paraphernalia used, sold, possessed with the intent to use or sell, or manufactured with the intent to sell in violation of this article shall be seized and forfeited to the city.

**Secs. 14-238—14-260. Reserved.**

***ARTICLE VII. OFFENSES AGAINST PUBLIC SAFETY***

***DIVISION 1. GENERALLY***

**Sec. 14-261. Hurling projectiles from or at vehicles.**

It shall be unlawful for any person to wrongfully throw or propel any snowball, missile or object from or at any moving motor vehicle.

**Sec. 14-262. Fireworks.**

- (a) *Definitions.* The following words, terms and phrases shall have the meanings ascribed to them in this section and as defined:
- (1) "Agricultural and wildlife fireworks" means fireworks devices distributed to farmers, ranchers, and growers through a wildlife management program administered by the United States Department of the Interior or the department of natural resources of this state.



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- (2) "APA standard 87-1" means 2001 APA standard 87-1, standard for construction and approval for transportation of fireworks, novelties, and theatrical pyrotechnics, published by the American Pyrotechnics Association of Bethesda, Maryland.
  - (3) "Articles pyrotechnic" means pyrotechnic devices for professional use that are similar to consumer fireworks in chemical composition and construction but not intended for consumer use, that meet the weight limits for consumer fireworks but are not labeled as such, and that are classified as UN0431 or UN0432 under 49 CFR 172.101.
  - (4) "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 does not include low-impact fireworks.
  - (5) "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.
  - (6) "Firework" or "fireworks" means any composition or device, except for a starting pistol, a flare gun, or a flare, designed 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.
  - (7) "Low-impact fireworks" means ground and handheld sparking devices as that phrase is defined under APA standard 87-1, 3.1, 3.1.1.1 to 3.1.1.8, and 3.5.
  - (8) "NFPA" means the National Fire Protection Association headquartered at 1 Batterymarch Park, Quincy, Massachusetts.
  - (9) "NFPA 1123" means the "Code for Fireworks Display", 2010 edition, developed by NFPA.
  - (10) "Nonconsumer fireworks" means all fireworks except consumer and low-impact fireworks.
  - (11) "Special effects" means a combination of chemical elements or chemical compounds capable of burning independently of the oxygen of the atmosphere, and designed and intended to produce an audible, visual, mechanical, or thermal effect as an integral part of a motion picture, radio, television, theatrical, or opera production or live entertainment.
- (b) *Consumer fireworks.* It shall be unlawful for any person to ignite, discharge or use consumer fireworks at any time except on the following days:
- (1) The day preceding, the day of, or the day after a national holiday, other than the 4th of July.
  - (2) Five days preceding, the day of and five days after the 4th of July.
  - (3) The Friday, Saturday and Sunday of the annual Morenci Community Festival Weekend.
- (c) *Nonconsumer fireworks; permit required.* It shall be unlawful for any person to use nonconsumer fireworks for outdoor pest control or agricultural purposes, or for public or private display within the city by municipalities, fair associations, amusement parks, or other organizations or individuals approved by the city authority, without complying with all applicable provisions of the Michigan Fireworks Safety Act. Act No. 256 of the Public Acts of Michigan of 2011 (MCL 28.451) and without obtaining a permit from the city.
- (1) The required permit shall only be granted upon application, in writing, on forms provided by the State of Michigan Department of Licensing and Regulatory Affairs and the payment of a fee set by the city council. A copy of the application may be obtained from the office of the city clerk.

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- (2) The completed application, together with all required documentation and the required fee shall be filed with the city clerk, who shall inspect the application for completeness and compliance with the provisions of this subsection.
  - (3) The fee for the required permit shall be for an amount, as set from time to time by resolution of the city council, to cover the costs of processing and reviewing the permit application.
  - (4) Before a permit for articles pyrotechnic or a display fireworks ignition is issued, the person, firm, or corporation applying for the permit shall furnish proof of financial responsibility by a bond or insurance in an amount, character, and form deemed necessary by the city to satisfy claims for damages to property or personal injuries arising out of an act or omission on the part of the person, firm, or corporation or an agent or employee of the person, firm, or corporation, and to protect the public.
  - (5) A permit shall not be issued under this act to a nonresident person, firm, or corporation for ignition of articles pyrotechnic or display fireworks in this state until the person, firm, or corporation has appointed in writing a resident member of the bar of this state or a resident agent to be the legal representative upon whom all process in an action or proceeding against the person, firm, or corporation may be served.
  - (6) The city shall rule on the competency and qualifications of articles pyrotechnic and display fireworks operators as required under NFPA 1123, as the operator has furnished in his or her application form, and on the time, place, and safety aspects of the display of articles pyrotechnic or display fireworks before granting permits.
  - (7) A permit granted under this subsection is not transferable and shall not be issued to a minor.
  - (8) After a permit has been granted, sales, possession, or transportation of fireworks for the purposes described in the permit only may be made.

(Ord. No. 12-300, § 1, 6-25-12)

Editor's note(s)—Ord. No. 12-300, § 1, adopted June 25, 2012, amended section 14-262 in its entirety to read as herein set out. Former chapter 14, § 14-262, pertained to fireworks, and derived from the Code.

### **Sec. 14-263. Placing benches, etc., on sidewalks, etc.**

No person within the city shall place on the sidewalk, alleys, street or city parking lot, within the business district (being Main Street west from Summit Street to Bean Creek Bridge, and north from Main Street on North Street to Locust Street) any type of seating device for the purpose of sitting in or upon, or sit upon any sidewalk, curb, or step in the central business district, or to sit upon any vehicle within the business district without authority of city officials.

(Code 1963, § 9.32(ff))

### **Secs. 14-264—14-275. Reserved.**

## *DIVISION 2. FIREARMS*

### **Sec. 14-276. 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:

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*Approved range* shall mean a range for the shooting of firearms approved by the council, and constructed in such a manner as to prevent the projectile from any weapons so fired on the range from exceeding the physical limits of the range.

*Building, structure or edifice* shall mean a space within its walls and usually but not necessarily covered with a roof.

*Firearm* shall mean any weapon or device from which is propelled any missile, projectile, bullet, shot, pellet or other mass by means of explosives, compressed air or gas or by means of springs, levers or other mechanical device.

### **Sec. 14-277. Discharge of firearms using explosives.**

No person shall discharge any firearm from which is propelled a projectile by means of explosives, including pistols, revolvers, rifles, shot guns or similar weapons, manual or automatic, within the city with the following exceptions:

- (1) Authorized officers of the law are permitted to discharge their firearms in the performance of their duties.
- (2) A person shall be permitted to discharge any firearm for the protection of his life and his property.
- (3) A person may discharge a firearm for target practice purposes, in a safe manner upon an approved range.

State law reference(s)—Firearms and weapons, MCL 28.421 et seq., 750.222 et seq.

### **Sec. 14-278. Discharge of other firearms.**

It shall be unlawful for any person to discharge a firearm not covered by section 14-277:

- (1) Within an area of 100 yards from any building, structure or edifice whether occupied or unoccupied;
- (2) Upon any platted land or within 100 yards of any public or private school real property; or
- (3) Upon or across any public road or highway within the city.

### **Sec. 14-279. Discharge by minors.**

It shall be unlawful for any person under the age of 18 years to use, possess or discharge a firearm unless under the direct supervision and control of and accompanied by a parent, legal guardian or adult authorized by the parent or legal guardian to have direct supervision of the person under the age of 18 years. It shall be the responsibility of every parent, guardian or other person having the physical custody or charge of any minor under the age of 18 years to control the minor and prevent him from violating or attempting to violate any provisions of this division.

State law reference(s)—Similar provisions, MCL 752.891.

### **Sec. 14-280. Practice ranges.**

After investigation and report by the police department of the city, the council may approve firearms practice ranges, provided the range so approved shall be so constructed as to prevent the escape of projectiles from the specified type of firearms exceeding the physical limits of the approved range. Plans and specifications of the proposed range, together with the types of firearms to be used thereon, shall be submitted to the police department for investigation, report and recommendation. The police department shall make its report and

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recommend either approval or disapproval of the proposed range or may recommend approval subject to conditions. Upon receipt of such report, the city clerk shall place the matter upon the agenda of the council for action. The council may restrict the hours during which firing shall be done upon any approved range. All shooting on any approved range shall be supervised by at least one adult who shall be thoroughly familiar with the operation of the firearm being used. No firing shall be done except at targets placed in accordance with the plans and specifications approved by the city.

**Sec. 14-281. Intentionally aiming firearm without malice.**

It shall be unlawful for any person to intentionally, without malice, point or aim any firearm at or toward any other person.

State law reference(s)—Similar provisions, MCL 750.233.

**Sec. 14-282. Reckless endangerment.**

It shall be unlawful for any person to recklessly engage in conduct which places or may place another person in danger of death or serious bodily injury. Recklessness and danger shall be presumed where a person knowingly points a firearm at or in the direction of another, whether or not either person believes the firearm to be loaded.

**Sec. 14-283. Unlawful possession under influence of alcoholic liquor or controlled substances.**

It shall be unlawful for any person under the influence of alcoholic liquor or any exhilarating or stupefying substance to carry, have in possession or under control, or use in any manner or discharge any firearm within this city.

State law reference(s)—Similar provisions, MCL 750.237.

**Sec. 14-284. Reckless use.**

It shall be unlawful for any person to recklessly or heedlessly or willfully or wantonly use, carry, handle or discharge any firearm without due caution and circumspection for the rights, safety or property of others.

State law reference(s)—Similar provisions, MCL 752.a863.

**Sec. 14-285. Damaging property by negligence.**

It shall be unlawful for any person to, because of carelessness, recklessness or negligence, but not willfully or wantonly, cause or allow any firearm under his control to be discharged so as to destroy or injure the real or personal property of another.

State law reference(s)—Similar provisions, MCL 752.862.

**Sec. 14-286. Discharge of weapons.**

No person within the city shall discharge any firearm, B-B gun, pellet gun, slingshot, or bow and arrow.

(Code 1963, § 9.32(d))

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**Sec. 14-287. Possession of weapons by minors.**

No person within the city shall, being under 18 years of age, transport a firearm, B-B gun, pellet gun, slingshot, or bow and arrow off of private property unless accompanied by someone 18 years of age or older, unless he is in possession of a valid hunting license.

(Code 1963, § 9.32(gg))

**Secs. 14-288—14-310. Reserved.**

***ARTICLE VIII. OFFENSES CONCERNING UNDERAGED PERSONS***

**Sec. 14-311. Abandoned refrigerators, iceboxes.**

It shall be unlawful for any person to knowingly leave in a place accessible to children, any abandoned, unattended or discarded icebox, refrigerator or other container of a kind and size sufficient to permit the entrapment or suffocation of a child therein, without first removing the snaplock or other locking device from the lid or cover thereof.

State law reference(s)—Similar provisions, MCL 750.493d.

**Sec. 14-312. Contributing to neglect or delinquency.**

It shall be unlawful for any person to, by act or by any word, encourage, contribute toward, cause or tend to cause any minor child under the age of 17 years to become neglected or delinquent so as to come or tend to come under the jurisdiction of the juvenile division of the probate court, as defined in section 2, Chapter 12a of Act No. 288 of the Public Acts of Michigan of 1939 (MCL 712A.2), as amended, whether or not such child shall in fact be adjudicated a ward of the probate court.

**Sec. 14-313. Use of alcoholic liquors and controlled substances at open house parties; penalties.**

- (a) For the purpose of this section, the following terms shall be defined as follows:
- (1) Adult shall mean a person 17 years of age or older.
  - (2) Alcoholic liquor shall mean any beverage containing more than one-half of one percent of alcohol by weight. The percentage of alcohol by weight shall be determined in accordance with the provisions of state law.
  - (3) Control shall mean any form of regulation or dominion including a possessory right.
  - (4) Minor shall mean a person not legally permitted by reason of age to possess alcoholic liquors pursuant to state law.
  - (5) Open house party shall mean a social gathering of persons at a residence, other than the owner or those with rights of possession or their immediate family members.
  - (6) Residence or premises shall mean a motel room, hotel room, home, apartment, condominium or other dwelling unit including the curtilage of the dwelling unit, or a hall, meeting room or other place of assembly, whether occupied on a temporary or permanent basis, whether occupied as a dwelling or

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specifically for social functions, and whether owned, leased, rented or used with or without compensation.

- (b) No adult having control of any residence or premises shall allow an open house party to take place at the residence or premises if any alcoholic liquor or unlawful controlled substance is possessed or consumed at the residence or premises by any minor where the adult knew or reasonably should have known that any alcoholic liquor or unlawful controlled substances was in the possession of or being consumed by a minor at the residence or premises, and where the adult failed to take reasonable steps to prevent the possession or consumption of the alcoholic liquor or unlawful controlled substance at the residence or premises.
- (c) The provisions of this section shall not apply to legally protected religious observances or legally protected educational activities.

(Ord. No. 06-286, § 1, 6-12-06)

### **Sec. 14-314. Abandonment.**

It shall be unlawful for any person, parent, guardian, custodian or anyone else to whose care children under 11 years of age are entrusted to leave, neglect or abandon such children in any public place or in a parked motor vehicle in any public place or place open to the public without furnishing someone over the age of 17 years for supervision of such children.

State law reference(s)—Child abuse and neglect prevention act, MCL 722.601 et seq.

### **Sec. 14-315. Curfew.**

It shall be unlawful for anyone under the age of 16 years to loiter, idle, wander, stroll, play, pleasure ride, park or be in or on any type of vehicle whatsoever, or be or remain in, on or about any public street, highway, road, alley, park, playground or other public grounds, public places, public buildings, vacant lots, places of amusement or entertainment, or other unsupervised places in the city between the hours of 11:00 p.m. to 6:00 a.m. of the following day, official city time, except that on Friday and Saturday nights, such prohibition shall be between the hours of 12:00 midnight and 6:00 a.m. of the following day, official city time; provided, however, that the provisions of this section do not apply to a minor accompanied by his parent, guardian, or other adult person having the care and custody of the minor, or where the minor is upon an emergency errand, or legitimate business directed by his parent, guardian, or other adult person having the care and custody of the minor, or when the minor is going to, attending, or coming directly from a legitimate church, municipal or school function, or to be a minor whose lawful employment makes it necessary that such minor be in, on, or about the places set forth in this section within the prohibited hours contrary to the terms hereof.

(Code 1963, § 92.1)

State law reference(s)—Curfew for minors, MCL 722.751 et seq.

### **Sec. 14-316. Selling or furnishing alcohol to a minor.**

Alcoholic liquor shall not be sold or furnished to a person unless the person has attained 21 years of age. A person who knowingly sells or furnishes alcoholic liquor to a person who is less than 21 years of age, or who fails to make diligent inquiry as to whether the person is less than 21 years of age, is guilty of a misdemeanor.

(Ord. No. 202, 11-14-94)

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**Sec. 14-317. 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:
- (1) *Alcoholic beverage* means an alcoholic liquor as defined in section 105 of Public Act No. 58 of 1988 (MCL 436.1105).
  - (2) *Commission* means the state liquor control commission.
  - (3) *Minor* means a person who is less than 21 years of age.
  - (4) *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.
  - (5) *Emergency medical services personnel* means that term as defined in section 20904 of the Public Health Code, 1978 P.A. 368, MCL 333.20904.
  - (6) *Health facility or agency* means that term as defined in section 20106 of the Public Health Code, 1978 P.A. 368, MCL 333.20106.
- (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 14-317(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

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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) *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.
- (f) *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.
- (g) *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.
- (h) *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.
- (i) *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.
- (j) *Undercover operations.* Subsection 14-317(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



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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.

- (k) *Voluntary treatment.* The following individuals are not considered to be in violation of subsection 14-317(b):
- (1) 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 a violation of sections 520b to 520g of the Michigan penal code, 1931 PA 328, MCL 750.520b to 750.520g, committed against a minor.
  - (2) A minor who accompanies an individual who meets both of the following criteria:
    - (i) Has consumed alcoholic liquor.
    - (ii) 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 a violation of sections 520b to 520g of the Michigan Penal Code, 1931 PA 328, MCL 750.520b to 750.520g, committed against a minor.
  - (3) A minor who initiates contact with a peace officer or emergency medical services personnel for the purpose of obtaining medical assistance for a legitimate health care concern.
- (l) *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.

(Ord. No. 202, 11-14-94; Ord. No. 18-336, § 1, 1-22-18)

**Secs. 14-318—14-335. Reserved.**

## **ARTICLE IX. OFFENSES ON SCHOOL PROPERTY<sup>30</sup>**

### **Sec. 14-336. 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:

*Firefighters* shall mean regular and volunteer members.

*Local board of education* shall mean any duly constituted board of education of a public school district operating wholly or partially within the corporate limits of the city.

*Motor vehicle* shall mean every vehicle which is self-propelled, excluding snowmobiles.

*Police officers* shall mean regular and auxiliary members.

*School, parochial,* shall mean any school governed by a religious organization.

*School, private,* shall mean any school not a public or parochial school.

*School, public,* shall mean any school operated by a public school district.

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<sup>30</sup>State law reference(s)—Operation of motor vehicles on school district property in municipalities, MCL 257.961.

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*Snowmobile* shall mean any motorized vehicle designed for travel primarily on snow or ice, steered by wheels, skis or runners.

**Sec. 14-337. Traffic control.**

All applicable provisions of chapter 20 and all traffic-control orders duly enacted by the city pertaining to school property, shall be enforceable on the grounds of any public, private or parochial school in the city; provided such public school board of education, parochial school governing body or private school owner has filed a resolution with the city requesting and authorizing such enforcement by the city police of those traffic provisions and this article.

**Sec. 14-338. Littering.**

No person shall deposit, dump or otherwise dispose of refuse of any kind, except in clearly designated receptacles marked for that purpose on the property owned by any public, private or parochial school.

**Sec. 14-339. Damaging, destroying school property.**

No person shall damage, deface or destroy, or aid in the damage, destruction or defacement of any public, private or parochial school building, grounds, trees, shrubs, plants, fences, buses, equipment, appurtenances or fixtures of the school property.

**Sec. 14-340. Unauthorized use of fire extinguishers, alarm devices.**

No person shall trigger, trip, set off or otherwise use a fire alarm device or fire extinguisher located on or within any parochial, private or public school property, except in the case of actual emergency or in the course of an authorized demonstration.

State law reference(s)—False fire alarms, MCL 750.240.

**Sec. 14-341. Creating a disturbance.**

No person shall willfully or maliciously make or assist in making any noise, disturbances or improper diversions by which the peace, quietude or good order of any public, private or parochial school is disturbed.

State law reference(s)—Disturbing public places, MCL 750.170.

**Sec. 14-342. Indecent conduct.**

No person shall indulge in any indecent or obscene conduct in any building or on any grounds of a public, private or parochial school.

**Sec. 14-343. Alcoholic liquors.**

- (a) No person shall possess any alcoholic liquor in any building or on any grounds of a public, private or parochial school.
- (b) No person shall consume any alcoholic liquor on any grounds or in any buildings of a public, private or parochial school.
- (c) The provisions of this section shall not apply to the display, possession or consumption of alcoholic liquors used during authorized religious services.

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State law reference(s)—Liquor control act, MCL 436.1 et seq.

**Sec. 14-344. Hunting, molesting wildlife.**

- (a) No person shall hunt, set traps for, damage or molest any wildlife on any grounds of a public, private or parochial school.
- (b) The provisions of this section shall not apply to police officers, animal control officers or duly authorized school employees when attending to stray domestic animals or dangerous wildlife, or to any person who must defend himself or others from the attack of a stray domestic animal or dangerous wildlife.

State law reference(s)—Game law, MCL 311.1 et seq.

**Sec. 14-345. Unauthorized persons in school building.**

No person who is not a regularly enrolled student, teacher, parent or other employee, school supply salesman or any person engaged in legitimate school business or pursuits, shall enter and remain in any school building, whether public, private or parochial, in the city for any reason whatever, unless such person has received permission from the school principal or the principal's duly authorized representative to be in any such public, private or parochial school building.

State law reference(s)—Trespassing, MCL 750.546 et seq.

**Sec. 14-346. Conduct at athletic and social events.**

- (a) No person shall enter or attempt to enter any dance, social, athletic, theatrical or other public event conducted by a public, private or parochial school or conducted on school property, without a ticket of admission to such event when tickets are required; or enter or attempt to enter contrary to any established rules or qualifications for eligibility for attendance at such events, as provided by the sponsors. No person ineligible to attend such events shall loiter about the premises where such events are being held.
- (b) No unauthorized person shall enter upon the playing area where any athletic contest or exhibition is being conducted on school property.
- (c) No person shall project or drop any object or substance which could cause injury, damage or interference into the spectator or playing areas, where any athletic contest or exhibition is conducted on school property.
- (d) Any person attending any dance or social, athletic, theatrical or other public event conducted by a public, private or parochial school or conducted on school property shall, upon being ordered to leave the event by the principal or any other person appointed or designated by the school to keep order, immediately vacate the premises and the school grounds. Such order may be given when, in the opinion of the properly designated official, guard or chaperone, the continued presence of the person threatens the peace, security and well-being of the assemblage, or the peaceful continuation of the particular event.

**Sec. 14-347. Loitering.**

- (a) No person shall loiter, wander or remain on the grounds of any public, private or parochial school, either on foot or in a vehicle, without legitimate school business or pursuits.
- (b) This section shall not apply to persons engaged in the legitimate use of playground equipment or playgrounds, or persons engaged in recreational activities.

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**Sec. 14-348. Smoking.**

No person shall smoke within school buildings of a public, private or parochial school except in those areas designated as permitting smoking. No person under the age of 18 years shall smoke in any school building or on any school grounds.

**Sec. 14-349. Permission required to enter premises.**

- (a) No person, other than a regularly enrolled student in good standing, teacher, parent or guardian of a student, regular delivery person making deliveries of goods or supplies to the school, police or public safety officer or other employee of the school shall enter upon the premises or within the buildings of a public, private or parochial school during regular school hours unless the person first receives permission from the principal, or the principal's duly authorized agent, to be in or on the premises.
- (b) For purposes of this section, a "regularly enrolled student in good standing" shall not include any student who has been expelled or suspended from the school for any reason.

**Secs. 14-350—14-400. Reserved.**

**ARTICLE X. PLANTING, MAINTENANCE AND REMOVAL OF TREES, SHRUBS AND  
OTHER PLANTS<sup>31</sup>**

**Sec. 14-401. Purpose.**

The preservation of trees and natural vegetation is deeply rooted in the history of the city. It is the purpose of this article to promote and protect the public health, safety, and general welfare by providing for the regulation of planting, maintenance, and removal of trees, shrubs, and other plants within the city.

(Ord. No. 03-260, § 1, 1-13-03)

**Sec. 14-402. Authority and power.**

There is hereby created and established a city tree board for the city, which shall consist of the city superintendent and city council's public works committee, concurrent with their term in office.

(Ord. No. 03-260, § 2, 1-13-03)

**Sec. 14-403. Applicability.**

This article provides full power and authority over all trees, plants and shrubs located within street rights-of-way, parks, public places of the city; and to trees, plants and shrubs located on private property that constitute a hazard or threat as described herein.

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<sup>31</sup>Editor's note(s)—Ord. No. 03-260, §§ 1—10, adopted Jan. 13, 2003, did not specifically amend the Code. Hence, its inclusion herein as article X, sections 14-401—14-410, was at the discretion of the editor.

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(Ord. No. 03-260, § 3, 1-13-03)

**Sec. 14-404. Adjacent landowner responsibility.**

No person shall plant, remove, cut above the ground, or disturb any tree on any street, park, or other public place without first obtaining permission from the city superintendent. The person receiving the permission shall abide by the standards set forth in this article.

(Ord. No. 03-260, § 4, 1-13-03)

**Sec. 14-405. Permits/licensing/insurance.**

It shall be unlawful for any person to engage, for hire or remuneration, in the business of planting, cutting, trimming, pruning, removing, spraying, or otherwise treating trees, shrubs or vines within the city rights of way without first producing evidence of certification/license to the city superintendent. Before any permit/license shall be issued by the city, each applicant shall first file with the city clerk/administrator evidence of possession of worker compensation and liability insurance in the minimum amounts of \$1,000,000.00 for bodily injury or death and \$100,000.00 property damage indemnifying the city or any person injured or damaged resulting from the pursuit of such endeavor as herein described.

(Ord. No. 03-260, § 5, 1-13-03)

**Sec. 14-406. Landscaping.**

In new subdivisions or when the development of commercial property occurs, the city tree board shall review landscaping plans and may require street trees to be planted in any of the streets, parking lots, parks and other public places abutting lands henceforth developed and/or subdivided.

(Ord. No. 03-260, § 6, 1-13-03)

**Sec. 14-407. Tree planting, maintenance, and removal.**

The city shall have the right to plant, prune, maintain and remove trees, plants, and shrubs within the lines of all streets, alleys, avenues, lanes, squares and public grounds, as may be necessary to insure public safety or to preserve or enhance the symmetry and beauty of such public grounds. The city tree board 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, electric power lines, gas lines, water lines, or other public improvements, or is afflicted with any injurious fungus, insect or other pest.

Tree topping. It shall be unlawful as a normal practice for any person, firm or city department to top any street tree, park tree, or other tree on public property. Topping is defined as the severe cutting back of limbs to stubs larger than three inches in diameter within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree. Trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions where other pruning practices are impractical may be exempted from this article at the determination of the City Tree Board.

Pruning, corner clearance. Every owner of any tree overhanging any street or right-of-way within the city shall prune the branches so that such branches shall not obstruct the light from any street lamp or obstruct the view of any street intersection and so that there shall be a clear space of eight feet above the surface of the street or sidewalk. Said owners shall remove all dead, diseased or dangerous trees, or broken or decayed limbs, which constitute a menace to the safety of the public. The city shall have the right to prune any tree or shrub on private

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property when it interferes with the proper spread of light along the street from a street light or interferes with visibility of any traffic control device or sign.

(Ord. No. 03-260, § 7, 1-13-03)

### **Sec. 14-408. Tree protection.**

The city tree board shall have as one of their duties the location, selection and identification of any trees which qualify as "Landmark Trees." A tree may qualify as a landmark tree if it meets one or more of the following criteria:

- (1) Species rarity;
- (2) Old age;
- (3) Association with a historical event or person;
- (4) Abnormality;
- (5) Scenic enhancement, etc.

(Ord. No. 03-260, § 8, 1-13-03)

### **Sec. 14-409. Private trees.**

*Dead or diseased tree removal on private property.* The city shall have the right to cause the removal of any dead or diseased trees on private property within the city, when such trees constitute a hazard to life and/or property, or harbor insects or disease which constitute a potential threat to other trees within the city. The city tree board will notify in writing the owners of such trees. Removal shall be done by said owners at their own expense within 60 ;b0;days after the date of service of notice. In the event of failure of owners to comply with such provisions, the city shall have the authority to remove such trees and charge the cost of removal against the property on the property tax roll of the city.

(Ord. No. 03-260, § 9, 1-13-03)

### **Sec. 14-410. Enforcement**

The city tree board shall have the power to promulgate and enforce rules, regulations and specifications concerning the trimming, spraying, removal, planting, pruning and protection of trees, shrubs, vines, hedges and other plants upon the right-of-way of any street, alley, sidewalk, or other public place in the city.

(Ord. No. 03-260, § 10, 1-13-03)

### **Secs. 14-411—14-424. Reserved.**

## ***ARTICLE XI. MEDICAL MARIJUANA (MARIJUANA)***

### **Sec. 14-425. Purpose.**

It is the purpose of this ordinance to impose specific requirements for those individuals registering with the State of Michigan as "qualifying patients" or "primary caregivers" as those terms are defined in MCL 333.26421,

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the Michigan Medical Marihuana Act (MMMA), and to regulate the conduct pursuant thereto in the City of Morenci so as to protect the health, safety and welfare of the general public.

(Ord. No. 17-328, § 1, 1-9-17)

**Sec. 14-426. Equipment or process used for growing/cultivation of marihuana (marijuana).**

No equipment or process shall be used in growing/cultivation of marihuana (marijuana), which creates noise, dust, vibration, glare, fumes, odors or electrical interference detectable to the normal senses beyond the property boundary.

(Ord. No. 17-328, § 1, 1-9-17)

**Sec. 14-427. Structures/enclosures for growing/cultivation of marihuana (marijuana).**

All structures and/or enclosures used for growing/cultivation of marihuana (marijuana) shall be constructed in accordance with the city's zoning ordinance on accessory structures and fences.

(Ord. No. 17-328, § 1, 1-9-17)

## **Chapter 15 PARKS AND RECREATION<sup>32</sup>**

**Sec. 15-1. Park hours.**

The public parks of the city shall be open to the public between sunrise in the morning and 10:00 p.m. each day, or 30 minutes after the last scheduled activity, whichever is later, (unless granted permission by the city council) and no person shall enter or be therein while such parks are closed to the public, except duly authorized city officers and employees in the performance of their duties.

(Code 1963, § 3.1)

**Sec. 15-2. Injuring park property.**

No person shall break, cut, mutilate, overturn, injure, remove or carry away any tree, shrub, flower, plant, stone, stonework, bench, chair, table, seat, bower or stand, or any public property in or from any public park or street adjacent thereto. Nor shall any person climb into or upon any tree, table, seat, or other structure in a park, nor kill, destroy or molest any bird, bird's nest, animal or fish within or belonging to the parks. Nor shall any person paste, affix or inscribe any handbills, signs, posters, cord devices or inscriptions to, upon or against any tree, structure or property of or in such parks or the streets adjacent thereto, nor disfigure or injure any sward, walk, turf or earth in the parks.

(Code 1963, § 3.2)

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<sup>32</sup>Cross reference(s)—Animals, Ch. 5; offenses, Ch. 14.

State law reference(s)—Authority to operate system of public recreation and playgrounds, MCL 123.51 et seq., MSA 5.2421 et seq.

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State law reference(s)—Malicious mischief, MCL 750.377 et seq., MSA 28.609 et seq.; cruelty to animals, MCL 752.21 et seq., MSA 28.161 et seq.

### **Sec. 15-3. Animals; firearms.**

No person shall allow any domestic animal to run at large within city parks; nor shall any person ride any horse, pony or other animal, or drive the same in such parks, except on paths or ways provided for such purposes; nor shall any person other than an officer of the law carry any firearms of any kind or description within the parks; nor shall any person allow any dog therein except when on a leash.

(Code 1963, § 3.4)

Cross reference(s)—Animals, Ch. 5.

### **Sec. 15-4. Litter, peddling.**

No person shall deposit any rubbish, refuse, papers, rags or other offensive material in city parks, excepting the same be placed in waste baskets, boxes or other receptacles placed therefor; nor shall any person peddle, sell, dispose of, or offer for sale any of his wares in the parks or upon the sidewalks adjacent thereto, unless permission shall theretofore have been obtained to do so from the city council.

(Code 1963, § 3.5)

### **Sec. 15-5. Bicycles and other vehicles.**

No person shall ride any bicycle or other conveyance or drive any auto or other vehicle in city parks other than on paths, roads and ways provided for use by the public and when the same are in suitable condition for such use.

(Code 1963, § 3.6)

### **Sec. 15-6. Injury to courts and playgrounds.**

No person shall enter upon any tennis court or other playing surface while the same is in a condition unfit for use, nor dig up or in any other way deface or destroy the playing surface, nor climb upon, cut, injure, damage or attempt to cut, injure, destroy or damage any publicly owned park equipment of any kind whatsoever.

(Code 1963, § 3.7)

## **Chapter 16 SOLICITATION AND PANHANDLING<sup>33</sup>**

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<sup>33</sup>Editor's note(s)—Ord. No. 12-302, §§ 1—4, adopted Oct. 22, 2012, amended the former Ch. 16, §§ 16-1—16-79, in its entirety, and enacted a new Ch. 16 as set out herein. The former Ch. 16 pertained to peddlers and solicitors. See the Code Comparative Table for full derivation.

Cross reference(s)—Licenses, permits and miscellaneous business regulations, Ch. 12.

State law reference(s)—Home solicitation sales, MCL 445.111 et seq.; transient merchants, MCL 445.371 et seq., exemption for a veteran's license, MCL 35.441.



## **ARTICLE I. SOLICITATION AND PANHANDLING**

### **Sec. 16-1. Purpose.**

Door-to-door solicitation and aggressive panhandling and peddling within the City of Morenci has become a public nuisance by putting into jeopardy the physical safety and economic well being of the residents and visitors of the City of Morenci. The issue of solicitation and aggressive panhandling and peddling can be an impediment and disruption to vehicle and pedestrian traffic flow as well as economic productivity for a variety of commercial business establishments. The intent of this legislation is to enact and implement content-neutral regulations barring unwanted solicitations and aggressive peddling, along with placing a registration process for such activity that will ensure the physical safety and economic well being of residents and visitors of the City of Morenci is preserved. Furthermore, the intent and force of this ordinance is not at odds with the individual liberties guaranteed under the First Amendment of the Federal Constitution.

(Ord. No. 12-302, § 2, 10-22-12; Ord. No. 17-329, § 1, 3-13-17)

### **Sec. 16-2. 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:

- (1) *Panhandling* means verbal request made in person upon any street, public place, or park in the city for an immediate donation of money or other thing of value, including a request to purchase an item or service of little or no monetary value in circumstances where a reasonable person would understand that the purchase is in substance a donation.
- (2) *Peddler* means any person who travels by foot, motor vehicle or any other type of conveyance, from place to place; or stands in one place on public property, except when in front of the person's established business location, selling or offering for sale goods or services. In addition, aggressive panhandling is defined as:
  - a. Touching another person without that person's consent;
  - b. Blocking the path of the person solicited or blocking the entrance to any building or vehicle;
  - c. Continuing to solicit or to request a donation from a person after that person has refused an earlier request;
  - d. Following or remaining alongside a person who walks away from the solicitor after being solicited;
  - e. Making any statement, gesture, or other communication that would cause a reasonable person to feel threatened into making a donation; or
  - f. Using profane or abusive language during the solicitation or following a refusal to make a donation.
  - g. Within 20 feet of an automated teller machine (ATM) or entrance to a bank, other financial institution, or check cashing business; or

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- h. On private property, if the owner, tenant, or occupant has asked the person not to solicit on the property or has posted a sign prohibiting soliciting.
- (3) *Solicitor* means any person traveling either by foot, motor vehicle or any other type of conveyance from place to place seeking to obtain orders for the purchase of goods or services for future delivery or performance.

Neither the word "solicitor", "panhandler", or "peddler" shall include any person who shall be engaged exclusively in wholesale sales to retail merchants.

(Ord. No. 12-302, § 2, 10-22-12; Ord. No. 17-329, § 1, 3-13-17)

### **Sec. 16-3. Registration—Required.**

It is unlawful for any person, either as a principal or agent, to conduct himself as a solicitor, panhandler, or peddler, as defined in this article, in the city, without first having registered in the manner herein provided.

(Ord. No. 12-302, § 2, 10-22-12; Ord. No. 17-329, § 1, 3-13-17)

### **Sec. 16-4. Same—Exemptions.**

- (a) Persons soliciting, panhandling, or peddling as the duly authorized representative or agent of any church, charitable, educational or fraternal organization, or of any political group seeking funds or membership shall be exempt from the registration requirements of this article.
- (b) Every honorably discharged member of the armed forces of the United States who served at least 180 days of active duty service in the armed forces or has a service connected disability as a result of that service and is a resident of this state has the right to sell his or her own goods within this city at no registration cost if the proceeds from the sale of the goods are to be used for the direct personal benefit or gain of that former member, by procuring a license for that purpose issued as provided in Public Act No. 359 of 1921 (MCL 35.441 et seq.)

(Ord. No. 12-302, § 2, 10-22-12; Ord. No. 17-329, § 1, 3-13-17)

### **Sec. 16-5. Same—Procedure.**

- (a) *Generally.* Any person desiring to conduct himself as a solicitor, panhandler, or peddler, as defined in this article, shall first file with the city administrator/clerk's office a written registration stating the registrant's name, date of birth, residence address, business address, mailing address, and a brief description of the type of goods or services which he intends to sell or offer for sale or for which he intends to seek to obtain orders for future delivery or performance. Applicant should also disclose criminal record, if any, on application. The city administrator/clerk's office shall charge a fee for the processing of such application with the fee established in the City of Morenci's annual fee schedule.
- (b) *Acceptance by city administrator/clerk.* The completed registration shall then forthwith be turned over to the City of Morenci Police Department, which shall have the responsibility of verifying the contents of the registration through a local background check. Upon receipt of written verification by the City of Morenci Police Department of the contents of the registration or upon the passage of three business days after the filing of the registration, whichever shall occur first, the city clerk shall accept the registration.
- (c) *Notification in event of conflicts.* In the event that the results of the investigation conducted by the City of Morenci Police Department conflict with the contents of the registration, the City of Morenci Police Department shall notify the city administrator/ clerk's office thereof and the city administrator/clerk's office

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shall notify the applicant for registration, in writing, that the registration is not acceptable and shall state the reasons therefor.

- (d) *Denial of application.* The application may be recommended for denial by the City of Morenci Police Department, if the City of Morenci Police Department finds felony convictions of any kind and/or convictions, either misdemeanor or felony, related to fraudulent activities and/or larceny in the applicant's criminal record. The City of Morenci Police Department shall notify the city administrator/clerk's office thereof and the city administrator/clerk's office shall notify the applicant for registration, in writing, that the registration is not acceptable and shall state the reasons therefor.

(Ord. No. 17-329, § 1 3-13-17)

### **Sec. 16-6. Validity of registration.**

A registration filed and accepted pursuant to this article shall be valid for a period of 30 days from the time and date of the acceptance.

(Ord. No. 17-329, § 1 3-13-17)

### **Sec. 16-7. Prohibited acts.**

The following conduct shall be punishable as a violation of this article as provided in section 1-13:

- (1) Aggressive panhandling, as defined in section 16-2.
- (2) Entering a private residence under pretenses of entering for purposes other than soliciting or peddling;
- (3) Remaining in a private residence or on the premises thereof after the owner or occupant thereof has requested the solicitor, panhandler, or peddler to leave;
- (4) Going in and upon the premises of a private residence by such solicitor, panhandler, or peddler to solicit, panhandle, or peddle when the owner or occupant thereof has displayed a "No Soliciting", "No Panhandling", or "No Peddling" sign on such premises;
- (5) Soliciting or peddling at a private residence prior to 10:00 a.m. and after 7:00 p.m.

(Ord. No. 17-329, § 1 3-13-17)

### **Secs. 16-8—16-25. Reserved.**

## ***ARTICLE II. RESERVED<sup>34</sup>***

### **Secs. 16-26—16-50. Reserved.**

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<sup>34</sup>Editor's note(s)—Ord. No. 12-302, § 3, adopted Oct. 22, 2012, repealed Art. II, §§ 16-26—16-31, which pertained to peddlers. See the Code Comparative Table for complete derivation.

**ARTICLE III. RESERVED<sup>35</sup>**

**Secs. 16-51—16-79. Reserved.**

**Chapter 17 SPECIAL ASSESSMENTS<sup>36</sup>**

**ARTICLE I. IN GENERAL**

**Sec. 17-1. 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:

*Curb and gutter* shall mean a combination curb and gutter constructed upon a foundation meeting city specifications to the street grade furnished by the city.

*Front foot basis* shall be the term used in any and all assessments for any curb or gutter. Such assessment shall be assessed on any and all portions of real property which shall abut any curb or gutter installations.

*Service frontage* shall mean any and all portions of real property which shall abut any water or sewer installations. In the case of a corner lot wherein no service frontage has been established, the first sewer or water installation in time shall determine such service frontage. If such service frontage is established, no corner lot, property or premises shall be assessed a second time for sewer or water installation or installations except when such property on the second installation shall exceed 150 feet on the perpendicular side of the established service frontage. If 150 feet is exceeded, then and in such event, such property shall be assessed on each service frontage foot which exceeds 150 feet as aforesaid.

*Sewer main or sewer extension* shall mean a public sewer designed or used as a sanitary sewer or combination sewer as these terms are defined in chapter 21 and shall include both main or trunkline sewers and lateral sewers.

*Water main* shall mean the same as defined in chapter 12.

(Code 1963, § 2.91)

Cross reference(s)—Definitions and rules of construction generally, § 1-2.

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<sup>35</sup>Editor's note(s)—Ord. No. 12-302, § 4, adopted Oct. 22, 2012, repealed Art. III, §§ 16-51, 16-61—16-63, 16-76—16-79, which pertained to solicitation. See the Code Comparative Table for complete derivation.

<sup>36</sup>Cross reference(s)—Streets, sidewalks and other public places, Ch. 18; administration, Ch. 2.

State law reference(s)—Powers re special assessments, MCL 117.4a, 117.4b, 117.4d, 117.5, MSA 5.2074, 5.2075, 5.2077, 5.2084.

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### **Sec. 17-2. Petitions.**

The owners of property within the city may apply to the city council, by petition, for the construction of water mains or sewer mains to serve property owned by them, or for curbs and gutters along streets abutting their property. Petitions shall be submitted on forms suitable to the city council. Such petitions shall be filed by the city clerk and shall be presented by the clerk to the city council at the next regular meeting of the council. The filing of any such petition shall be advisory only and the city shall not be required to construct any improvement petitioned for. The city may proceed to construct any water or sewer main or extension deemed necessary by it without a petition therefor having been filed. Petitions shall be presented to the council and acted on by it in its discretion, but every such petition shall be considered in the order of filing with the city clerk.

(Code 1963, § 2.92)

### **Sec. 17-3. Division of costs.**

Every petition referred to in section 17-2 shall indicate whether or not the petitioners are willing to pay in advance one-half the estimated cost of the proposed construction and agree to bear one-half the cost of actual construction. Where the petition indicates the desire of the petitioners to proceed on this basis, the council shall, if it deems the construction necessary and desirable, direct the city superintendent to obtain an estimate of the cost of such work. When an estimate of the cost of such work shall have been obtained, the city superintendent shall report the same to the city council, whereupon the city council may order the work to proceed if it deems the same feasible, upon deposit with the city by the petitioners of one-half of the estimated cost of such construction.

(Code 1963, § 2.93)

### **Sec. 17-4. Financing by special assessment.**

In all cases where no advance deposit is made and the city council orders the construction of any water or sewer main, it shall be the policy of the city to assess one-half of the cost of such construction proportionately upon the service frontage of the abutting property by special assessment levied in accordance with the provisions of the city charter. In all cases where no advance deposit is made and the city council orders construction of any curb and gutter, it shall be the policy of the city to assess half the cost of the construction against the abutting lots and premises on a front foot basis by special assessment levied in accordance with the provisions of the city charter, excluding from such computation the cost of that portion of the curb and gutter construction at street intersections which lies between the continuation of lot lines extended to curblines.

(Code 1963, § 2.94)

### **Sec. 17-5. City's share.**

The city's share for the cost and expense of water mains and sewer mains shall be paid from water and sewer funds in proportion to cost as determined by the city council. The city's share of curbs and gutters shall be paid from the public works fund, and the city shall also bear the entire cost of that portion of the curb and gutter constructed at street intersections which lies between the continuation of lot lines extended to curblines.

(Code 1963, § 2.95)

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**Sec. 17-6. Curb and gutter policy.**

In general, it shall be the policy of the city not to construct curbs and gutters along any street for a distance of less than one block, that is along one street on both sides between two streets; however, the city council reserves the right to determine otherwise by resolution.

(Code 1963, § 2.96)

**Secs. 17-7—17-30. Reserved.**

***ARTICLE II. SINGLE LOT ASSESSMENTS***

**Sec. 17-31. Report of chargeable expenses; billing.**

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

(Code 1963, § 1.12)

**Sec. 17-32. Quarterly report to council.**

The treasurer at the end of each quarter shall report to the city council all sums owing to the city under section 17-31 and which have not been paid within 30 days after the mailing of the bill therefor.

(Code 1963, § 1.12)

**Sec. 17-33. Special assessment roll.**

The council shall, at such times as it may deem advisable, direct the assessor to prepare a special assessment roll covering all such charges reported to it together with a penalty of ten percent. Such roll shall be filed with the clerk who shall advise the council of the filing of the same, and the council shall thereupon set a date for the hearing of objections to such assessment roll. The assessment roll shall be open to public inspection for a period of seven days before the council shall meet to review the roll and hear complaints.

(Code 1963, § 1.12)

**Sec. 17-34. Notice of roll.**

The city clerk shall give notice, in advance, by publication of the opening of the special assessment roll to public inspection and of the meeting of the council to hear complaints, and shall also give like notice to the owners of the property affected by first class mail at their addresses as shown on the current general assessment roll of the city, at least ten days prior to the date of such hearing. The notice of hearing shall include a statement that appearance and protest at the hearing is required in order to appeal the amount of it to the state tax tribunal and shall describe the manner in which an appearance and protest shall be made.

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(Code 1963, § 1.12)

**Sec. 17-35. Lien, enforcement.**

Each special assessment made under this article, and all interest and charges thereon, shall, from the date of confirmation of the roll, be and remain a lien upon the property assessed, of the same character and effect as a lien created by general law for state and county taxes, until paid. The same penalty and interest shall be paid on such assessments, when delinquent from such date after confirmation as shall be fixed by the council, as are provided by the city charter to be paid on delinquent general city taxes, and such assessments, with penalties and interest, shall be added by the treasurer to the next general city tax roll or general county and school tax roll, as shall be convenient, and shall thereafter be collected and returned in the same manner as general city taxes.

(Code 1963, § 1.12)

## **Chapter 18 STREETS, SIDEWALKS AND OTHER PUBLIC PLACES<sup>37</sup>**

### **ARTICLE I. IN GENERAL**

**Sec. 18-1. 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:

*Sidewalk* shall mean the portion of the street right-of-way designed for pedestrian travel.

*Street* shall mean all of the land lying between property lines on either side of all streets, alleys and boulevards in the city, and includes lawn extensions and sidewalks and the area reserved therefor where the same are not yet constructed.

*Superintendent* shall mean the city superintendent or his appointed supervisor.

(Code 1963, §§ 4.1, 4.31)

Cross reference(s)—Definitions and rules of construction generally, § 1-2.

**Sec. 18-2. Safeguards.**

All openings, excavations and obstructions shall be properly and substantially barricaded and railed off, and at night shall be provided with approved warning lights. Warning lights perpendicular to the flow of traffic shall not be more than three feet apart, and parallel to the flow of traffic not over 15 feet apart.

(Code 1963, § 4.12)

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<sup>37</sup>Cross reference(s)—Any ordinance dedicating, naming, establishing, locating, relocating, opening, paving, widening, vacating, etc., any street or public way in the city saved from repeal, § 1-9(11); any ordinance establishing or prescribing grades in the city saved from repeal, § 1-9(12); buildings and building regulations, Ch. 6; special assessments, Ch. 17; subdivision regulations, Ch. 19; traffic and motor vehicles, Ch. 20; utilities, Ch. 21; zoning, Ch. 22.

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### **Sec. 18-3. Shoring excavations.**

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 of subsurface structure of the street.

(Code 1963, § 4.13)

### **Sec. 18-4. Housemoving.**

No person shall move, transport or convey any building or other similar bulky or heavy object, including machinery, trucks and trailers, larger in width than eight feet, eight inches, across or along any street, alley or other public place in the city without first obtaining a permit from the superintendent. Such permit shall specify the route to be used in such movement and no person shall engage in such movement along a route other than that specified in the permit. No housemoving permit shall be granted until the applicant shall post a cash deposit in the amount of \$50.00 and file a liability insurance policy as required by section 18-7.

(Code 1963, § 4.14)

### **Sec. 18-5. Marquees.**

- (a) No person shall erect or maintain any marquee, canopy, awning, clock or other structure or object so it projects over or upon the limits of any street or alley without first obtaining a permit and filing a liability insurance policy as required by section 18-7. Every liability insurance policy required by this section shall be maintained by the permittee permanently in force. Every such insurance policy shall contain a clause obligating the insurer to give the city clerk, by registered or certified mail, at least ten days' written notice before the cancellation, expiration, lapse or other termination of such insurance, and such liability policy shall name the city as an additional named insured. No such permit shall be granted unless the proposed plans for the marquee or other structure shall be in conformity with the building code.
- (b) If the marquee or other structure shall thereafter be found unsafe or is not maintained in a slightly condition, or if the liability insurance policy covering such marquee or other structure is not maintained, such marquee or other structure shall be deemed a street encroachment. The city superintendent shall notify the permittee to remove or repair such marquee or other structure within ten days or to reinstate such insurance forthwith and, upon failure of the permittee to comply with such notice, such encroachment shall be removed as provided in this chapter. No such marquee or other structure shall be erected or maintained so as to be less than eight feet above the surface of the sidewalk.

(Code 1963, § 4.15)

### **Sec. 18-6. Trees.**

- (a) No person shall permit the limbs or foliage of any trees or shrubs located on premises owned by him or on the extension of the lawn adjacent to his premises to grow over or upon any sidewalk less than eight feet above the surface of such sidewalk. Every such owner shall remove all dead, diseased or dangerous trees, or broken or decayed limbs which constitute a menace to the safety of the public.
- (b) All shrubs or bushes located on the triangle formed by the two right-of-way lines at the intersection of two streets and extending for a distance of 30 feet each way from the intersection of the right-of-way lines on any corner lot, shall not be permitted to grow to a height of more than 30 inches above the sidewalk grade. Trees may be planted and maintained in this area provided that all branches are trimmed to maintain a clear

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vision for a vertical height of eight feet above the roadway surface. Any owner of property failing to trim any trees, shrubs or bushes in conformity with this section shall be notified by the city superintendent to do so, and such notice shall require trimming in conformity with this section within five days after the date of such notice. Upon the expiration of such period, the superintendent may cause the trimming to be done and the cost thereof may be collected from the owner of the property in the manner specified in section 17-31.

(Code 1963, § 4.16)

### **Sec. 18-7. Permits.**

Where permits are authorized in this chapter, they shall be obtained upon application to the superintendent, upon such forms as he shall prescribe, and there shall be a charge of \$25.00 for each such permit. Such permit shall be revocable by the superintendent for failure to comply with this chapter, rules and regulations adopted pursuant hereto, and the lawful orders of the superintendent, and shall be valid only for the period of time endorsed thereon. Application for a permit required under the provisions of this chapter shall be deemed an agreement by the applicant to promptly complete the work permitted, observe all pertinent laws and regulations of the city in connection therewith, repair all damage done to the street surface and installations on, over or within such street, including trees, and protect and save harmless the city from all damages or actions at law that may arise or may be brought on account of injury to persons or property resulting from the work done under the permit or in connection therewith.

(Code 1963, § 4.3)

### **Sec. 18-8. Insurance.**

- (a) Where liability insurance policies are required to be filed in making application for a permit under this chapter, they shall be in not less than the following amounts, except as otherwise specified in this chapter:
  - (1) On account of injury to, or death of, any person in any one accident \$10,000.00
  - (2) On account of any one accident resulting in injury to, or death of, more than one person 20,000.00
  - (3) On account of damage to property in any one accident 5,000.00
- (b) A duplicate executed copy or photostatic copy of the original of such insurance policy shall be filed with the city clerk.

(Code 1963, § 4.3)

### **Sec. 18-9. Cash deposits.**

Where cash deposits are required with the application for any permit pursuant to this chapter, such deposit shall be in the amount of \$25.00, except as otherwise specified in this chapter, and such deposit shall be used to defray all expenses to the city arising out of the granting of the permit and work done under the permit or in connection therewith. Three 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 1963, § 4.3)

### **Secs. 18-10—18-35. Reserved.**

## ***ARTICLE II. SIDEWALKS***

### **Sec. 18-36. Work generally; permits required.**

No person shall construct, rebuild or repair any sidewalk except in accordance with the line, grade, slope and specifications established for such sidewalk by the superintendent nor without first having an inspection of the job site prepared for and prior to the pouring or laying of concrete, and a final inspection upon completion of the project. Except that sidewalk repairs of less than 50 square feet of sidewalk may be made without inspections. The fee for such inspections shall be established by the sidewalk committee of the city council.

(Code 1963, § 4.32)

### **Sec. 18-37. Line and grade stakes.**

The superintendent shall furnish line and grade stakes as may be necessary for proper control of the work, but this shall not relieve the owner of responsibility for making careful and accurate measurements in constructing the work to the lines furnished by the superintendent. Where it is necessary to replace engineer's stakes disturbed or destroyed without fault on the part of the city or its employees, a charge shall be established by the sidewalk committee of the city council.

(Code 1963, § 4.33)

### **Sec. 18-38. General specifications.**

All concrete sidewalks shall hereafter be constructed according to the following specifications:

- (1) On all clay or unsuitable soil, the trench shall be excavated to a depth of four inches below the established grade. Same shall be filled with sand, free from clay.
- (2) To secure a true line for the edges of the walk, two-inch by four-inch strips or their equal shall be solidly staked down parallel to grade, and on a line of the walk, these strips shall be removed, when the walk is finished for use.
- (3) On the foundation shall be placed thoroughly mixed concrete, tamped to a thickness of not less than four inches, except for driveways where the thickness shall be not less than six inches.
- (4) The concrete shall consist of six-sack mix with crushed stone, from one-quarter inch to one inch in size.
- (5) One-half inch expansion joints shall be provided at no more than 20-foot intervals and wherever the walk abuts a curb graded approach, building, or a driveway, or another walk or building. Jointing material shall be of equal size or depth of concrete being poured. Jointing material shall extend from the surface of the subgrade, shall be at right angles to the sidewalk surface and extend the full width of the walk.
- (6) The joints for the blocks shall be made in the concrete, and the surface edges of each slab shall be rounded to a one-quarter-inch radius. When a concrete saw is used to make the markings, a cut shall consist of a minimum of a three-quarter-inch depth. Markings shall be exactly at cuts between slabs.

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- (7) No concrete shall be mixed or poured unless the prevailing temperature shall be above 40 degrees Fahrenheit.
  - (8) Grade approach to or from adjoining sidewalks shall be installed on the property receiving the new sidewalk. The grade shall be set at one unit vertical to 12 units horizontal. All handicapped ramps shall be installed as per state code.
  - (9) All sidewalks in the central business district six feet wide, or wider, shall be jointed on their centerline, using the building and curb to locate such line and wherever possible in line with the centerline of the adjoining sidewalks.
  - (10) All sidewalks shall be at least four feet wide. However, any sidewalk in the central business district shall be replaced and/or repaired only with a sidewalk possessing a minimum width equal to the width of the sidewalk existing on the premises at the date of this amendment to section 18-38 of this Code. In the event of installation of a new sidewalk in the central business district when no sidewalk previously existed, the sidewalk shall have a width compatible in safety and aesthetics with the sidewalk on all adjoining properties but in no event less than four feet in width.

(Code 1963, § 4.34; Ord. No. 200, 8-26-94; Ord. No. 214, 2-24-97)

#### **Sec. 18-39. Permit revocation.**

The superintendent may issue a stop order to any permittee holding a permit issued under the terms of this article for failure to comply with this article, or the rules, regulations, plans and specifications established for the construction, rebuilding or repair of any sidewalk, and the issuance of such stop order shall be deemed a suspension of such permit. Such stop order shall be effective until the next regular meeting of the city council, and, if confirmed by the council at its next regular meeting, such stop order shall be permanent and shall constitute a revocation of the permit.

(Code 1963, § 4.35)

#### **Sec. 18-40. Financing construction.**

Sidewalks constructed in conformity with this article and approved by the superintendent may be financed by reimbursement of the person constructing the same and a levy of a special assessment in accordance with chapter 17.

(Code 1963, § 4.36)

#### **Sec. 18-41. Ordering construction.**

The council may, by resolution, require the owners of lots and premises to build sidewalks in the public streets adjacent to and abutting upon such lots and premises. When such resolution shall be adopted, the superintendent shall give notice thereof in accordance with chapter one to the owner of such lot or premises requiring him to construct or rebuild such sidewalks within 20 days from the date of such notice.

(Code 1963, § 4.37)

#### **Sec. 18-42. Construction by city.**

If the owner of any lot or premises shall fail to build any particular sidewalk as described in the notice to do so, and within the time and in the manner required thereby, the superintendent is hereby authorized and

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required, immediately after the expiration of the time limited for the construction or rebuilding by the owner, to cause such sidewalk to be constructed and all or part of the expense thereof shall be charged to such premises and the owner thereof, and collected as provided in chapter 17 and the city charter.

(Code 1963, § 4.38)

### **Sec. 18-43. Maintenance generally.**

No person shall permit any sidewalk within the city which adjoins property owned by him, to fall into a state of disrepair or to be unsafe.

(Code 1963, § 4.39)

### **Sec. 18-44. Repair generally.**

Whenever the superintendent shall determine that a sidewalk is unsafe for use, notice may be given to the owner of the lot or premises adjacent to and abutting upon the sidewalk of such determination which notice shall be given in accordance with chapter one. Thereafter, it shall be the duty of the owner to place such 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 within 90 days. If the owner of such lot or premises shall refuse or neglect to repair such sidewalk within the time limited therefor, or in a manner otherwise than in accordance with this article, the superintendent shall have such sidewalk repaired. All or such part of the cost of repairs shall be charged against the premises which such sidewalk adjoins and the owner of such premises, and shall be collected as provided in chapter 17 and the city charter.

(Code 1963, § 4.40)

### **Sec. 18-44.5. Sidewalk replacement criteria.**

- (a) Whenever the superintendent shall determine that a sidewalk or portion thereof meets the criteria set forth in subsection (b) hereof, replacement of the sidewalk or portion thereof may be required upon the same notice provisions and procedure set forth in section 18-44 for sidewalk repairs.
- (b) The criteria to be considered by the superintendent in requiring sidewalk replacement shall be as follows:
  - (1) *Uneven sidewalk sections.* There shall not be a greater than a three-quarters-inch vertical separation between any two flags of sidewalk.
  - (2) *Cracks.* Cracks shall have no more than a three-eighths-inch horizontal separation in any flag. If a sidewalk flag is cracked so that the flag is subdivided into three or more sections, the flag shall be replaced.
  - (3) *Water retention.* No section of public sidewalk shall retain water, thus creating a slip and fall hazard from ice buildup. If evidence of water retention is found, flags of sidewalk which are retaining water shall be replaced.
  - (4) *Spalling and/or scaling.* Spalling occurs when weak areas on the surface of the concrete "pop out" leaving holes or indentations on the surface of the concrete. Scaling results from the weathering process. The portland cement deteriorates on the surface of the concrete, exposing the aggregate. The use of calcium chloride (salt) on concrete as a de-icer accelerates the scaling process. Excessive spalling and/or scaling is determined by placing a one-foot square grid on the worst spalled and/or scaled area of the flag of sidewalk. If 75 percent or more of the grid is filled with spalling and/or scaling, the section shall be replaced.

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- (5) *Sidewalk slope.* If any flag of sidewalk has settled such that the slope of the flag is greater than one-half inch per foot, the flag shall be replaced. At slopes greater than this, a potential hazard exists for pedestrians who need the assistance of the cane, walker or crutches.

(Ord. No. 218, 7-14-97)

**Sec. 18-45. Obstructions.**

No person shall occupy any street with any materials or machinery incidental to the construction, demolition or repair of any building adjacent to such street, or for any other purpose, without first obtaining a permit from the superintendent. No permit shall be granted until the applicant shall post a cash deposit and file a liability insurance policy as required by section 18-7.

(Code 1963, § 4.10)

**Sec. 18-46. Pedestrian passage.**

At least six feet of sidewalk space shall be kept clean and clear for the free passage of pedestrians and, if the building operations are such that such free passageway is impracticable, a temporary plank sidewalk with substantial railings or sidewalk shelter shall be provided around such obstruction.

(Code 1963, § 4.11)

**Sec. 18-47. Snow, ice—Clearance.**

The occupant of every lot or premises adjoining any street, or the owner of such lot or premises, if the same are not occupied, shall clear all ice and snow from sidewalks adjoining such lot or premises within the time required in this section. When any snow shall fall or drift upon any sidewalk during the nighttime, such snow shall be cleared from the sidewalks by the next 12:00 noon. Snow falling or accumulating during the day shall be cleared from the sidewalks by 12:00 noon of the day following.

(Code 1963, § 4.41)

**Sec. 18-48. Same—Failure to clear.**

If any occupant or owner shall neglect or fail to clear ice or snow from the sidewalk adjoining his premises within the time specified in section 18-47, or shall otherwise permit ice or snow to accumulate on such sidewalk, he shall be guilty of a violation of this article and, in addition, the superintendent may cause the same to be cleared and the expense of removal shall be collectable as provided in section 17-31.

(Code 1963, § 4.42)

**Secs. 18-49—18-70. Reserved.**

**ARTICLE III. STREETS**

***DIVISION 1. [IN GENERAL]***

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**Sec. 18-71. Damage and obstruction prohibited.**

No person shall make any excavation in, or cause any damage to any street in the city, except under the conditions and in the manner permitted in this article. No person shall place any article, thing or obstruction in any street, except under the conditions and in the manner permitted in this article, but this 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.

(Code 1963, § 4.2)

**Sec. 18-72. Street openings.**

No person shall make any excavation or opening in or under any street without first obtaining a written permit from the superintendent. No permit shall be granted until the applicant shall post a cash deposit and file a liability insurance policy as required by section 18-7.

(Code 1963, § 4.4)

**Sec. 18-73. Emergency openings.**

The superintendent may, if the public safety requires immediate action, grant permission to make a necessary street opening in an emergency, provided that a permit shall be obtained on the following business day and the provisions of this article shall be complied with.

(Code 1963, § 4.5)

**Sec. 18-74. Backfilling.**

All trenches in a public street or other public place, except by special permission, shall be backfilled with approved granular material to within 12 inches of the surface. On main thoroughfares, this material shall contain one sack of cement per yard of fill. The remaining portion shall be filled with road gravel as specified by the superintendent.

(Code 1963, § 4.6)

**Sec. 18-75. Utility poles.**

Utility poles may be placed in such streets as the superintendent shall prescribe and shall be located thereon in accordance with the directions of the superintendent. Such poles shall be removed or relocated as the superintendent shall from time to time direct.

(Code 1963, § 4.7)

**Sec. 18-76. Maintenance of installations in streets.**

Every owner of, and every person in control of, any estate maintaining a sidewalk vault, coal hole, manhole or any other excavation, or any post, pole, sign, awning, wire, pipe, conduit or other structure in, under, over or upon, any street which is adjacent to or a part of his estate, shall do so only on condition that such maintenance

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shall be considered as an agreement on his part with the city to keep the same and the covers thereof, and any gas and electric boxes and tubes thereon, in good repair and condition at all times during his ownership or control thereof, and to indemnify and save harmless the city against all damages or actions at law that may arise or be brought by reason of such excavation or structure being under, over, in or upon the street, or being unfastened, out of repair or defective during such ownership or control.

(Code 1963, § 4.8)

**Sec. 18-77. Removal of encroachment.**

Encroachments and obstructions in the street may be removed and excavations refilled and the expense of such removal or refilling charged to the abutting land owner when made or permitted by him or suffered to remain by him, otherwise than in accordance with the terms and conditions of this chapter. The procedure for collection of such expenses shall be as prescribed in section 17-31.

(Code 1963, § 4.17)

**Sec. 18-78. Temporary street closings.**

The superintendent 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. He shall cause suitable barriers and signs to be erected on such street, indicating that the same is closed to public travel. 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 the same may be necessary incidentally to any street repair or construction work being done in the area closed to public travel. No person shall move or interfere with any sign or barrier erected pursuant to this section without authority from the superintendent.

(Code 1963, § 4.18)

**Sec. 18-79. Reserved.**

*DIVISION 2. [ALLEY AND STREET VACATING PROCEDURES]*

**Sec 18-80. Title.**

This division of the Morenci Code of Ordinances shall be known as the "Alley and Street Vacating Procedures".

(Ord. No. 16-325, § 1, 7-25-16)

**Sec 18-81. Purpose.**

The purpose of this division is to provide procedural guidelines for the vacating of alley and streets owned by, or otherwise granted to, the City of Morenci.

(Ord. No. 16-325, § 1, 7-25-16)

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**Sec 18-82. No partial abandonment, easements maintained.**

- (a) The council of the City of Morenci may vacate or abandon the entire block length of a street or alley by way of the procedure described herein.
- (b) There shall be no partial abandonment of any street or alley within a block length with the exception of those partial alley abandonment's that may be initiated and granted by the council if:
  - (1) An encroachment existed on and prior the date of adoption of this ordinance and
  - (2) Infringing owner(s) formally petition for abandonment of the encroachment within 60 days of adoption of this division; and
  - (3) The vacating does not land lock or close access to other parcels of property after the date of adoption of this ordinance; and
  - (4) In all instances of such vacating, existing and/or necessary easements shall be maintained.

**Sec. 18-83. Definitions.**

For general, preliminary purposes (and not to the exclusion of more specific applications)

*Abandonment.* To surrender, relinquish or disclaim an interest or right in property.

*Alley.* A narrow way designed for the accommodation of the property it reaches.

*Easement.* A right or privilege held by an entity to use of the land of another for a special purpose.

*Street.* An urban thoroughfare (held by deed, dedication or easement) providing primary access to the structures fronting thereon.

*Vacate.* To put an end to, to abandon.

(Ord. No. 16-325, § 1, 7-25-16)

**Sec 18-84. Vacating procedure.**

- (a) *Initiating procedure.*
  - (1) *Property owner petition.* Vacating or abandoning a street or alley connecting two streets and servicing the property owners between may be initiated by the filing of a petition signed by not less than 100 percent of the contiguous property owners, including terminus owners, if any. Further, the petition must be accompanied by:
    - a. A survey and complete legal description for the land being proposed for vacation or abandonment;
    - b. The proposed legal descriptions for all contiguous properties, in the event the street or alley is declared vacated or abandoned; and
    - c. A deposit equal to the cost of recording any deeds needed to transfer the vacated land to the contiguous property owners, which deposit shall be return to the petitioner(s) in the event the petition is not approved.

Whenever a petition by property owners is filed, no further action will be taken unless a resolution is approved by a majority of the members of the city council, giving council's preliminary approval.



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- (2) *Resolution of council.* Vacating or (abandonment) of a street or alley connecting two streets and servicing the property owners between may also be initiated by the resolution of a majority of the council members giving council's preliminary approval
  - (b) *Submission to planning commission for report and recommendation.* Whenever a resolution of preliminary approval to vacate a street or alley is adopted, the matter shall be referred to the City of Morenci planning commission to conduct a public hearing on the proposal, to receive recommendations from city staff, and to make a recommendation to the city commission.
  - (c) *Review and report by departments.* City departments shall make recommendations on the proposal in writing to the planning commission prior to the public hearing, and shall identify existing easements and public or private improvements located within the area proposed to be vacated.
  - (d) *Planning commission to conduct public hearing.*
    - (1) *Public hearing.* Upon referral by the city council the planning commission shall conduct a public hearing on the proposal, not less than 28 days after the referral by city council.
    - (2) *Notice of public hearing.* Notice of the proposal and the public hearing on it shall be published once a week for three weeks prior to the public hearing. Notice shall also be sent by first class mail to:
      - a. All public utilities servicing the City of Morenci.
      - b. All service departments (e.g., police, DPW, fire, water treatment, etc.) of the city.
      - c. All contiguous and terminus property owners as related to the street or alley.
    - (3) On the date of such hearing, the planning commission shall review (i) the reports prepared city departments and (ii) all oral and/or written objections to the vacating of the street or alley, and by majority vote issue a written report recommending approval, approval with conditions or denial of the proposal.
  - (e) *Planning commission report and recommendation.* Within 14 days after the date of the public hearing, the planning commission shall report to the city commission a summary of the written and oral comments received at the public hearing on the proposal, and shall recommend final approval or denial of the proposal, with a recommendation and description of the size and location of any easement to be reserved by the city in the area proposed to be vacated.

(Ord. No. 16-325, § 1, 7-25-16)

### **Sec. 18-85. City council to act on proposal.**

Not sooner than 28 days nor later than 90 days after receiving the report of the planning commission, the city council shall act on the proposal by resolution, with a majority vote of council being required to give final approval to the proposed plan to vacate, discontinue, or abolish any highway, street, lane, alley or public ground or any part thereof.

(Ord. No. 16-325, § 1, 7-25-16)

### **Sec. 18-86. Conveyance of title; retention of easement.**

Whenever the city council shall, by resolution, vacate any street or alley, title to the vacated property shall vest in the contiguous platted property owners, as directed by statute. The council shall, in the same resolution, reserve an easement therein for public utility purposes within the right-of-way of any such street or alley so vacated.

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(Ord. No. 16-325, § 1, 7-25-16)

**Sec. 18-87. Record of vacating.**

- (a) *Auditor general.* Within 30 days of the vacation of a street or alley becoming effective, the city clerk shall forward to the Michigan Auditor General a certified copy of said resolution, together with his/her certificate giving the name or names of any plat, subdivision or addition affected by such resolution.
- (b) *Register of deeds.* Within 30 days of the vacation of a street or alley becoming effective, the city clerk shall record with the register of deeds a certified copy of said resolution.

(Ord. No. 16-325, § 1, 7-25-16)

**Secs. 18-88—18-100. Reserved.**

***ARTICLE IV. CURB CUTS***

**Sec. 18-101. Permit required.**

No opening in or through any curb of any street shall be made without first obtaining a written permit from the superintendent.

(Code 1963, § 4.9)

**Sec. 18-102. Construction generally.**

All construction coming under this article shall be in accordance with plans and specifications approved by the superintendent.

(Code 1963, § 4.9(f))

**Sec. 18-103. Specifications generally.**

Curb cuts and sidewalk driveway crossings to provide access to private property shall comply with the following:

- (1) No single curb cut shall exceed 25 feet nor be less than ten feet.
- (2) The minimum distance between any curb cut and a public crosswalk shall be five feet.
- (3) The minimum distance between curb cuts, except those serving residential property, shall be 25 feet.
- (4) The maximum number of lineal feet of sidewalk driveway crossings permitted for any lot, parcel of land, business or enterprise, shall be 45 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.

(Code 1963, § 4.9(a)—(d))

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**Sec. 18-104. Cost of adjustments to poles, hydrants, etc.**

The necessary adjustments to utility poles, light standards, fire hydrants, catch basins, street or railway signs, signals or other public improvements or installations shall be accomplished without cost to the city.

(Code 1963, § 4.9(e))

**Secs. 18-105—18-120. Reserved.**

**ARTICLE V. USE OF PUBLIC RIGHTS-OF-WAY BY TELECOMMUNICATIONS PROVIDERS<sup>38</sup>**

**Sec. 18-121. Purpose.**

The purposes of this article are to regulate access to and ongoing use of public rights-of-way by telecommunications providers for their telecommunications facilities while protecting the public health, safety, and welfare and exercising reasonable control of the public rights-of-way in compliance with the Metropolitan Extension Telecommunications Rights-of-Way Oversight Act (Act No. 48 of the Public Acts of 2002) ("Act") and other applicable law, and to ensure that the city qualifies for distributions under the Act by modifying the fees charged to providers and complying with the Act.

(Ord. No. 02-257, § 1, 10-28-02)

**Sec. 18-122. Conflict.**

Nothing in this article shall be construed in such a manner as to conflict with the Act or other applicable law.

(Ord. No. 02-257, § 2, 10-28-02)

**Sec. 18-123. Terms defined.**

The terms used in this article shall have the following meanings:

*Act* means the Metropolitan Extension Telecommunications Rights-of-Way Oversight Act (Act No. 48 of the Public Acts of 2002), as amended from time to time.

*City* means the City of Morenci, Lenawee County, Michigan.

*City council* means the city council of the City of Morenci or its designee. This section does not authorize delegation of any decision or function that is required by law to be made by the city council.

*City clerk/administrator* means the city clerk/administrator or his or her designee.

*Permit* means a non-exclusive permit issued pursuant to the Act and this article to a telecommunications provider to use the public rights-of-way in the city for its telecommunications facilities.

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<sup>38</sup>Editor's note(s)—Ord. No. 02-257, §§ 1—18, 20, 21, adopted Oct. 28, 2002, did not specifically amend the Code. Hence, its inclusion herein as article V, sections 18-121—18-140, was at the discretion of the editor.

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All other terms used in this article shall have the same meaning as defined or as provided in the Act, including without limitation the following:

*Authority* means the Metropolitan Extension Telecommunications Rights-of-Way Oversight Authority created pursuant to section 3 of the Act.

*MPSC* means the Michigan Public Service Commission in the department of consumer and industry services, and shall have the same meaning as the term "commission" in the Act.

*Person* means an individual, corporation, partnership, association, governmental entity, or any other legal entity.

*Public right-of-way* means the area on, below, or above a public roadway, highway, street, alley, easement or waterway. Public right-of-way does not include a federal, state, or private right-of-way.

*Telecommunication facilities or facilities* means the equipment or personal property, such as copper and fiber cables, lines, wires, switches, conduits, pipes, and sheaths, which are used to or can generate, receive, transmit, carry, amplify, or provide telecommunication services or signals. Telecommunication facilities or facilities do not include antennas, supporting structures for antennas, equipment shelters or houses, and any ancillary equipment and miscellaneous hardware used to provide federally licensed commercial mobile service as defined in section 332(d) of part I of title III of the communications act of 1934, chapter 652, 48 Stat. 1064, 47 U.S.C. 332 and further defined as commercial mobile radio service in 47 CFR 20.3, and service provided by any wireless, two-way communication device.

*Telecommunications provider, provider and telecommunications services* mean those terms as defined in section 102 of the Michigan Telecommunications Act, 1991 PA 179, MCL 484.2102. Telecommunication provider does not include a person or an affiliate of that person when providing a federally licensed commercial mobile radio service as defined in Section 332(d) of part I of the communications act of 1934, chapter 652, 48 Stat. 1064, 47 U.S.C. 332 and further defined as commercial mobile radio service in 47 CFR 20.3, or service provided by any wireless, two-way communication device. For the purpose of the Act and this article only, a provider also includes all of the following:

- (1) A cable television operator that provides a telecommunications service.
- (2) Except as otherwise provided by the Act, a person who owns telecommunication facilities located within a public right-of-way.
- (3) A person providing broadband internet transport access service.

(Ord. No. 02-257, § 3, 10-28-02)

### **Sec. 18-124. Permit required.**

- (a) *Permit required.* Except as otherwise provided in the Act, a telecommunications provider using or seeking to use public rights-of-way in the city for its telecommunications facilities shall apply for and obtain a permit pursuant to this article.
- (b) *Application.* Telecommunications providers shall apply for a permit on an application form approved by the MPSC in accordance with section 6(1) of the Act. A telecommunications provider shall file one copy of the application with the city clerk, one copy with the mayor, and one copy with the city attorney. Upon receipt, the city clerk/administrator shall make copies of the application and distribute a copy to the city council and city superintendent. Applications shall be complete and include all information required by the Act, including without limitation a route map showing the location of the provider's existing and proposed facilities in accordance with section 6(5) of the Act.

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- (c) *Confidential information.* If a telecommunications provider claims that any portion of the route maps submitted by it as part of its application contain trade secret, proprietary, or confidential information, which is exempt from the Freedom of Information Act, 1976 PA 442, MCL 15.231 to 15.246, pursuant to section 6(5) of the Act, the telecommunications provider shall prominently so indicate on the face of each map.
  - (d) *Application fee.* Except as otherwise provided by the Act, the application shall be accompanied by a one-time non-refundable application fee in the amount of \$500.00.
  - (e) *Additional Information.* The city clerk/administrator may request an applicant to submit such additional information that the city clerk/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 clerk/administrator. If the city and the applicant cannot agree on the requirement of additional information requested by the city, the city or the applicant shall notify the MPSC as provided in section 6(2) of the Act.
  - (f) *Previously issued permits.* Pursuant to section 5(1) of the Act, authorizations or permits previously issued by the city under section 251 of the Michigan Telecommunications Act, 1991 PA 179, MCL 484.2251 and authorizations or permits issued by the city to telecommunications providers prior to the 1995 enactment of section 251 of the Michigan Telecommunications Act but after 1985 shall satisfy the permit requirements of this article.
  - (g) *Existing Providers.* Pursuant to section 5(3) of the Act, 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, 1991 PA 179, 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, a telecommunications provider submitting an application under this subsection is not required to pay the \$500.00 application fee required under subsection (d) above. 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.

(Ord. No. 02-257, § 4, 10-28-02)

### **Sec. 18-125. Issuance of permit.**

- (a) *Approval or denial.* The authority to approve or deny an application for a permit is hereby delegated to the city clerk/administrator. Pursuant to section 15(3) of the Act, the city clerk/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 18-124(b) of this article for access to a public right-of-way within the city. Pursuant to section 6(6) of the Act, the city clerk/administrator shall notify the MPSC when the city clerk/administrator has granted or denied a permit, including information regarding the date on which the application was filed and the date on which permit was granted or denied. The city clerk/administrator shall not unreasonably deny an application for a permit.
- (b) *Form of permit.* If an application for permit is approved, the city clerk/administrator shall issue the permit in the form approved by the MPSC, with or without additional or different permit terms, in accordance with sections 6(1), 6(2) and 15 of the Act.
- (c) *Conditions.* Pursuant to section 15(4) of the Act, the city clerk/administrator may impose conditions on the issuance of a permit, which conditions shall be limited to the telecommunications provider's access and usage of the public right-of-way.
- (d) *Bond requirement.* Pursuant to section 15(3) of the Act, and without limitation on subsection (c) above, the city clerk/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

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right-of-way is returned to its original condition during and after the telecommunications provider's access and use.

(Ord. No. 02-257, § 5, 10-28-02)

**Sec. 18-126. Construction/engineering permit.**

A telecommunications provider shall not commence construction upon, over, across, or under the public rights-of-way in the city without first obtaining a construction or engineering permit as required under this 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. 02-257, § 6, 10-28-02)

**Sec. 18-127. Conduit or utility poles.**

Pursuant to section 4(3) of the Act, obtaining a permit or paying the fees required under the Act or under this article does not give a telecommunications provider a right to use conduit or utility poles.

(Ord. No. 02-257, § 7, 10-28-02)

**Sec. 18-128. Route maps.**

Pursuant to section 6(7) of the Act, a telecommunications provider shall, within 90 days after the substantial completion of construction of new telecommunications facilities in the city, submit route maps showing the location of the telecommunications facilities to both the MPSC and to the city. The route maps should be in paper or electronic format unless and until the MPSC determines otherwise, in accordance with section 6(8) of the Act.

(Ord. No. 02-257, § 8, 10-28-02)

**Sec. 18-129. Repair of damage.**

Pursuant to section 15(5) of the Act, a telecommunications provider undertaking an excavation or construction or installing telecommunications facilities within a public right-of-way or temporarily obstructing a public right-of-way in the city, as authorized by a permit, shall promptly repair all damage done to the street surface and all installations under, over, below, or within the public right-of-way and shall promptly restore the public right-of-way to its preexisting condition.

(Ord. No. 02-257, § 9, 10-28-02)

**Sec. 18-130. Establishment and payment of maintenance fee.**

In addition to the non-refundable application fee paid to the city set forth in subsection 18-124(d) above, a telecommunications provider with telecommunications facilities in the city's public rights-of-way shall pay an annual maintenance fee to the authority pursuant to section 8 of the Act.

(Ord. No. 02-257, § 10, 10-28-02)

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**Sec. 18-131. Modification of existing fees.**

In compliance with the requirements of section 13(1) of the Act, the city hereby modifies, to the extent necessary, any fees charged to telecommunications providers after November 1, 2002, the effective date of the Act, relating to access and usage of the public rights-of-way, to an amount not exceeding the amounts of fees and charges required under the Act, which shall be paid to the authority. In compliance with the requirements of section 13(4) of the Act, the city also hereby approves modification of the fees of providers with telecommunication facilities in public rights-of-way within the city's boundaries, so that those providers pay only those fees required under section 8 of the Act. The city shall provide each telecommunications provider affected by the fee with a copy of this article, in compliance with the requirement of section 13(4) of the Act. To the extent any fees are charged telecommunications providers in excess of the amounts permitted under the Act, or which are otherwise inconsistent with the Act, such imposition is hereby declared to be contrary to the city's policy and intent, and upon application by a provider or discovery by the city, shall be promptly refunded as having been charged in error.

(Ord. No. 02-257, § 11, 10-28-02)

**Sec. 18-132. Savings clause.**

Pursuant to section 13(5) of the Act, if section 8 of the Act is found to be invalid or unconstitutional, the modification of fees under section 11 above shall be void from the date the modification was made.

(Ord. No. 02-257, § 12, 10-28-02)

**Sec. 18-133. Use of funds.**

Pursuant section 10(4) of the Act, all amounts received by the city from the authority shall be used by the city solely for rights-of-way related purposes. In conformance with that requirement, all funds received by the city from the authority shall be deposited into the major street fund and/or the local street fund maintained by the city under Act No. 51 of the Public Acts of 1951.

(Ord. No. 02-257, § 13, 10-28-02)

**Sec. 18-134. Annual report.**

Pursuant to section 10(5) of the Act, the city clerk/administrator, if required by the Act, shall file an annual report with the authority on the use and disposition of funds annually distributed by the authority.

(Ord. No. 02-257, § 14, 10-28-02)

**Sec. 18-135. Cable television operators.**

Pursuant to section 13(6) of the Act, the city shall not hold a cable television operator in default or seek any remedy for its failure to satisfy an obligation, if any, to pay after November 1, 2002, the effective date of this Act, a franchise fee or similar fee on that portion of gross revenues from charges the cable operator received for cable modem services provided through broadband internet transport access services.

(Ord. No. 02-257, § 15, 10-28-02)

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### **Sec. 18-136. Existing rights.**

Pursuant to section 4(2) of the Act, except as expressly provided herein with respect to fees, this article shall not affect any existing rights that a telecommunications provider or the city may have under a permit issued by the city or under a contract between the city and a telecommunications provider related to the use of the public rights-of-way.

(Ord. No. 02-257, § 16, 10-28-02)

### **Sec. 18-137. Compliance.**

The city hereby declares that its policy and intent in adopting this article is to fully comply with the requirements of the Act, and the provisions hereof should be construed in such a manner as to achieve that purpose. The city shall comply in all respects with the requirements of the Act, including but not limited to the following:

- (1) Exempting certain route maps from the Freedom of Information Act, 1976 PA 442, MCL 15.231 to 15.246, as provided in section 18-124(c) of this article;
- (2) Allowing certain previously issued permits to satisfy the permit requirements hereof, in accordance with section 18-124(f) of this article;
- (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 18-124(g) of this article;
- (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 18-125(a) of this article;
- (5) Notifying the MPSC when the city has granted or denied a permit, in accordance with section 18-125(a) of this article;
- (6) Not unreasonably denying an application for a permit, in accordance with section 18-125(a) of this article;
- (7) Issuing a permit in the form approved by the MPSC, with or without additional or different permit terms, as provided in section 18-125(b) of this article;
- (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 18-125(c) of this article;
- (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 18-125(d) of this article;
- (10) Not charging any telecommunications providers any additional fees for construction or engineering permits, in accordance with section 18-126 of this article;
- (11) Providing each telecommunications provider affected by the city's right-of-way fees with a copy of this article, in accordance with section 18-131 of this article;
- (12) Submitting an annual report to the authority, in accordance with section 18-134 of this article; and
- (13) Not holding a cable television operator in default for a failure to pay certain franchise fees, in accordance with section 18-135 of this article.

(Ord. No. 02-257, § 17, 10-28-02)



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**Sec. 18-138. Reservation of police powers.**

Pursuant to section 15(2) of the Act, 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. 02-257, § 18, 10-28-02)

**Sec. 18-139. Authorized city officials.**

The city clerk/administrator or his or her designee is hereby designated as the authorized city official to issue municipal civil infraction citations (directing alleged violators to appear in court) or municipal civil infraction violation notices (directing alleged violators to appear at the municipal chapter violations bureau) for violations under this article as provided by this Code.

(Ord. No. 02-257, § 20, 10-28-02)

**Sec. 18-140. Municipal civil infraction.**

A violation of this article shall be a violation of this Code. Nothing in this section 18-140 shall be construed to limit the remedies available to the city in the event of a violation by a person of this article or a permit.

(Ord. No. 02-257, § 21, 10-28-02)

**Chapter 19 SUBDIVISION REGULATIONS<sup>39</sup>**

***ARTICLE I. IN GENERAL***

**Sec. 19-1. General concepts and definitions.**

Uniform standards have been accepted to insure the lasting development of the city in ways that are both efficient and ultimately economical. The following standards have been developed to coordinate the shared interests of individuals and the community. The rightful expectations of a property owner for the "return on investment" are balanced with community concerns for health, safety, and land management. The planners, councilors, and skilled personnel serving the city are committed to growing the community with the cooperative endeavors of developers and citizens alike.

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<sup>39</sup>Editor's note(s)—An ordinance of March 9, 1998 amended the Code by, in effect, repealing former ch. 19, §§ 19-1, 19-2, 19-26—19-29, and 19-51—19-71, and adding a new ch. 19 to read as herein set out. Former ch. 19 pertained to similar subject matter, and derived from the Code of 1963, § 5.170—5.196; Ord. No. 149, adopted May 14, 1984.

Cross reference(s)—Any ordinance granting or accepting easements, plats or dedication of land to public use saved from repeal, § 1-9(10); buildings and building regulations, Ch. 6; streets, sidewalks and other public places.

State law reference(s)—Subdivision control act, MCL 560.101 et seq., MSA 26.430(101) et seq.; minimum standards, MCL 560.259, MSA 26.430(259).

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- (a) For the purpose of these regulations, certain terms or words used herein shall be interpreted as follows:
- (1) The word "person" includes a firm, association, organization, partnership, trust, company, or corporation as well as an individual.
  - (2) The present tense includes the future tense, the singular number includes the plural, and the plural number includes the singular.
  - (3) The word "shall" is a mandatory requirement, the word "may" is a permissive requirement, and the word "should" is a preferred requirement.
  - (4) The words "used" or "occupied" include the words "intended, designed, or arranged to be used or occupied."
  - (5) The word "lot" includes the words "plot" or "parcel".

- (b) For the purpose of these regulations, certain terms or words used herein shall be defined as follows:

*AASHTO guidelines.* The highway design standards published by the American Association of State Highway and Transportation Officials in its current editions of *A Policy on Geometric Design of Highways and Roads* and *Roadside Design Guide*.

*Block.* A piece of parcel of land entirely surrounded by public highways, public streets, streams, or parks, etc., or a combination thereof.

*City or city council.* The city council of the city.

*Clear vision area.* Land acquired or used by the city for the purpose of maintaining unobstructed vision.

*Clerk.* The clerk of the city.

*Condominium Act.* Act 59 of the Michigan Public Acts of 1978 and all amendments thereto.

*Corner lot.* See "Lot."

*Council.* The council (legislative authority) of the city.

*County.* Lenawee County.

*Covenant.* A written promise or pledge.

*Cul-de-sac.* See "Street."

*Culvert.* A transverse drain that channels under a bridge, street, or driveway.

*Dead-end street.* See "Street."

*Developer.* Any individual, subdivider, firm, association, syndicate, partnership, corporation, trust, or any other legal entity commencing proceedings under these regulations to effect a subdivision of land herein under for himself or for another.

*Easement.* Authorization by a property owner for the use by another, and for a specified purpose, of any designated part of his property.

*Engineer.* A licensed, professional engineer or engineers employed to prepare plans, supervise and inspect the construction of the streets in the development area.

*Final plat.* A map of all subdivided land following final approval of the preliminary plat complying with the provisions of Sections 131 to 151, of Act No. 288 of the *Public Acts* of 1967 and any subsequent amendments thereto.

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*Improvements.* Street pavement or resurfacing, curbs, gutters, sidewalks, water lines, sewer lines, storm drains, street lights, flood control and drainage facilities, utility lines, landscaping, and other related matters normally associated with the development of raw land into building sites.

*Inspection.* The close observation and examination of the various construction operations and products as a means of determining the acceptability of completed streets.

*Laboratory.* Any material testing laboratory which is approved by the city engineer.

*Lot.* For purposes of these regulations, a lot shall mean a piece or parcel of land occupied or intended to be occupied by a building and any accessory buildings or by any other use or activity permitted thereon and including the open spaces and yards required under this chapter, and having its frontage upon a public street or road either dedicated to the public or designated on a recorded subdivision. See § 22-27.

- *Lot, corner,* shall mean a lot where the interior angle of two adjacent sides at the intersection of two streets is less than 135 degrees. A lot abutting upon a curved street or streets shall be considered a corner lot for the purpose of this chapter if the arc is of less radius than 150 feet and the tangents to the curve, at two points where the lot lines meet the curve, at the two points where the lot lines meet the curve or the straight street line extended, form an interior angle of less than 135 degrees.
- *Lot, frontage,* shall mean that the front of a lot shall be construed to be the portion nearest the street. For the purpose of determining yard requirements on corner lots and through lots, all sides of a lot adjacent to streets shall be considered frontage, and yards shall be provided as indicated under "yards" in this section.
- *Lot, through,* is a lot other than a corner lot with frontage on more than one street. Through lots abutting two streets may be referred to as double frontage lots.
- *Lot, reversed frontage,* is a lot on which frontage is at-right angles to the general pattern in the area. A reversed frontage lot may also be a corner lot.

*MDOT standards.* The current standard specifications for construction and standard plans as issued by the Michigan Department of Transportation, either metric or English units, will be acceptable.

*Monuments.* Permanent concrete or iron markers used to establish definitely all lines of the plat of a subdivision, including all lot corners, boundary line corners, and points of change in street alignment.

*Open space.* An area open to the sky which may be on the same lot with a building. The area may include, along with the natural environmental features, swimming pools, tennis courts, and other recreational facilities that the planning commission deems permissible. Streets, structure for habitation, and the like shall not be included.

*Outlot.* Property shown on a subdivision plat outside of the boundaries of the land which is to be developed and which is to be excluded from the development of the subdivision.

*Owner.* Any individual, firm association, syndicate, co-partnership, corporation, trust or any other legal entity having sufficient proprietary interest in the land sought to be subdivided to commence and maintain proceedings to subdivide the same under these regulations.

*Planning commission or commission.* The planning commission of the city.

*Plat.* The map, drawing, or chart on which the developer's of subdivision (preliminary) is presented to the city planning commission for approval.

*Proprietor.* Owner or developer of land upon which a plat, condominium or other development is planned.

*Right-of-way.* A strip of land taken or dedicated for use as a public way. In addition to the roadway, it normally incorporates the curbs, lawn strips, sidewalks, lighting, and drainage facilities, and may include special features (required by the topography or treatment) such as grade separation, landscaped areas, viaducts, and bridges.

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*Setback line.* A line established by the subdivision regulations and/or zoning resolution, generally parallel with and measured from the lot line, defining the limits of a yard in which no building, other than accessory building, or structure may be located above ground, except as may be provided in said codes. See "Yards."

*Sewers, central or group.* An approved sewage disposal system which provides a collection network and disposal system and central sewage treatment facility for a single development, community, or region.

*Sewers, on-site.* A septic tank or similar installation on an individual lot which utilizes an aerobic bacteriological process or equally satisfactory process for the elimination of sewage and provides for the proper and safe disposal of the effluent, subject to the approval of health and sanitation officials having jurisdiction.

*Sidewalk.* That portion of the street right-of-way outside the roadway, which is improved for the use of pedestrian traffic.

*Sight distance.* The length of clear view along a roadway required so that a specified object is visible to the driver.

*Subdivide.* The meaning ascribed in Act No. 288 of the *Public Acts of Michigan* of 1967 (MCL 560.101 et seq., MSA 26.430(101) et seq.), as amended, herein called the Subdivision Control Act of 1967 in this chapter.

*Subdivision Control Act.* Act 288 of the Michigan Public Acts of 1967 and all amendments thereto.

*Surveyor.* The licensed professional surveyor employed by the developer to prepare preliminary plans and final plats of the streets in the development area.

*Street.* The full width between property lines bounding every public way or whatever nature, with a part thereof to be used for vehicular traffic and designated as follows:

- *Arterial street.* A general term denoting a thoroughfare primarily for through traffic, carrying heavy loads and large volume of traffic, usually on a continuous route. An arterial street shall be classed with industrial streets.
- *Cul-de-sac.* A local street of relatively short length with one (1) end open to traffic and the other end terminating in a vehicular turn-a-round.
- *Dead-end street.* A street temporarily having only one (1) outlet for vehicular traffic and intended to be extended or continued in the future.
- *Industrial street.* A class of street primarily for commercial and transport vehicles providing access to business and manufacturing properties.
- *Residential street.* A class of street primarily for automobiles and personal vehicles providing access to residential property.

*Variance.* A variance is a modification of the strict terms of the relevant regulations where such modification will not be contrary to the public interest and where owing to conditions peculiar to the property and not the result of the action of the applicant, a literal enforcement of the regulations would result in unnecessary and undue hardship.

*Vicinity map.* A drawing located on the plat which sets forth by dimensions or other means, the relationship of the proposed subdivision or use to other nearby developments or landmarks and community facilities and services within the county in order to better locate and orient the area in question.

*Watershed.* The drainage basin in which the subdivision drains or that land whose drainage is affected by the subdivision.

*Yard.* Shall mean an open space of prescribed width or depth, adjacent to a lot or property line, on the same land with a building or group of buildings, which open space lies in the area between the building or group of buildings and the nearest lot line and is unoccupied and unobstructed from the ground upward, except as

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otherwise provided herein. This regulation shall not exclude eaves provided above the adjacent ground level. See § 22-27.

(Ord. of 3-9-98)

**Sec. 19-2. Enforcement.**

- (a) No plat shall be transmitted to any county or state approving authority for official action as required by the State Subdivision Control Act until each plat shall have, in the first instance been approved by the city council in accordance with the regulations of this chapter.
- (b) No person shall sell or convey any lot in any plat by reference thereto until such plat has been duly recorded in the office of the Lenawee County register of deeds.
- (c) The description of any lot or parcel in a plat of a subdivision, filed hereafter, by metes and bounds in the instrument of transfer or other documents used in the process of selling or transfer, is a violation of these regulations.
- (d) Any sale or option or contract to sell, contrary to the provisions of these regulations, shall be voidable at the option of the buyer or person contracting to purchase, his heirs, personal representatives or assigns within two years after the execution of the document of sale or contract; but such document shall be binding upon the vendor, his assigns, heirs or devisees.
- (e) Public sewer or water service shall not be provided for any dwelling or other structure located on a lot or plat subdivided or sold in violation of this chapter, excepting that such service may be installed in any structure when deemed necessary by the health department for the protection of the public health.
- (f) No building permit shall be issued for the construction of any structure located on a plat which does not front directly on a public street or on any lot or plat subdivided or sold in violation of this chapter.
- (g) Violation of any of the provisions of this chapter or failure to comply with any of its requirements shall constitute a misdemeanor. Any person who violates this chapter or fails to comply with any of its requirements will, upon conviction thereof, be fined not more than \$100.00 or imprisoned for not more than 30 days, or both. Each day such violation continues shall be considered a separate offense.

The land owner, tenant, developer, builder, public official or any other person who commits, participates in, assists in, or maintains such violation may be found guilty of a separate offense and suffer the penalties herein provided. Nothing herein contained shall prevent the city council, or any other public official or private citizen from taking such lawful action as is necessary to restrain or prevent any violation of this chapter or of the Subdivision Control Act.

(Ord. of 3-9-98)

**Secs. 19-3—19-25. Reserved.**

***ARTICLE II. PROCEDURES AND GENERAL REQUIREMENTS***

**Sec. 19-26. Conditions for approval.**

The following procedures and requirements apply to subdivisions, site condominiums and other street improvements adjacent to new land developments. For all developments the city will require submission of both a

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preliminary plat and a street and drainage plan for approval. In the case of a proposed platted subdivision, the preliminary plat may also be referred to as the preliminary plan.

Approval of preliminary and final plats shall be further conditioned upon compliance with:

- (1) The provisions of Act. No. 288 of the *Public Acts of Michigan* of 1967 (MCL 560.101 et seq., MSA 26.430(101) et seq.), as amended.
- (2) This chapter.
- (3) Any published rules of the county drain commission, or county plat board adopted to carry out the provisions of Act No. 288 of the *Public Acts of Michigan* of 1967 (MCL 560.101 et seq., MSA 26.430(101) et seq.), as amended.
- (4) The rules of the department of state highways relating to provisions for the safety of entrance upon and departure from the abutting state trunk line highways or connecting streets and relating to the provisions of drainage as required by the department's then currently published standards and specifications.
- (5) The rules of the department of the treasury adopted for the approval of plats, including forms, certificates of approval and other required certificates, captioning of plats and numbering of lots, as provided in Act No. 288 of the *Public Acts of Michigan* of 1967 (MCL 560.101 et seq., MSA 26.430(101) et seq.), as amended, and as published in the state administrative code.
- (6) The rules of the water resources commission of the department of conservation, adopted for the determination and establishment of flood plain areas of rivers, streams, creeks or lakes, as provided in Act No. 288 of the *Public Acts of Michigan* of 1967 (MCL 560.101 et seq., MSA 26.430(101) et seq.), as amended, as published in the state administrative code.
- (7) The rules of the department of public health as published in the state administrative code relating to suitability of soils for subdivisions not served by public water and public sewers, the authority for which is granted by Act No. 288 of the *Public Acts of Michigan* of 1967 (MCL 560.101 et seq., MSA 26.430(101) et seq.), as amended, and the manner prescribed in the public health code.

(Ord. of 3-9-98)

### **Sec. 19-27. Preliminary plat procedures.**

- (a) The developer shall have a pre-application meeting with the city superintendent prior to submitting the preliminary plat. The purpose of this meeting is to discuss early and informally the purpose and effect of these regulations, the criteria and standards contained herein; and to familiarize the developer with the city, its master land use plan, administrative staff, zoning ordinance, physical resources, drainage, sewerage, and water systems.
- (b) The developer shall submit to the planning commission a pre-application sketch plan, legibly drawn at a suitable scale and containing the following information:
  - (1) The proposed subdivision in relation to existing community facilities, streets, manufacturing establishments, residential development and existing natural and manmade features such as soil types, vegetation, contours, and utilities in the neighboring area.
  - (2) The layout and acreage of streets, lots, and any nonresidential sites such as commercial, manufacturing, school or recreational uses within the proposed subdivision.
  - (3) The location of utilities in the proposed subdivision, if available, or the locations of the nearest sources for water and public facilities of the disposal of sewage and storm water.

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- (4) The scale and title of the subdivision, a north arrow, and the date.
  - (5) Name, address and phone number of owners and developer.
- (c) After the pre-application stage, the developer shall submit a preliminary plat of the proposed subdivision which will conform with the requirements set forth in section 19-28. The preliminary plat shall be prepared by a qualified, registered engineer or surveyor.
- (1) Property owners or developers desiring to record plats or subdivisions shall submit four identical copies of the preliminary plat and application fee(s) to the city planning commission by filing the same with the city clerk not less than 15 days prior to a designated, regular meeting of the planning commission. The plat shall be drawn to scale not smaller than 1" to 100' by a licensed land surveyor or licensed, professional engineer.
  - (2) The planning commission shall refer one copy of the preliminary plat to the city engineer. The city engineer shall examine the plat as to its compatibility with the existing street system and its compliance with subdivision regulations and good engineering practice. The city engineer shall summarize these findings in a written report to the planning commission within 15 days. Any recommendations shall be attached to the same report.
  - (3) Notice of the meeting at which the planning commission will be considering the plat for preliminary approval will be mailed to the property owners within 300 feet of the perimeter of such plat not less than ten days prior to the date of such meeting; provided, however, that any failure on the part of the planning commission to give notice to adjoining property owners shall not affect the legality and validity of any action taken by the planning commission. The planning commission shall submit a copy of the preliminary plat and its report to the city council within 60 days of the date of filing. This report must include:
    - a. An evaluation of compliance with subdivision and zoning regulations,
    - b. An assessment of traffic impact,
    - c. An evaluation of the city's ability to provide utility service,
    - d. A analysis of potential financial returns to the city versus known financial investments by the city,
    - e. Recommendations for or against waivers and variances,
    - f. Recommendations for or against approval.The city council must give prior approval to those expenses necessary for securing expert or professional opinions.
  - (4) The city council, within 45 days of the planning commission recommendation, shall either tentatively approve it and note its tentative approval on the copy to be returned to the developer, or reject it. If rejected, the reasons for rejection and requirements for approval shall be given to the developer in writing.
  - (5) After receiving tentative approval from the city council, the developer shall submit the preliminary plat to all approving authorities as required in sections 113 to 119 of the Subdivision Control Act.
  - (6) Prior to any work being done by the developer, a corrected preliminary plat shall be submitted to the city clerk at least 15 days prior to the regular meeting of city council at which the corrected plat is to be considered. The developer shall submit the following information to the city council in conjunction with the corrected plat.
    - a. A list of all approving authorities required by sections 113 to 119, Subdivision Control Act, to approve the plat, certifying that the list is complete and that all approving authorities have approved the preliminary plat.

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- b. One approved copy of the preliminary plat from each authority, as required by the S.C.A.
  - c. A receipt from the city treasurer that all fees required under this chapter have been paid.

(Ord. of 3-9-98)

### **Sec. 19-28. Requirements for preliminary plat.**

- (a) Whenever any person desires to subdivide land into building lots or to dedicate streets or land for public use, he shall submit a preliminary plat as required by the Subdivision Control Act before submission of the final plat. The preliminary plat shall be in compliance with all applicable state statutes, the master land use plan, the city zoning ordinance and such rules and regulations as may from time to time be adopted and published by the planning commission. The preliminary plat shall show plainly all the following and meet the requirements listed.
  - (1) Proposed name of the subdivision, which shall not duplicate or closely approximate the name of any other subdivision in the city.
  - (2) The name of the developer and name and seal of engineer or surveyor, with mailing addresses and telephone numbers of each.
  - (3) Date of survey.
  - (4) Scale of the plat, north point.
  - (5) Boundaries of the subdivision and its acreage.
  - (6) The names of any adjacent subdivisions, platted lands, or known preliminary plats or condominiums, and give reference to streets terminating at the proposed development's boundary.
  - (7) Locations, width, and names of existing streets, railroad rights-of-way, easements, parks, permanent buildings, and corporation and township lines; location of wooded areas and other significant topographic and natural features within and adjacent to the plat for a minimum distance of 200 feet.
  - (8) Zoning classification of the tract and adjoining properties and a description of proposed zoning changes, if any.
  - (9) Existing contours at an interval of not greater than one foot if the slope of the ground is 15 percent or less; and not greater than five feet where the slope is more than 15 percent.
  - (10) Existing sewers, water lines, culverts and other underground structures, and power transmission poles and lines, within all adjacent to the tract.
  - (11) Location, names, and widths of proposed streets and easements.
    - a. Whenever a new street is constructed along the approximate alignment or extension of an existing street, its name shall be the same as that of the existing one.
    - b. Whenever a street alignment changes direction more than 75 degrees without a return to the original alignment within a distance of 500 feet, then the name of the street shall be changed at the point of curvature.
    - c. Whenever a cul-de-sac street serves not more than three lots, the name of the intersecting street shall apply to the cul-de-sac.
  - (12) The street layout of the proposed development shall conform to the following:
    - a. The street layout shall connect to existing outlots in adjacent developments, and shall provide outlots or other provisions for future connections to adjacent land that is presently undeveloped.



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- b. The arrangement of streets in the subdivision shall provide for the continuation of streets in adjacent subdivisions where such extensions are deemed desirable by the planning commission, and where such extension is not precluded by topographic or other existing conditions. The layout shall provide for proper protection of principal streets into adjoining properties not yet subdivided.
  - c. Streets shall be arranged in proper relation to topography to create usable lots, safe streets, and reasonable grades, both for the streets and for driveways.
  - d. In cases where a proposed street provides access to an existing public street at one end only, its layout may be acceptable provided that a circular cul-de-sac of 55-foot minimum right-of-way radius is provided at the end of the street so as to permit turning in a continuous circuit. Pavement radius must be a minimum of 40 feet to back of curb. Some other means of continuous circuit may be approved by the city council if presented in detail with sufficient, documented justification.
  - e. The minimum length of a cul-de-sac street shall be 145 feet. Lengths are measured from centerline of through street to center of cul-de-sac.
- (13) Building setback lines with dimensions.
  - (14) Location and dimensions of all proposed utility and sewer lines, showing their connections with the existing system.
  - (15) Layout, numbers, and approximate dimensions of each lot. When a lot is located on a curved street or when said lot lines are not at 90 degree angles, the width at the property line shall be shown.
  - (16) Parcels of land in acres to be reserved for public use or to be reserved by covenant for residents of subdivision.
  - (17) Locations and extent of property. This shall include a vicinity sketch with scale not smaller than 1" = 1,000', showing the development in relation to the city street system. Approximate dimension are sufficient.
  - (18) Typical cross-section of streets to be constructed.
  - (19) Indicate with arrows or other symbols the proposed course of surface water drainage within the subdivision to a natural drainage trace, stream or public storm sewer.
  - (20) One-way streets are prohibited.
  - (21) Private streets are prohibited in all developments in which any of the streets are dedicated to the public. All proposed extensions of public streets, or connections interior to a development, must also be public streets.
  - (22) Where required to provide future connections to possible adjacent developments, outlots shall be provided and shall be designated "future street." An outlot must be at least 60 feet wide. A right-of-way easement for such outlot for street purposes must be executed and filed with the city council at the time of plat approval or upon submittal of street and drainage plans. At the time of street and drainage plan approval, the city council may specify requirements for future improvements on outlots. However, the city council will not accept a street on an outlot until the connecting street is completed.
  - (23) All phase boundaries indicating the proposed order of construction.
  - (24) If the street and drainage plan is not submitted to the city council within two years from the date of approval of the preliminary plat, then the preliminary approval will become null and void.
  - (25) Locations of proposed temporary turn-a-round areas at phase boundaries. Turn-a-rounds may be on either side of a boundary and must provide an area including a minimum 35-foot radius. At a property

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line, no turn-a-round will be allowed on adjacent property unless a permanent easement is provided by the adjacent owner.

- (b) The supplementary following information shall be supplied in addition to the requirements of § 19-28(a).
- (1) Statement of proposed use of lots, giving type and number of dwelling units and type of business or industry.
  - (2) Location and approximate dimensions of all existing buildings.
  - (3) For commercial and industrial development, the location, dimensions, and approximate grade of proposed parking and loading areas, pedestrian walks, streets, and the points of vehicular ingress and egress to the development.
  - (4) Evidence of land ownership as well as copies of proposed covenants and restrictions.
  - (5) In a letter accompanying the request for approval of the preliminary plat, the developer shall state the type of sewage disposal he proposes to use. If other than a treatment plant, it shall be accompanied by a letter from the health department stating what type of sewage disposal will be approved for the soil conditions encountered in the area of the proposed subdivision. A central sewage treatment plant and a central water system shall be constructed by the developer when deemed necessary by the planning commission or the appropriate health officer. If a central plant is to be used, a proposal shall be included discussing the method and cost of the incorporation of said system into the municipal system.

(Ord. of 3-9-98)

### **Sec. 19-29. Street and drainage plan.**

- (a) General requirements.
- (1) After approval of the preliminary plat, three copies of the street and drainage plan covering all the streets within the development must be submitted to the engineer for consideration. The plan must be prepared, sealed and signed by a licensed, professional engineer.
  - (2) The city council, within 30 days of receipt of the street and drainage plan, shall approve it and note its approval on the copy to be returned to the developer. If rejected, the reasons for rejection and requirements for approval shall be given to the developer in writing.
  - (3) In order to assure that a street and drainage plan will be considered at the scheduled meeting of the city council within the 30-day period, all required fees, easements and related documents must be submitted at least seven days prior to the meeting.
  - (4) The street and drainage plan shall consist of plan-view and profile drawings and typical cross-sections, which shall comply with the current specifications.
  - (5) No construction of streets or drains shall be started until the street and drainage plan has been approved.
  - (6) When the plans are approved or disapproved, such action will be marked on the plans and one (1) copy will be returned to the developer's engineer. Revised plans will be approved when they show compliance with all requirements.
  - (7) All streets shall be provided with facilities for adequate surface drainage.
  - (8) The sidewalks, curb and gutter must be shown in detail in the street and drainage plan.
  - (9) The street and drainage plan shall be drawn on 24" × 36" sheets to scale not smaller than 1" = 40' horizontal, 1" = 4' vertical.

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- (10) Drainage plans shall be shown for existing adjacent city streets and constructed to the standards required by the city engineer.
  - (11) If no construction is started within two years from the date of approval of the street and drainage plan, then this approval will become null and void.
  - (12) All elevations shall coincide with datum determined by the U.S.G.S. A permanent bench mark, in conformance to standards adopted by the city, shall be established in each development and shown on the plans. All phases of a development shall have at least one bench mark, and all developments larger than 20 acres shall have at least two bench marks.
- (b) The street plans must show plainly all the following information:
- (1) Plan view of each street showing the centerline, stations, edge of pavement and curb-line. Top-of-curb profile shall be shown directly below the plan view.
  - (2) Typical cross-section of the street to be constructed.
  - (3) Location of existing and proposed culverts, storm sewers and utilities.
  - (4) Location of existing and proposed traffic-control and street-name signs.
  - (5) Location of existing and proposed street-light poles.
  - (6) Intersection details (radius, sight distance, curb tapers etc.).
  - (7) Location of all proposed sidewalks and any proposed curb drops to accommodate sidewalks.
  - (8) All pertinent survey information (benchmarks, curve data, section comers, witnesses, etc.).
  - (9) Location of survey monumentation on street rights-of-way and/or centerlines.
  - (10) All existing features within the street right-of-way such as trees, brush, driveways, mailboxes, signs, poles and hydrants. Trees of diameter of eight inches or more shall be identified by diameter and type.
  - (11) All other proposed features in or near the right-of-way such as structures, landscaping, entrance signs, cluster mailboxes, etc.
  - (12) Types and locations of vegetation to be removed within the street right-of-way.
  - (13) Locations of all utilities, with typical legend as follows: S = proposed sanitary, s = existing sanitary, R = proposed storm, r = existing storm, W = proposed water, w = existing water, G = proposed gas, g = existing gas. Shown locations shall include all street crossings and service stubs to the right-of-way line.
  - (14) Phase boundary lines, and locations of temporary turn-a-rounds or other temporary streets, with notations as to aggregate or paved surface, as prescribed by the city council.
  - (15) Locations of temporary grading easements or tree removal permit requirements on neighboring property.
  - (16) Soil boring logs at sufficient intervals to determine the subgrade condition.
  - (17) Location of existing and proposed driveways, when known.
- (c) The drainage plans must show plainly all the following information:
- (1) The location, size and invert elevations of all underground structures used for street drainage.
    - a. Show location and type of inlets and cleanout points for underground drainage systems, including sumps in all catch basins.
    - b. Show standard detail for all catch basins, inlets, manholes, etc.

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- c. Show schedule of structure types, diameters, casting types, rim and invert elevations and sump notation where applicable.
  - (2) Profile of existing centerline.
  - (3) Profile of top-of-curb with corresponding profile of right-of-way line.
  - (4) Percent of grade and vertical curve data.
  - (5) Show curb and centerline elevations a minimum of every 50 feet. Closer spacing may be needed at intersections.
  - (6) Show locations and profile of all drains outside of the roadway area that are going to be utilized for roadside drainage.
  - (7) Show invert elevations at all structures.
  - (8) Legend of profile lines shall be shown on each street according to illustrations.
  - (9) Notations shall be included to require continuous underdrain beneath all curbs, and to specify either subgrade or subbase underdrain.

(Ord. of 3-9-98)

### **Sec. 19-30. Locations of underground utilities.**

- (a) Storm sewers shall be located in the street right-of-way if possible.
- (b) No storm sewer manholes may be located under the pavement surface.
- (c) When necessary, storm sewers may be located in a public easement adjacent to the right-of-way, as approved by the city engineer.
- (d) All other utilities may be located in either the street right-of-way or an adjacent private easement for public utilities. Such easements should be established in a manner which does not take precedence over street easements. No utility manholes may be located under the pavement surface, unless essential to reasonable design.
- (e) Parallel or crossing utility alignments in the right-of-way shall provide physical separations of at least 18 inches. All underground utilities shall be buried with at least 30 inches of cover, including those in ditch areas.
- (f) Utility alignments shall conform to the following standards:
  - (1) *Storm sewers.*
    - a. Storm sewers shall be located and aligned such as to best conform with the layout of existing facilities. In streets where no pattern has been established, storm sewers shall be located as follows:
      - 1. East side of street - Directly under or immediately behind curb.
      - 2. North side of street - Directly under or immediately behind curb.
    - b. If a storm sewer is proposed outside the right-of-way, a drainage easement must be provided.
  - (2) *Sanitary sewers.*
    - a. Sanitary sewers shall be located and aligned such as to best conform with the layout of existing facilities. In streets where no pattern has been established, sanitary sewers shall be located as follows:

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1. West side of street - Between pavement and property line, or in easement outside of right-of-way.
  2. South side of street - Between pavement and property line, or in easement outside of right-of-way.
- (3) *Water mains.*
- a. East side of street - Between storm sewer and property line, or in easement outside of right-of-way.
  - b. North side of street - Between storm sewer and property line, or in easement outside of right-of-way.
- (4) *Gas mains.*
- a. West side of street - Between sanitary sewer and property line, or in easement outside of right-of-way.
  - b. South side of street - Between sanitary sewer and property line, or in easement outside of right-of-way.
- (5) *Others.* Underground electric, telephone, television or other lines shall be located in an easement outside the right-of-way if possible, or within the right-of-way as approved by the city engineer.

(Ord. of 3-9-98)

### **Sec. 19-31. Right-of-way requirements.**

- (a) The right-of-way required for proposed public streets shall be granted by dedication of the land in a subdivision plat, or by a deed granted by the landowner to the city council for a site condominium, or for any other public street.
- (b) The right-of-way required along existing public streets shall be granted to the city council by the land owner in accordance with current procedure.
- (c) Such easements shall be submitted prior to approval of the street and drainage plan. At the same time, a title insurance commitment shall be submitted in the amount of \$10,000 per acre of right-of-way conveyed.
- (d) All street construction shall be centered on the street right-of-way.
- (e) All streets shall have a minimum right-of-way width of 60 feet, unless additional right-of-way is required for proper drainage, sight distance or construction.
- (f) State or U.S. trunklines shall be of the width required by the Michigan Department of Transportation.
- (g) The right-of-way on all curves of curvilinear streets shall be at least the same width as the right-of-way on the tangents. Where curves limit sight distance, the right-of-way may need to be expanded to encompass the sight lines.
- (h) Greater widths of right-of-way may be required by the city council when considered necessary.
- (i) When a temporary grading easement or tree-removal permit is required for work on neighboring private property, the developer will be responsible for obtaining such easement or permit, and providing a copy to the city.
- (j) A boulevard section will be permitted at the main entrance to a development, and shall provide a minimum 100-foot right-of-way. A boulevard median shall not exceed 300 feet in length nor shall it be less than 100

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feet in length. Sufficient taper of the right-of-way width, in accordance with design speed, must be provided adjacent to a boulevard section. The minimum cross-section is shown in Appendix A, Illustrations.<sup>40</sup>

- (1) In cases where permission for maintenance is granted, a maintenance agreement must be provided, assuring long term maintenance of landscaping or other items in a boulevard by neighboring residents. In the absence of private maintenance, the city will provide maintenance according to its current practices.
  - (2) No subdivision identification signs, private utilities, flag poles or trees and plantings growing to a height exceeding three feet will be allowed in a boulevard median.
- (k) Survey monumentation of the right-of-way of all streets shall be required at all intersections and all points of curvature. For streets other than those in subdivisions and condominiums, monumentation shall be required on centerlines.
- (l) Any additional deeds or easements required to properly construct the improvements must be identified and submitted to the city engineer for review prior to approval of the street and drainage plan. Such easements may include outlot easements, grading easements, permanent drainage easements, clear vision easements, and any other type required by the city engineer. These documents will be recorded upon acceptance of streets by the city.
- (m) Whenever any stream or important surface drainage course is located in any area which is being subdivided, the developer shall provide an adequate easement along each side of the stream for the purpose of widening, deepening, sloping, improving or protecting the stream or drainage course.

(Ord. of 3-9-98)

### **Sec. 19-32. Financial requirements and responsibilities.**

- (a) An application fee for preliminary review shall be submitted to the city with the preliminary plan. This fee is to cover the costs of processing the application for city council approval and the preliminary review of the plans by staff. The amount of the application fee shall be set periodically by the city, and it shall be nonrefundable. An additional fee shall be submitted each time a preliminary plan is resubmitted with revisions or amended phase boundaries, or after being formally rejected by the city council.
- (b) The developer's engineer shall submit an estimate of construction costs for the street improvements at the time of final submittal of the street and drainage plan.
- (c) An inspection and administration fee in an amount consistent with current policy shall be paid to the city upon submission of the street and drainage plan. This fee will be a separate account to cover the cost of administration, inspections and all other expenses incurred by the city in relation to the development. The fee schedule for determining the amount of this fee shall be set periodically by the city based on a specified fixed amount, a percentage of estimated cost, or other reasonable criteria. Any unexpended fund balance will be refunded following acceptance of the streets into the city street system. Any deficit in the fee account must be paid by the developer prior to street acceptance.
- (d) The developer shall pay for the furnishing and erection of the permanent street name and traffic control signs, signals, or pavement markings by the city. The amount of deposit will be determined by the city engineer. The cash or certified check shall be submitted with the street and drainage plan, or final plat if applicable.

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<sup>40</sup>Note(s)—The appendices to the subdivision regulations—are not set out herein, but are on file and available for inspection in the office of the city clerk.

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- (e) The developer is responsible for the cost of installing the water lines and sewers. However the city may, at its option, install such water lines and/or sewers and bill the developer for the cost of such installation.
  - (f) The developer shall submit a signed agreement to construct street improvements upon submission of the street and drainage plan. Upon acceptance by the city council, the agreement obligates the developer to dedicate right-of-way and to complete construction of streets within two years. The agreement document shall use the format presented in Appendix B, Affidavits.
  - (g) A completion guarantee shall be submitted by the developer to ensure that construction of proposed streets is completed in accordance with the approved street and drainage plan. The guarantee shall be presented in the form of a certified check, irrevocable bank letter of credit or escrow agreement acceptable to the city council in the amount of 100 percent of the contract cost or the approved engineer's estimate of the street improvements. The amount of the guarantee will be approved by the city engineer prior to the submission of the guarantee.
    - (1) In the case of a subdivision, if the developer of a plat wishes to record such plat after the street and drainage plan has been approved, but before the construction of the streets and drainage is completed, he or she shall present the guarantee at the time of final plat approval. This procedure is for the convenience of the developer and need not be used if the construction is completed and approved before the plat is submitted for final approval.
    - (2) In the case of a condominium or other unplatted development, the developer shall present the completion guarantee at the time of formal submission of the street and drainage plan for approval by the city council.
    - (3) Release of the completion guarantee will be granted upon acceptance of the streets or improvements by the city council. Partial releases may be granted prior to acceptance upon request of the developer, provided commensurate construction is satisfactory. The minimum balance of the guarantee shall be ten percent of the total, plus the estimated cost of remaining construction.
    - (4) If a letter of credit expires before acceptance of the streets, the developer shall immediately renew the letter of credit and submit it to the city.
  - (h) The developer shall submit proof of insurance which provides coverage for all injuries and damages to property resulting from the construction. The minimum public liability coverage shall be \$1,000,000.00 for injury to one person. The minimum property damage coverage shall be \$100,000.00. The insurance form should identify the city as an additional insured party.
  - (i) Approval of any construction phase by the city does not guarantee acceptance of the streets for maintenance by the city council or relieve the developer of responsibilities or liabilities incurred by the development of the street, subdivision, or condominium.

(Ord. of 3-9-98)

### **Sec. 19-33. Construction of streets.**

- (a) The traditional order of building streets shall be followed in order to avoid any possible disagreements between the developer and the city.
- (b) Approval of the street and drainage plan does not relieve the developer from compliance with the city permit requirements and all other state, or county permits.
- (c) The developer's engineer shall be responsible to the city for continued liaison with the construction contractors, and shall be available on a regular basis for consultation with city staff.

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- (d) The developer's engineer shall conduct a preconstruction meeting to clarify all standards, procedures and working relationships among contractors, engineers and inspectors.
  - (e) Utility installation and relocations shall be coordinated by the developer's engineer such that completed street and drainage improvements are not damaged.
  - (f) Inspection by the city shall not relieve the developer's engineer of any of his or her obligations but will verify the proper construction of the streets in their various stages of construction by means of spot inspections during the course of construction. The following inspection notifications to the city are required with at least 24-hour advance notice.
    - (1) Finished subgrade surface.
    - (2) Underground drainage and all utility installation.
    - (3) Completed subbase.
    - (4) Completed concrete curb and gutter
    - (5) Completed base course.
    - (6) Bituminous placement.
  - (g) The developer's engineer shall set and check grade and alignment, conduct tests and furnish test slips to the city engineer of materials incorporated in the street and drain construction, and supervise the inspection of all construction in the right-of-way and drainage easements.
  - (h) The developer's engineer shall provide a certificate of satisfactory construction following each stage of construction. A permit to place will be required prior to each succeeding stage of construction.
  - (i) Any proposed changes in the approved construction plans or specifications must be submitted in writing by the developer's engineer, and written approval by the city engineer must be obtained before construction proceeds on the revised plan. This includes any bituminous paving after November 15 and prior to May 5.
  - (j) The streets and drainage systems shall be maintained by the developer in a safe, smooth and clean condition throughout the construction period.
- (Ord. of 3-9-98)

### **Sec. 19-34. Requirements for final plat.**

- (a) The developer, having received approval of the preliminary plat of the proposed subdivision, shall submit a final plat of the subdivision, drawings, and specifications of the improvements required therein. The final plat shall have incorporated all changes in the preliminary plat required by the city council. Otherwise it shall conform to the preliminary plat, and it may constitute only that portion of the approved preliminary plat which the developer proposes to record and develop at the time. The final plat and the supplementary information shall be prepared by a qualified, registered engineer or surveyor.
- (b) The final plat, on mylar and five prints thereof, and the supplementary information specified, shall be submitted to the city council.
- (c) Prior to the granting of approval of the final plat the developer shall have installed the minimum required improvements, or shall have furnished a surety or certified check for the amount of the estimated construction cost of the ultimate installation and the initial maintenance of the improvements. Before the surety is accepted, it shall be approved by the proper administrative officials. The term of the surety shall extend 12 months beyond the completion date of the project.



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- (d) The final plat shall be legibly drawn in waterproof ink or other material of equal permanence. It shall be drawn at a scale not less than 100 feet to the inch, and shall be one or more sheets 24" × 36" in size. If more than one sheet is needed, each sheet shall be numbered and the relation of one sheet to another clearly shown.
- (e) The final plat shall conform to the laws of the state and shall show:
- (1) Name of the subdivision, location by section, range and township, or by other survey number; date, north point, scale, and acreage.
  - (2) Name and address of the developers, and the professional engineer and/or registered surveyor who prepared the plat and appropriate registration numbers and seals.
  - (3) Plat boundaries, based on accurate traverse, with angular and lineal dimensions. All dimensions, both linear and angular shall be determined by an accurate control survey in the field which must balance and close within the limit of one in 10,000.
  - (4) Bearings and distances to nearest established street lines or other recognized permanent monuments.
  - (5) Exact locations, right-of-way, and names of all streets within and adjoining the plat, and building setback lines.
  - (6) Radii, internal angles, points of curvature, tangent bearings, lengths of arcs, and lengths and bearings of chords of all applicable streets within the plat area.
  - (7) All easements and rights-of-way provided for public services or utilities.
  - (8) All lot numbers and lines with accurate dimensions in feet and hundredths. When lots are located on a curve, the lot width at the building setback line shall be shown.
  - (9) Accurate location and description of all monuments.
  - (10) Accurate outlines of areas to be dedicated or reserved for public use, or any area to be reserved for the common use of all property owners. The use and accurate boundary locations shall be shown for each parcel of land to be dedicated.
  - (11) A copy of any restrictions and covenants the developer intends to include in the deeds to the lots in the subdivision.
  - (12) Certification by a registered surveyor to the effect that the plat represents a survey made by him and that the monuments shown thereon exist as located and that all dimensional details are correct.
  - (13) Notarized certification by the owner or owners of the adoption of the plat and the dedication of streets and other public areas.
  - (14) Typical sections and complete profiles of streets and other related improvements to be constructed in the proposed subdivision.
  - (15) The location of and description of all monuments and pins.
  - (16) The following items shall be shown on a final plat of a subdivision intended for commercial or industrial use:
    - a. All of the items required by (e)(1) through (15).
    - b. A statement indicating the number of buildings and the type of operation proposed in each building and on the premises.
    - c. The location, width and approximate grade of proposed pedestrian walks.
- (f) The following information shall be supplied in addition to the requirements above.

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- (1) If a zoning change is involved, certification from the zoning administrator shall be required indicating that the change has been approved and is in effect.
  - (2) Certification shall be required showing that all required improvements have been either installed and approved by the proper officials or agencies and that a bond or other surety has been furnished assuring installation and initial maintenance of the required improvements.
  - (3) The developer shall present to the city attorney evidence that all taxes against proposed streets have been paid and evidence that all encumbrances or liens of record against such proposed streets have been released.
- (g) The final plat shall be filed with the city council not later than 12 months after the date of approval of the preliminary plat; otherwise it will be considered void unless an extension is requested by the developer and granted in writing by the city council.
- (h) The city council shall approve or disapprove the final plat within 45 days after it has been filed. Failure of the council to act upon the final plat within such time shall be deemed as approval of the plat. If the plat is disapproved, the grounds for disapproval shall be stated in the records of the council, and a copy of said record shall be forwarded to the developer. The council shall not disapprove the final plat if the developer has done everything that he was required to do and has proceeded in accordance with the conditions and standards specified in the approved preliminary plat. If disapproved the developer shall make the necessary corrections and resubmit the final plat within 30 days to the council for its final approval.
- (Ord. of 3-9-98)

### **Sec. 19-35. Public safety and convenience.**

- (a) All streets shall be designed to serve the convenience and safety of the traveling public. Design layout, names and/or any features relative to public safety and convenience shall be subject to review by the city engineer.
  - (b) The developer will be responsible for all costs deemed necessary by the city engineer to provide for public safety and convenience along the proposed streets within the development boundaries. These costs may include the erection of city-approved street-name signs, stop signs, other traffic control signs (regulatory, warning, informational), signals or pavement markings required for public safety and convenience.
  - (c) The developer will be responsible for submission of a traffic control plan for the construction period, as required by the city engineer. The developer will be required to provide all traffic control devices called for on the approved detour plan and/or traffic-control plan.
- (Ord. of 3-9-98)

### **Sec. 19-36. Acceptance of streets for maintenance.**

- (a) The developer's engineer shall certify that he or she has personally directed the observation and inspection of all construction, that all drainage facilities and streets have been built in accordance with the approved plans and specifications, and that all survey monuments are properly installed and recorded where applicable. In addition, test reports shall be submitted to verify the adequacy of materials and installation, in accordance with the MDOT materials sampling guide and MDOT standard specifications.
- (b) Where the subdivision contains sewers, sewage treatment plants, water supply systems, park areas, street trees or other physical facilities necessary or desirable for the welfare of the area and which are of common use or benefit and are not or cannot be satisfactorily maintained by an existing public agency, provision shall be made by trust agreement, made a part of the deed restrictions acceptable to any agency having

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jurisdiction over the location and improvement of such facilities, for proper and continuous maintenance and supervision of such facilities.

- (c) If any stage of construction has not been approved by the city prior to work on the next stage, then acceptance of the streets may be denied. If the city determines it is in the best interest of the public, a delayed acceptance period may be imposed.
- (d) After the completed construction of all proposed streets and any other related facilities, the city will conduct a final inspection. This inspection will be made to assure the city that all visible construction has been completed satisfactorily, including clean up. The final inspection must take place between the dates of April 15 and November 15.
- (e) All driveways installed prior to acceptance of the streets for maintenance shall be installed in accordance with city standards. The developer's engineer shall certify all such driveway construction and compliance with sight distance requirements. The developer will be responsible for repair or replacement of improperly installed driveways, including involvement of homeowners when appropriate.
- (f) If a temporary turnaround in any phase of development is required to provide access for city maintenance, such turnaround must be completed prior to acceptance of streets.
- (g) When all items of these procedures have been completed, the city council will formally consider acceptance of the streets into the city street system. The city clerk will notify the developer upon the acceptance of streets for maintenance. At that time the completion guarantee and all unexpended fund balances will be processed for release.
- (h) Acceptance of the streets in any approved phase of a development will involve all of the streets in that phase; in no case will any of the streets be excluded.

(Ord. of 3-9-98)

### **Sec. 19-37. Waivers and variances.**

- (a) The planning commission may recommend to the city council a variance from the provisions of this chapter on finding that undue hardship may result from strict compliance with specific provisions or requirements of the ordinance or that application of such provision or requirements is impractical. The planning commission shall only recommend variances that it deems necessary to or desirable for the public interest. Variances shall apply only to improvements and specification set forth in this chapter. No variance shall be granted on procedures required herein. In making its findings as required below, the planning commission shall take into account the nature of the proposed use of land in the vicinity, the number of persons to reside or work in the proposed subdivision, the probable effect of the proposed subdivision upon traffic conditions in the vicinity, preservation of natural features, and relation to the city's master land use plan. No variance shall be recommended unless the planning commission finds the following.
  - (1) That there are such special circumstances or conditions affecting said property that the strict application of the provisions of this chapter would clearly be impractical or unreasonable. In such cases, the developer shall first state his reasons in writing as to the specific provision or requirement involved and submit them to the planning commission.
  - (2) That the granting of the specified variance will not be detrimental to the public welfare or injurious to other property in the area in which said property is situated.
  - (3) That the variance is necessary for the preservation and enjoyment of a substantial property right of the developer.
  - (4) That such variance will not violate the provisions of the State Subdivision Control Act.

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- (5) That such variance will not have the effect of nullifying the intent and purpose of this chapter, the zoning ordinance, nor the adopted master land use plan.
  - (b) Waivers of city standards, or variances from the standards, may be requested in writing by the developer of a proposed development. Written requests for waivers or variances must include sufficient technical details to support a reasonable justification for the requests.
  - (c) Requests for waivers or variances prior to approval of a preliminary plat or a street and drainage plan will be reviewed by the city engineer and presented to the city council for approval. Requests submitted after city council approval may require reconsideration and city council action on a revised plan.
  - (d) Requests for minor variances submitted after city council approval may be considered and approved by the city engineer. No construction based on a proposed variance may begin until proper approval has been given by the city.

(Ord. of 3-9-98)

### **Sec. 19-38. As-built drawings and digital files.**

Prior to acceptance of the streets by the city for maintenance, the developer's engineer shall sign and submit a complete set of prints of "as-built drawings", including all driveways and all changes made in the street and drainage plan during the construction phase. The as-built drawings will be maintained in the permanent city files. In addition, the developer's engineer shall submit digital computer files which include land boundaries, street alignment data, monumentation, right-of-way widths, "as-built" street and drainage plans and profiles.

(Ord. of 3-9-98)

### **Secs. 19-39—19-50. Reserved.**

## ***ARTICLE III. DESIGN AND CONSTRUCTION STANDARDS***

### **Sec. 19-51. General statement.**

The regulations in sections 19-52—19-55, inclusive, shall control the manner in which streets, lots, and other elements of a subdivision are arranged on the land. These design controls shall help insure convenient and safe streets, creation of usable lots, provision of space for public utilities, and reservation of land for recreational uses. The planning of attractive and functional neighborhoods shall be promoted, minimizing the undesirable features of unplanned, haphazard growth.

The planning commission has the responsibility for reviewing the design of each subdivision early in its design development. The commission shall insure that all of the requirements of sections 19-52—19-55, inclusive, are met.

(Ord. of 3-9-98)

### **Sec. 19-52. Suitability of land.**

If the planning commission finds that land proposed to be subdivided is unsuitable for subdivision development due to flooding, bad drainage, topography, inadequate water supply, schools, transportation facilities, and other such conditions which may endanger health, life, or property; and, if from investigations conducted by the public agencies concerned, it is determined that in the best interest of the public the land should

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not be developed for the purpose proposed, the commission shall not approve the land for subdivision unless adequate methods are advanced by the developer for solving the problems that will be created by the development of the land.

(Ord. of 3-9-98)

### **Sec. 19-53. Street design and construction standards.**

The arrangement, character, extent, width, grade construction, and location of all streets shall compliment the city's land use plan, or subsequent amendments thereto, and shall be considered in their relation to existing and planned streets, topographical conditions, and public convenience and safety; and in their appropriate relation to the proposed uses of the land to be served by such streets.

- (1) Blocks within the subdivision shall conform to the following standards:
  - a. No block shall be less than 300 feet or longer than 1200 feet between cross streets.
  - b. In platting residential lots contained less than 9600 square feet, the depth of the block shall not exceed 300 feet.
- (2) Lots within the subdivision shall conform to the following standards:
  - a. The lot arrangement and design shall be such that all lots will provide satisfactory and desirable building sites, properly related to topography and the character of surrounding development.
  - b. All side lines of lots shall be at right angles to straight street lines and radial to curved street lines except where a variation to this rule will provide a better street and lot layout. Lots with double frontage shall be avoided.
  - c. The dimensions of all residential lots shall conform to the standards of the zoning district. See Appendix C.
  - d. Where corner lots rear upon lots facing the side street, the corner lots shall have extra width sufficient to permit the establishment of front building lines on both the front and side of the lots adjoining the streets.
  - e. Lots on major street intersections and at all other acute angle intersections shall have a radius of 35 feet at the street corner. On business lots, a chord may be substituted for the circular arc.
- (3) The minimum requirements for the typical residential street cross section:
  - a. 60-foot right-of-way minimum.
  - b. Curb and gutter - 30 feet back to back, MDOT Type F4.
  - c. Underground storm drainage.
  - d. Subbase - Six-inch compacted MDOT Class II Granular, width 32 feet.
  - e. Aggregate base - Six-inch compacted MDOT 22A, width 26 feet.
  - f. Bituminous base - 2" MDOT bituminous mixture Type 13A, leveling, width 26 feet nominal.
  - g. Surface 1.5-inch MDOT bituminous mixture Type 13A, surface, width 26 feet nominal.
- (4) The minimum requirements for the typical industrial and arterial street cross section are:
  - a. 75 feet right-of-way minimum.
  - b. Curb and gutter - 36 feet back to back, MDOT Type F4.

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- c. Underground storm drainage.
  - d. Subbase - 6-inch compacted MDOT Class II granular, width 38 feet.
  - e. Aggregate base - 6" compacted MDOT 22A, width 32 feet.
  - f. Bituminous base - 2" MDOT bituminous Type 11A, width 32 feet.
  - g. Bituminous leveling - 1.5" MDOT bituminous Type 13A, leveling, width 32 feet.
  - h. Surface - 1.5-inch MDOT bituminous mixture Type 13A, surface, width 32 feet.
- (5) Slopes behind curbs shall be 4:1 or flatter, except that the area immediately behind a curb shall be virtually flat for at least three feet in width. No berms will be allowed in the right-of-way.
- (6) Horizontal alignment of streets.
- a. The centerline of construction shall coincide with the centerline of the right-of-way. Any changes from this standard must be approved by the city engineer.
  - b. All curvilinear streets shall have horizontal curves of not less than a 175-foot centerline radius.
  - c. The radius of corners at intersections shall be at least 35 feet to the back of curb for local streets and 50 feet to the back of the curb for industrial streets.
  - d. Alignments shall be designed to avoid obstructions of driver's view as required to assure sufficient stopping sight distance.
  - e. The minimum length of driveway and intersection sight distance within a subdivision or condominium shall be consistent with current city sight distance policy. Required sight lines must be located within the street right-of-way of new streets. On existing streets, a clear vision easement may be allowed if approved by the city engineer.
  - f. The intersecting angle of proposed centerlines of streets shall be 90 degrees, unless a variance is approved by the city engineer. In no case shall a variance be more than a ten-degree difference from the basic 90-degree requirement.
  - g. The horizontal alignment of street intersections shall include at least a 100-foot long tangent in all directions. An exception will be allowed for T-intersection on the outside of a curve, provided that adequate sight distance is assured.
  - h. Intersections within a subdivision shall be spaced at least 125 feet apart from centerline to centerline. When possible, approaches of side streets from opposite sides of a through street should be in direct alignment. Intersection spacing on an arterial street shall be determined by the city engineer.
  - i. Cul-de-sac streets shall terminate in circular pavement areas that are a minimum 40-foot radius to the back of the curb, as shown in the illustrations.  
  
If an island is provided, it shall be curbed and have a diameter no greater than 30 feet back to back. Furthermore, a horizontal clear zone must be assured for five feet behind the curb, and a vertical clear vision zone must be assured between heights three to eight feet above pavement level, except that trunks of deciduous trees will be allowed in the clear vision zone.
  - j. Boulevard sections shall be curbed and shall be 20 feet in width, back to back. Boulevard sections shall be no more than 300 feet in length, and medians shall not extend beyond the edge of the intersecting street. Sufficient taper of the roadway width must be provided adjacent to the interior end of a boulevard, according to MDOT requirements.
  - k. On curbed streets, the clear zone distance shall be at least five feet behind curb.

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- I. No "eyebrow" alignments will be allowed.
- (7) Roadway grades and vertical curves.
    - a. The minimum grade on any street shall be 0.5 percent.
    - b. The maximum grade on any street shall be 6.0 percent.
    - c. The grade of any stop-controlled street shall match the cross-slope of the edge of the through street, i.e. the two percent crown in most cases.
    - d. A vertical curve shall be required when the algebraic difference in street grade is two percent or more. Vertical curves shall be designed to AASHTO guidelines, except that the minimum length of curve shall be 100 feet.
    - e. Upon request, the city council will consider a vertical-curve length of only 50 feet on a stop-controlled road, adjacent to a through road. In such cases the curve may begin with zero grade at the edge of the through street.
    - f. Surface grades shall not exceed three percent within an intersection nor for a distance of 100 feet from the intersection of the centerlines.
    - g. The crown on all pavement surfaces shall be two percent unless otherwise specified.
  - (8) All excavations within the influence area of the pavement shall be backfilled with suitable granular material. All backfill material and construction shall meet the current MDOT requirements. Test reports will be required to verify the in-place density and material gradation.
  - (9) The finished subgrade surface shall be free of all topsoil, stones, stumps, organic matter, muck, peat, and frost heave material and shall be prepared in accordance with the current MDOT standard specifications for construction. The in-place density shall be verified by test reports or proof rolling.
  - (10) Underdrainage where required shall be in accordance with MDOT standard specifications.
  - (11) Subbase materials and construction shall conform with the current MDOT standard specifications for Class II granular material. Test reports will be required to verify the in-place density and material gradation.
  - (12) Aggregate base courses.
    - a. Aggregate base course materials shall be in accordance with the current MDOT standard specifications.
      1. Compacted 22A dense-graded aggregate shall be placed, as specified in this manual. The compacted depth of any layer shall be not more than 6 inches nor less than 3 inches. Each course shall be thoroughly compacted. Test reports will be required to verify in-place density.
      2. The use of slag material will not be permitted.
      3. For MDOT-certified aggregate stock, the developer's engineer shall verify compliance with the specifications by performing gradation analysis.
      4. The use of stabilized base is permissible. Type, thickness and mix must conform to MDOT standard specifications and must be approved by the city engineer.
    - b. Base material shall not be placed until the subbase has been approved by the city engineer. All current MDOT requirements shall be adhered to when placing the aggregate base course.
  - (13) Bituminous pavement.

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- a. Bituminous paving materials shall be in accordance with the MDOT standard specifications.
  - b. All current MDOT requirements shall be adhered to when placing bituminous pavement. The bituminous base and surfacing shall be laid in two courses to a total minimum compacted depth as designated.  

NOTE: Industrial and arterial streets shall be laid in three courses to a total minimum compacted depth as designated.
  - c. Bituminous pavement shall not be placed until the aggregate base course has been approved by the city engineer. Test reports will be required to verify aggregate gradation, bituminous content and in-place density.
  - d. All manhole covers and other utility castings within the paved area shall be adjusted to grade between the laying of the leveling and wearing courses, per MDOT standard specifications. The adjacent pavement and/or curb and gutter shall be replaced to the original elevation, condition and kind of construction, unless otherwise provided.

(14) Sidewalks.

- a. Sidewalks, when called for on the plans, shall meet the MDOT standard specifications and standard plans, city specifications, as well as the current Americans with Disabilities Act requirements.
- b. Sidewalks shall be required on both sides of the street in all residential subdivisions where the predominate lot width is less than 100 feet and on one side where the predominate lot width is greater than 100 feet but less than 150 feet. No sidewalks will be required where the predominate lot width is greater than 150 feet.

(15) The curb and gutter cross-section shall be as illustrated herein for MDOT F4 curb, or as per the current MDOT standard specifications and standard plans. The MDOT B2 curb shall be used on intersections with state trunklines. Testing reports shall be required to verify the concrete mix and strength as stated in the concrete pavement section. Backfill immediately behind the curb shall consist of suitable granular material.

(16) Street lighting.

- a. The developer shall install street lights in accordance with standards approved by the city superintendent.
  - 1. In each residential subdivision which contains a majority of lots with an individual lot width of 100 feet or less at the front property line, such lights shall be located at each street entrance to the subdivision and in each street intersection within the subdivision. In addition, whenever the distance between two adjacent street lights would exceed 400 feet, then additional street lights shall be installed in such a manner that proper light intensity shall be provided and maintained.
  - 2. In each residential subdivision which contains a majority of lots with an individual lot width greater than 100 feet at the front property line, such lights shall be located at each street entrance to the subdivision and in each street intersection within the subdivision. In addition, whenever the distance between two adjacent street lights would exceed 600 feet, then additional street lights shall be installed in such a manner that proper light intensity shall be provided and maintained.
  - 3. New subdivision street lighting shall be installed with all associated wiring underground.

(17) Galvanized steel beam guardrail shall be placed at all locations where warranted according to AASHTO guidelines or specified by the city. Installation shall be in accordance with MDOT standard plans and



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standard specifications. In order to accommodate a guardrail, the grade width must be increased by at least five feet.

- (18) All topsoil, seed, fertilizer and mulch placement shall be in accordance with the current MDOT standard specifications and standard plans. All disturbed areas shall be covered with three inches of topsoil. No street will be accepted by the city where erosion or sedimentation is evident. Also the seeding must be sufficiently established in and along the street right-of-way to assure that future erosion or sedimentation problems will be of no concern.
- (19) Trees should be provided by the developer in all subdivisions. The trees shall be species which are resistant to damage and disease and which do not cause interference with underground utilities, street lighting, or visibility at street intersections. Existing trees should be retained in new subdivision wherever possible.
- (20) All items that are not stated within these specifications, but that are essential to the proper construction of the streets in question, shall be of material and construction in accordance with the current MDOT standard specifications and standard plans, and shall be submitted to the city engineer for approval.
- (21) Survey monuments shall be placed at all locations required by P.A. 288 and P.A. 132. The installation of monuments within the right-of-way shall also conform to procedures established by the city. At least four witnesses shall be established for each monument. A permanent benchmark shall be constructed within the right-of-way in each phase of the development and shall conform to procedures established by the city.
- (22) All signs, pavement markings and other traffic control devices shall be placed in accordance with approved plans, and shall conform to MDOT standard plans and standard specifications, and the Michigan Manual of Uniform Traffic Control Devices, and current city practices. The city must be notified and shall give approval of devices and locations prior to placement. High intensity reflectorized materials shall be used on all permanent signs (MDOT Type III A). Placement of signs, pavement markings and other traffic control devices shall not begin until all the construction work has been completed on the street and drainage system, unless otherwise approved by the city engineer. All such signs, markings and devices, other than those to be placed by the city, shall be completed prior to final inspection.
  - a. Upon acceptance of new streets, the city will install the permanent street name signs and traffic control signs as soon as possible. If requested by the developer, before acceptance of the streets, and if lots are occupied, the city will install street name signs and stop signs at the entry intersections with existing city streets. However, if the signs are damaged before acceptance, the developer must pay for replacement. Alternatively, the developer is encouraged to provide temporary street name signs and stop signs during construction and before acceptance.

(Ord. of 3-9-98)

### **Sec. 19-54. Drainage design and construction standards.**

All street surfaces and other areas within the street right-of-way shall be designed, constructed and maintained such that surface water is free to drain to existing drainage courses. Discharged water flowing onto adjoining property should follow an established drainage course. The drainage flowing into ditches in existing street right-of-way from adjoining property shall not be allowed to increase as a result of any new development.

- (1) Drainage from the street right-of-way may be accommodated by drains located in an adjoining drainage easement. As deemed necessary by the city, all such drains carrying significant proportions of the run-off from the street right-of-way shall be enclosed drains with approved material, size and grade

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in accordance with the city design standards. All other appurtenances such as headwalls and manholes shall be in accordance with the current MDOT Standards.

- (2) The storm drainage design shall be in accordance with the agency that has jurisdiction over the watercourse. In no case shall the design flow capacity be less than a ten-year, 24-hour storm event. Drainage design computations shall be in accordance with the Soil Conservation Service (SCS) TR-55 or TR-20 Methods, or the Rational Method, and be submitted for all storm sewers, drainage ditches, retention/detention ponds, culverts and restricted discharges. Furthermore, computations shall encompass all drainage areas, and, include all rates of discharge, runoff coefficients and times of concentration for each inlet and outlet design point. When using SCS design methods, all design storm events shall be based on the SCS Type II rainfall distribution.
- (3) The design of all storm sewers shall provide a flowing velocity of three feet per second, minimum, and 10 feet per second, maximum.
  - a. All storm sewers and appurtenant structures shall be constructed of materials that meet the current MDOT standard specifications and standard plans. Plastic pipe shall be required exclusively, in accordance with MDOT standards, including a minimum cover of two feet. Reinforced concrete pipe shall be used in area with less than two feet of cover.
  - b. All current MDOT requirements shall be adhered to when placing storm sewers and appurtenant structures.
  - c. Structures and covers.
    1. Structure design shall be in accordance with current MDOT standard plans for manholes, catch basins and inlets. A structure schedule shall be provided on the plans showing each manhole, catch basin or end section by number that includes structure type, casting, inverts, rim elevation and depth.
    2. Structure covers shall be in accordance with current MDOT standard plans. When covers of catch basins or inlets are slightly smaller than the width of the standard curb, the casting shall be placed flush with the edge of the pavement, and the back of curb shall be trimmed to the lesser width by a transition of at least two feet in curb length. All catch basin or inlet covers shall be designed to accept the ten-year, 24-hour design storm event. A backwater condition should not occur during this storm event.
    3. Catch basins shall have sumps.
    4. Shop drawings shall be submitted for all storm sewers and appurtenances to be installed. Shop drawings will consist of letters of certification for the pipe and manufacturer's standard details or cut sheets for structures and appurtenances.
  - d. Location of structures.
    1. Catch basins, inlets and culverts shall be placed such that all low points are properly drained.
    2. Structures shall be placed in locations to prevent flow across a street intersection.
    3. Catch basins and inlets serving a continuous flow line shall be spaced no more than 300 feet apart.
    4. Manholes shall be located at all points of change in alignment, size, or grade and shall be spaced no more than 300 feet apart.
  - e. The construction shall be inspected by the developer's engineer to assure that the storm sewers are true to line and grade and properly bedded and backfilled. In addition, inspection of plastic

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pipe shall include 95 percent mandrel testing in accordance with MDOT standards. All storm sewers shall be flushed and all sumps cleaned prior to final inspection.

- (4) Whenever a storm drainage system for a proposed subdivision or commercial development is designed to outlet into an existing storm sewer system, and the such existing storm sewer cannot be shown to be adequate as outlined in this section, a restricted flow into the existing system will be required. The restricted flow allowed to the existing sewer will be determined by the city engineer.
- (5) All excess storm water runoff shall be retained within the boundaries of the development and shall be stored in a retention facility of sufficient capacity to contain the excess runoff resulting from a 25-year frequency storm having a duration of at least 24 hours. If an open pond is used as a retention facility, it shall be designed with a capacity safety factor of 1.5 unless it is lined in such a way that vegetative growth is prohibited.
- (6) The minimum size for crossroad culverts shall be 18-inch diameter, with equivalent-size end sections where applicable.
  - a. Material shall be used as specified by the current MDOT standards. Plastic pipe may be used in accordance with current MDOT standards, including a minimum cover of two feet.
  - b. Construction
    1. Installation and erosion treatment at the ends of culverts shall be in accordance with current MDOT standards.
    2. All backfill shall be MDOT Class II material or other suitable material approved by the city engineer and compacted under the controlled density method in accordance with the current MDOT standards. Backfill shall be placed and compacted with a mechanical compactor in layers not exceeding nine inches.
    3. All bedding and filling shall be in accordance with current MDOT standards.
  - c. The construction shall be inspected by the developer's engineer to assure that the culverts are true to line and grade and properly bedded and backfilled. In addition, inspection of plastic pipe shall include 95 percent mandrel testing in accordance with MDOT standards.

(Ord. of 3-9-98)

### **Sec. 19-55. Water and sewer main lines.**

- (a) Each lot within the subdivided area shall be provided with a connection to approved public water supply.
- (b) Fire hydrants shall be installed in all subdivisions.
  - (1) Fire hydrants with two and one-half inch outlets and one large pumping connection shall be provided by the developer in all subdivisions with public water supplies. The hydrants should be located between property lines and curbs with all outlets facing or parallel to the street. Hydrants shall be placed at the corners of all blocks and at mid-block for blocks exceeding 800 feet in length. Hydrants shall also be required at the entrance and end of all cul-de-sacs exceeding 400 feet in length.
  - (2) The type of hydrant and control valves and the location of the hydrant shall be approved by the city superintendent. The minimum size of any water line serving any hydrant shall not be less than six inches in diameter and should be circulating water lines. The size and location of waterlines should be approved by the city engineer and the Michigan DEQ or its equivalent.
- (c) Each lot within the subdivided area shall be provided with a connection to a public sewer. All connections and the subdivision sewer system shall comply with regulations of the state board of health.

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- (d) The type of materials for water and sewer construction (including pipe, valves, and shut-offs) shall be approved by the city superintendent.
  - (e) If the owner develops the property in phases, the sewer trunks shall be designed and built to serve the entire area or designed and built in such a manner that they can easily be expanded to serve the entire area.
- (Ord. of 3-9-98)

**Secs. 19-56—19-71. Reserved.**

**Sec. 19-72. Lot division.**

The division of a lot in a recorded plat is prohibited unless approved, following application to the city council, in conformance with Act 288, P.A. 1967, as amended. The application shall be filed with the city clerk and shall state the reasons for the proposed division. No lot in a recorded plat shall be divided into lots for building purposes each of which is less in area and dimensions than permitted by the city zoning ordinance. The division of a lot that results in lots smaller than lots permitted in the zoning ordinance may be permitted, but only for the purpose of adding to an existing building site or sites. The application shall so state and shall be in affidavit form. Nothing herein should be construed to excuse compliance with applicable statutory or regulatory requirements governing vacation or amendment of plats if the same are applicable to a proposed lot division.

(Ord. No. 97-220, 10-27-97)

## **Chapter 20 TRAFFIC AND MOTOR VEHICLES<sup>41</sup>**

### **ARTICLE I. IN GENERAL**

**Sec. 20-1. Roller skates, street skates, skateboards, rollerblades, bicycles.**

*Intent and purpose.* This section is designed to define and regulate the use of roller skates, street skates, scooters, skate blades, roller blades, skate boards, bicycles and other roller devices, upon public property and property open to the general public, to protect the health, safety and welfare of the citizens of the city.

- (1) *Definitions.* For the purpose of this section, the following terms shall have the meanings designated in this subsection:

*Bicycle* means a device upon which a person may ride, having either two or three wheels in a tandem or tricycle arrangement, all of which are 12 inches in diameter or greater.

*Roller skate* and *street skates* mean a set of series of small wheels on the bottom of a shoe or frame that would attach to a shoe or frame which are used for gliding on a hard surface such as a floor, sidewalk, parking lot, etc.

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<sup>41</sup>Cross reference(s)—Transportation of garbage and refuse, Ch. 10; offenses, Ch. 14; streets, sidewalks and other public places, Ch. 18.

State law reference(s)—Michigan Vehicle Code, MCL 257.1 et seq.; regulation by local authorities, MCL 257.605, 257.606, 257.610.

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*Scooter* means a multi-wheeled device designed to be ridden by a person standing thereon.

*Skate blades* and *roller blades* mean shoes with a row of wheels attached thereto, either permanently or temporarily affixed to a shoe or frame.

*Skateboard* means a board or flat piece of material consisting of metal, fiberglass, plastic, wood, or other material which has affixed thereto wheels and is designed to be ridden by a person standing thereon.

For purposes of this section, to rollerskate means to skate on any type of roller skates, street skates, scooter, skate blades, roller blades, or skate board.

- (2) *Use regulated.* It shall be unlawful for any person to rollerskate, in violation of the following sections:
- a. *Riding on sidewalks.*
    - 1. Bicycles and roller skates shall not be ridden on the sidewalks within the business district (being Main Street west from Summit Street to Bean Creek Bridge, and north from Main Street on North Street to Locust Street).
    - 2. It shall also be unlawful to bicycle or rollerskate anywhere on publicly owned parking areas, streets, and/or sidewalks lawfully posted by authority of the city council.
  - b. *Riding in streets.* No roller skate shall be used on any city street.
  - c. *Riding on certain devices or structures.* It shall be unlawful to roller skate on any bench, table, planter, wall, retaining wall, or other device or structure which is not intended for pedestrian or vehicle traffic, or to jump or step on or off such devices or structures in the process of rollerskating.
  - d. *Reckless and/or dangerous roller skating or bicycling.* It shall be unlawful for any person to roller skate on any sidewalk or other paved surface intended for pedestrians in a reckless or careless manner, or in a manner which is likely to result in injury or harm to any person or property.
  - e. *Rollerskating or bicycling while attached to vehicles.* No person shall rollerskate while either the roller skates or bicycle or their person is attached to any vehicle upon any street or highway or any area open to the general public.
- (3) *Penalties.* Any violation of this section 20-1 shall be subject to the penalties set out in section 1-13 of the City Code.

(Ord. No. 03-265, 7-28-03)

Editor's note(s)—Ord. No. 03-265, adopted July 28, 2003, repealed section 20-1 in its entirety and replaced it with a new section 20-1. Former section 20-1 pertained to proof of insurance.

**Secs. 20-2—20-25. Reserved.**

## **ARTICLE II. UNIFORM TRAFFIC CODE**

### **Sec. 20-26. Uniform Traffic Code.**

- (a) *Code and amendments and revisions adopted.* The Uniform Traffic Code for Cities, Townships, and Villages as promulgated by the director of the Michigan Department of State Police pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328 and made effective October 30, 2002, and all

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future amendments and revisions to the Uniform Traffic Code when they are promulgated and effective in this state are incorporated and adopted by reference.

- (b) *References in code.* References in the Uniform Traffic Code for Michigan Cities, Townships and Villages to "governmental unit" shall mean the City of Morenci; references to "traffic engineer" shall mean the Morenci City chief of police.
- (c) *Notice published.* The city clerk published the ordinance from which this section is derived in the manner required by law and at the same time published a supplementary notice setting forth the purpose of the said Uniform Traffic Code and of the fact that a complete copy of the code is available at the office of the clerk for inspection by the public at all times.
- (d) *Penalties.* The penalties provided by the Uniform Traffic Code for Cities, Townships, and Villages were adopted by reference.

(Code 1963, § 10.1; Ord. No. 03-264, 7-28-03)

### **Secs. 20-27—20-50. Reserved.**

Editor's note(s)—Ord. No. 03-264, adopted July 28, 2003, repealed sections 20-27, 20-28 in their entirety. Former sections 20-27, 20-28 pertained to copies of and amendments to the Uniform Traffic Code, and derived from the Code of 1963, §§ 10.3, 10.4; Ord. of Sept. 10, 1979; Ord. of Dec. 14, 1981; Ord. No. 98-231, adopted Nov. 23, 1998.

## ***ARTICLE III. PARKING, STOPPING AND STANDING***<sup>42</sup>

### ***DIVISION 1. GENERALLY***

#### **Sec. 20-51. Authority to issue traffic control orders.**

The authority of the chief of police to issue traffic control orders as provided in this division shall include the authority to:

- (1) Order stop signs, yield signs or other traffic control devices erected at specified entrance or exit locations to a parking area or at an intersection in the parking area;
- (2) Regulate traffic in the parking area, including regulation by means of traffic control signals;
- (3) Prohibit or regulate the turning of vehicles or specified types of vehicles at intersections or other designated locations in the parking area;
- (4) Regulate the crossing of a roadway in the parking area by pedestrians;
- (5) Designate a separate roadway, drive, or lane in the parking area for one-way traffic;
- (6) Prohibit, regulate, restrict or limit the stopping, standing, or parking of vehicles in specified areas of the parking area;
- (7) Designate safety zones, loading zones, and other restricted areas in the parking area;

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<sup>42</sup>State law reference(s)—Authority to regulate the standing or parking of vehicles, MCL 257.606(1)(a).

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- (8) Provide for the removal and storage of vehicles parked or abandoned in the parking area during snow storms, floods, fires or other public emergencies or found unattended in the parking area, if the vehicles constitute an obstruction to traffic or if stopping, standing, or parking is prohibited, and for the payment of reasonable charges for the removal and storage by the owner or operator of the vehicle;
  - (9) Adopt additional reasonable rules with respect to traffic and parking in a parking area as local conditions may require for the safety and convenience of the public or of the users of the parking area.

(Ord. No. 19-345, § 1, 12-16-19)

**Secs. 20-52—20-60. Reserved.**

*DIVISION 2. PARKING VIOLATIONS BUREAU<sup>43</sup>*

**Sec. 20-61. Established.**

Pursuant to section 8395 of the Revised Judicature Act, State of Michigan, as added by Public Act 154 of 1968, a parking violations bureau for the purpose of handling alleged parking violations within the city is hereby established. The parking violations bureau shall be under the supervision and control of the mayor.

(Code 1963, § 10.4(a))

**Sec. 20-62. Location, employees, rules and regulations.**

The mayor shall, subject to the approval of the city council, establish a convenient location for the parking violations bureau, appoint qualified city employees to administer the bureau and adopt rules and regulations for the operation thereof.

(Code 1963, § 10.4(b))

**Sec. 20-63. Procedure generally.**

No violation may be settled at the parking violations bureau except at the specific request of the alleged violator. No penalty for any violation shall be accepted from any person who denies having committed the offense, and in no case shall the person who is in charge of the bureau determine, or attempt to determine, the truth or falsity of any fact or matter relating to such alleged violation. No person shall be required to dispose of a parking violation at the parking violations bureau, and all persons shall be entitled to have any such violation processed before a court having jurisdiction thereof, if they so desire. The unwillingness of any person to dispose of any violation at the parking violations bureau shall not prejudice him or in any way diminish the rights, privileges and protection accorded to him by law.

(Code 1963, § 10.4(d))

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<sup>43</sup>State law reference(s)—Authority to create a parking violations bureau, MCL 600.8395.

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**Sec. 20-64. Issuance of ticket, notice of violation.**

The issuance of a traffic ticket or notice of violation by a police officer of the city shall be deemed an allegation of a parking violation. Such traffic ticket or notice of violation shall indicate the length of time in which the person to whom the same was issued must respond before the parking violations bureau. It shall also indicate the address of the bureau, the hours which the bureau is open, the amount of the penalty scheduled for the offense for which the ticket was issued and advise that a warrant for the arrest of the person to whom the ticket was issued will be sought if such person fails to respond within the time limit.

(Code 1963, § 10.4(e))

**Sec. 20-65. Violations under jurisdiction of bureau.**

The following violations may be brought before the parking violations bureau:

*OffensePenalty*

- (1) Parking too far from curb\$10.00
- (2) Angle parking violations10.00
- (3) Obstructing traffic10.00
- (4) Prohibited parking (signs necessary):
  - a. On sidewalk10.00
  - b. In front of drive10.00
  - c. Within intersection10.00
  - d. Within 15 feet of hydrant10.00
  - e. On crosswalk10.00
  - f. Within 20 feet of crosswalk or 15 feet of corner lot lines10.00
  - g. Within 30 feet of street side traffic sign or signal10.00
  - h. Within 50 feet of railroad crossing10.00
  - i. Within 20 feet of fire station entrance10.00
  - j. Within 75 feet of fire station entrance on opposite side of street (signs required)10.00
  - k. Beside street excavation when traffic obstructed10.00
  - l. Double parking10.00
  - m. On bridge or viaduct or within tunnel10.00
  - n. Within 200 feet of accident where police in attendance10.00
  - o. In front of theater10.00
  - p. Blocking emergency exit10.00
  - q. Blocking fire escape10.00
- (5) In prohibited zone (signs required)10.00



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- (6) In alley10.00
  - (7) Parking for prohibited purpose:
    - a. Displaying vehicle for sale10.00
    - b. Working on or repairing vehicle10.00
    - c. Displaying advertising10.00
    - d. Selling merchandise10.00
    - e. Storage over 48 hours10.00
  - (8) Wrong side boulevard roadway10.00
  - (9) Loading zone violation10.00
  - (10) Taxicab, parking other than cabstand10.00
  - (11) Bus, taxicab stand violations10.00
  - (12) Failure to set brakes10.00
  - (13) Parked on Fade, wheels not turned to curb10.00
  - (14) Bicycle parking violations10.00
  - (15) Reserved.
  - (16) Commercial vehicle parking10.00
  - (17) All night parking between 2:00 p.m. to 5:00 p.m. on Thursday morning from beginning of April to end of October10.00

(Code 1963, § 10.4(f); Ord. No. 01-240, 10-22-01; Ord. No. 19-345, § 1, 2, 12-16-19)

### **Sec. 20-66. Other violations.**

No violation not scheduled in section shall be disposed of by the parking violations bureau. The fact that a particular violation is scheduled shall not entitle the alleged violator to a disposition of the violation at the bureau, and in any case the person in charge of such bureau may refuse to dispose of such violation in which case any person having knowledge of the facts may make a sworn complaint before any court having jurisdiction of the offense as provided by law.

(Code 1963, § 10.4(c))

### **Sec. 20-67. Vehicles restricting snow removal; penalty and enforcement.**

It is unlawful to park, leave unattended or fail to remove any motor vehicle or trailer on any public street, highway, parking lot or alleyway, or cause to remain parked after a snowfall and/or drifting snow of two inches or more, prior to the removal by city plowing of said street. All vehicles and/or trailers found to be in violation of this section shall be ticketed and the owner, if possible, notified to remove said vehicle from the public street, highway, parking lot or alleyway. In addition, the vehicle and/or trailer may be removed from the public street, highway, parking lot or alleyway at the expense of the vehicle owner. The expense shall include all towing and storage charges attached to the vehicle. Enforcement of this section shall be under the direction of the police department personnel.

(Ord. No. 19-345, § 1, 12-16-19)

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**Sec. 20-68. Notification of restrictions.**

The city superintendent or his designee shall cause notification to be given to all persons residing and those doing business in the area of the restrictions and of penalties set forth by section 20-67. Notification shall be made by publication in the official city newspaper within 90 days from the date of adoption of the ordinance codified in this division and by posting signs in appropriate places on the streets and highways of the city.

(Ord. No. 19-345, § 1, 12-16-19)

**Secs. 20-69—20-85. Reserved.**

**ARTICLE IV. SNOWMOBILES**

**Sec. 20-86. 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:

*Motion speed* shall mean that speed which is necessary to move the vehicle, but not in excess of five miles per hour.

*Snowmobile* shall mean any motor-driven vehicle designed for travel primarily on snow or ice of a type which utilizes sled-type runners or skis, or an endless belt tread or any combination of these or other similar means of contact with the surface upon which it operates. It is any vehicle which is regulated by Act No. 74 of the Public Acts of Michigan of 1968 (MCL 257.1501 et seq.). It is not a vehicle which must be registered under Act No. 300 of the Public Acts of Michigan of 1949 (MCL 257.1 et seq.), as amended.

(Code 1963, § 10.10(a), (b))

Cross reference(s)—Definitions and rules of construction generally, § 1-2.

**Sec. 20-87. Violations.**

Whoever violates any provision of this article is guilty of a misdemeanor.

(Code 1963, § 10.23)

**Sec. 20-88. Speed.**

Snowmobiles shall be operated at motion speed only within the limits of the city.

(Code 1963, § 10.11)

**Sec. 20-89. Prohibited in business district.**

Snowmobiles shall be prohibited in the business district.

(Code 1963, § 10.12)

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**Sec. 20-90. Prohibited on state trunk lines.**

Snowmobiles shall be prohibited on any state trunk lines; however, snowmobiles may cross state trunk lines at right angles at any intersection of a street or road upon which they are allowed to travel and a state trunk line.

(Code 1963, § 10.13)

**Sec. 20-91. Use right side of roadway.**

Snowmobiles shall be operated to the far right-hand side of the roadway as near to the curblines as possible.

(Code 1963, § 10.14)

**Sec. 20-92. Head, tail lights.**

Snowmobiles shall have in operation at all times, a lit headlamp and taillamp.

(Code 1963, § 10.15)

**Sec. 20-93. Yield right-of-way.**

Snowmobiles shall yield the right-of-way to all other motor vehicle traffic.

(Code 1963, § 10.16)

**Sec. 20-94. Application of other laws.**

Snowmobiles shall obey all highway rules of the motor vehicle code and all other codes governing snowmobiles.

(Code 1963, § 10.17)

**Sec. 20-95. Ingress to, egress from residence.**

Snowmobiles shall be driven only from the person's place of residence directly out of the city and back to the person's place of residence by the most direct legal route.

(Code 1963, § 10.18)

**Sec. 20-96. Age of operators.**

Snowmobiles shall not be operated by a person under the age of 12. A person between the age of 12 and 16 may operate if in the possession of a valid snowmobile safety certificate, and in direct supervision of a person that is 18 years of age or over.

(Code 1963, § 10.19)

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**Sec. 20-97. Hours of operation.**

Snowmobiles shall not be operated between the hours of 12:00 midnight to 6:00 a.m., Monday through Friday; and 2:00 a.m. to 6:00 a.m. on Saturday and Sunday.

(Code 1963, § 10.20)

**Sec. 20-98. Operation in city by nonresidents—Prohibited.**

Persons residing outside the city limits shall be prohibited from riding snowmobiles into the city.

(Code 1963, § 10.21)

**Sec. 20-99. Same—Waiver for nonresidents.**

Section 20-98 may be waived during snow emergency situations where roadways are impassable to other types of transportation, but only for the purpose of acquiring supplies, and must still remain off the business portion of Main Street and North Street, further described as that portion of Main Street from Mill Street to Summit Street and that portion of North Street from Locust Street to Main Street.

(Code 1963, § 10.22)

**Secs. 20-100—20-119. Reserved.**

***ARTICLE V. MICHIGAN VEHICLE CODE<sup>44</sup>***

**Sec. 20-120. Code adopted.**

The Michigan Vehicle Code, 1949 PA 300, as amended, MCL 257.1 to 257.923, is hereby adopted by reference.

(Ord. No. 02-252, 7-22-02; Ord. No. 12-299, § 1, 2-27-12)

**Sec. 20-121. References in code.**

References in the Michigan Vehicle Code to "local authorities" shall mean the City of Morenci.

(Ord. No. 02-252, 7-22-02; Ord. No. 12-299, § 1, 2-27-12)

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<sup>44</sup>Editor's note(s)—Ord. No. 02-252, adopted July 22, 2002, amended the Code with the addition of article V, sections 20-100—20-103. In order to allow for the future expansion of article IV, the provisions of said ordinance have been included herein as article V, sections 20-120—20-123, at the discretion of the editor.

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**Sec. 20-122. Adoption of MCL [257.]625(1)(c).**

Pursuant to MCL 117.4i, the City of Morenci adopts by reference Section 625(1)(c) of the Michigan Vehicle Code, 1949 PA 300 (MCL 257.625(1)(c)).

(Ord. No. 02-252, 7-22-02; Ord. No. 12-299, § 1, 2-27-12)

**Sec. 20-123. Notice to be published.**

The city clerk/administrator shall publish this article in the manner required by law and shall at the same time publish a supplementary notice setting forth the purpose of the said Michigan Vehicle Code and of the fact that a complete copy of the code is available at the office of the clerk for inspection by the public at all times.

(Ord. No. 02-252, 7-22-02; Ord. No. 12-299, § 1, 2-27-12)

**Sec. 20-124. Penalties.**

- a. The penalties provided by the Michigan Vehicle Code are adopted by reference, provided, however, that except for violations of MCL [257.]625(1)(c), the city may not enforce any provision of the Michigan Vehicle Code for which the maximum period of imprisonment is greater than 93 days.
- b. Pursuant to MCL 117.4i, violations of MCL [257.]625(1)(c) are a misdemeanor punishable by one or more of the following:
  - (a) Community service for not more than 360 hours.
  - (b) Imprisonment for not more than 180 days.
  - (c) A fine of \$700.00.

(Ord. No. 12-299, § 1, 2-27-12)

**Secs. 20-125—20-150. Reserved.**

***ARTICLE VI. UNIFORM TRAFFIC CODE FOR MICHIGAN CITIES, TOWNSHIPS AND VILLAGES<sup>45</sup>***

**Sec. 20-151. Code and amendments and revisions adopted.**

The Uniform Traffic Code for Cities, Townships, and Villages as promulgated by the director of the Michigan department of state police pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328 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 and adopted by reference.

(Ord. No. 02-258, § 1, 12-9-02)

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<sup>45</sup>Editor's note(s)—Ord. No. 02-258, § 1—4, adopted Dec. 9, 2002, did not specifically amend the Code. Hence, its inclusion herein as article VI, sections 20-151—20-154, was at the discretion of the editor.

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**Sec. 20-152. References in code.**

References in the Uniform Traffic Code for Michigan Cities, Townships and Villages to "governmental unit" shall mean the City of Morenci; references to "traffic engineer" shall mean the Morenci city chief of police.

(Ord. No. 02-258, § 2, 12-9-02)

**Sec. 20-153. Notice to be published.**

The city clerk/administrator shall publish this article in the manner required by law and shall at the same time publish a supplementary notice setting forth the purpose of the said Uniform Traffic Code and of the fact that a complete copy of the code is available at the office of the clerk for inspection by the public at all times.

(Ord. No. 02-258, § 3, 12-9-02)

**Sec. 20-154. Penalties.**

The penalties provided by the Uniform Traffic Code for Cities, Townships, and Villages are adopted by reference.

(Ord. No. 02-258, § 4, 12-9-02)

***ARTICLE VII. [GOLF CARTS]***

**Sec. 20-155. [Definitions.]**

For the purpose of enforcing the provisions of this chapter, certain terms and words used herein are defined as follows:

*City* means the City of Morenci.

*Driver license* means an operator's or chauffeur's license or permit to an individual by the Secretary of State under Chapter III of the Michigan Vehicle Code, 1949 PA 300, MCL 257.301 to MCL 257.329, for that individual to operate a vehicle, whether or not conditions are attached to the license or permit.

*Golf cart* means a vehicle designed for transportation while playing the game of golf. A golf cart is not required to meet the vehicle safety requirements of a low-speed vehicle for approval under this section.

*Operate* means to ride in or on, or be in actual physical control of the operation of the golf cart.

*Operator* means a person who operates or is in actual physical control of the operation of a golf cart.

*Maintained portion* means that portion of a road improved, designated or ordinarily used for vehicular traffic.

*Road* means a road or street which is in the City of Morenci street system. Road does not include a private road. Street and road are intended to be interchangeable phrases.

*Sunset and sunrise* means that time determined by the National Weather Service.

(Ord. No. 16-323, § 1, 4-25-16; Ord. No. 17-327, § 1, 1-9-17)

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## Sec. 20-156. Operation of golf carts on city streets.

A person may operate a golf cart on city streets, subject to the following restrictions:

- (a) A person shall not operate a golf cart on any street unless he or she is at least 16 years old and is licensed to operate a motor vehicle.
- (b) The operator of a golf cart shall comply with the signal requirements of MCL 257.648 that apply to the operation of a vehicle.
- (c) The operator of a golf cart shall obey by all sections pertaining to traffic in the Michigan Motor Vehicle.
- (d) A person operating a golf cart upon a roadway shall ride as near to the right side of the roadway as practicable, exercising due care when passing a standing vehicle or one proceeding in the same direction.
- (e) A person shall not operate a golf cart on a state trunk line highway (M-156). This subsection does not prohibit a person from crossing a state trunk line highway when operating a golf cart on a street of the city, using the most direct line of crossing.
- (f) Where a usable and designated path for golf carts is provided adjacent to a highway or street, a person operating a golf cart shall be required to use that path.
- (g) A person operating a golf cart shall not pass between lines of traffic, but may pass on the left of traffic moving in his or her direction in the case of a two-way street or on the left or right of traffic in the case of a one-way street, in an unoccupied lane.
- (h) A golf cart shall not be operated on a sidewalk constructed for the use of pedestrians.
- (i) A golf cart shall be operated at a speed not to exceed 15 miles per hour and shall not be operated on a highway or street with a speed limit of more than 30 miles per hour except to cross that highway or street. The city may, by resolution, designate roads or classifications of roads for use by golf carts under this subsection.
- (j) A golf cart shall not be operated on the streets of the city during the time period from 1/2 hour before sunset to 1/2 hour after sunrise.
- (k) A person operating a golf cart or who is a passenger in a golf cart is not required to wear a crash helmet.
- (l) A golf cart operated on a street of the city under this section is not required to be registered under this act for purposes of section 3101 of the insurance code of 1956, 1956 PA 218, MCL 500.3101.
- (m) This section does not apply to a police officer, city employees, and city volunteers in the performance of his or her official duties.
- (n) A golf cart shall not be operated during inclement weather or with snow and / or ice on the ground.
- (o) Off-road vehicles, such as Gators, all-terrain vehicles (ATVs), a multitrack or multi-wheel drive vehicle, dune buggy, or like-vehicles are not considered golf carts.
- (p) Violations of any provisions of this section shall be penalized as a civil infraction.

(Ord. No. 16-323, § 1, 4-25-16; Ord. No. 17-327, § 2, 1-9-17)

## Chapter 21 UTILITIES<sup>46</sup>

### ARTICLE I. IN GENERAL

**Secs. 21-1—21-25. Reserved.**

### ARTICLE II. WATER SERVICE

#### Sec. 21-26. 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* shall mean the water department of the city.

*Superintendent* shall mean the superintendent of the department.

*Water connection* shall mean that part of the water distribution system connecting the water main with the premises served.

*Water main* shall mean that part of the water distribution system located within easement lines or streets designed to supply more than one water connection.

(Code 1963, § 2.1)

Cross reference(s)—Definitions and rules of construction generally, § 1-2.

#### Sec. 21-27. Service connections.

Applications for water connections shall be made to the department on forms prescribed and furnished by it. Water connections and water meters shall be installed in accordance with rules and regulations of the department and upon payment of the required connection fee and meter installation fee. All meters and water connections shall be the property of the city. Connection fees shall not be less than the cost of materials, installation and overhead attributable to such installations.

(Code 1963, § 2.2)

#### Sec. 21-28. Turning on water service.

No person, other than an authorized employee of the department, shall turn on or off any water service, except that a licensed plumber may turn on water service for testing his work (when it must be immediately

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<sup>46</sup>Cross reference(s)—Buildings and building regulations, Ch. 6; streets, sidewalks and other public places, Ch. 18; subdivision regulations, Ch. 19.



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turned off) or upon receiving a written order from the department; provided, that upon written permit from the department, water may be turned on for construction purposes upon payment of the charges applicable thereto.

(Code 1963, § 2.3)

### **Sec. 21-29. Water meters.**

All premises using water shall be metered, except as otherwise provided in this article. No person except a department employee shall break or injure the seal or change the location of, alter or interfere in any way with any water meter.

(Code 1963, § 2.4)

### **Sec. 21-30. Access to meters.**

The department shall have the right to shut off the supply of water to any premises where the department is not able to obtain access to the meter. Any qualified employee of the department shall, at all reasonable hours, have the right to enter the premises where such meters are installed for the purpose of reading, testing, removing, or inspecting same, and no person shall hinder, obstruct, or interfere with such employee in the lawful discharge of his duties in relation to the care and maintenance of such water meter.

(Code 1963, § 2.5)

### **Sec. 21-31. Reimbursement for damage.**

Any damage which a meter may sustain resulting from carelessness of the owner, agent or tenant or from neglect of either of them to properly secure and protect the meter, as well as any damage which may be wrought by frost, hot water or steam backing from a boiler, shall be paid by the owner of the property to the city on presentation of a bill therefor; and in cases where the bill is not paid, the water shall be shut off and shall not be turned on until all charges have been paid to the city.

(Code 1963, § 2.6)

### **Sec. 21-32. Meter failure.**

If any meter shall fail to register properly, the department shall estimate the consumption on the basis of former consumption and bill accordingly.

(Code 1963, § 2.7)

### **Sec. 21-33. Inaccurate meters.**

A consumer may require that the meter be tested. If the meter is found accurate, a charge of \$25.00 will be made. If the meter is found defective, it shall be repaired or an accurate meter installed and no charge shall be made.

(Code 1963, § 2.8)

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**Sec. 21-34. Accuracy required.**

A meter shall be considered accurate if, when tested, it registers not to exceed two percent more to two percent less than the actual quantity of water passing through it. If a meter registers in excess of two percent more than the actual quantity of water passing through it, it shall be considered "fast" to that extent. If a meter registers in excess of two percent less than the actual quantity of water passing through it, it shall be considered "slow" to that extent.

(Code 1963, § 2.9)

**Sec. 21-35.4 Bill adjustment.**

If a meter has been tested at the request of a consumer and shall have been determined to register "fast," the city shall credit the consumer with a sum equal to the percent "fast" multiplied by the amount of all bills incurred by the consumer, within the three months prior to the test; and if a meter so tested is determined to register "slow," the department may collect from the consumer a sum equal to the percent "slow" multiplied by the amount of all the bills incurred by the consumer for the prior three months. When the department on its own initiative makes a test of a water meter, it shall be done without cost to the consumer, other than his paying the amount due the city for water used by him, as above provided, if the meter is found to be "slow."

(Code 1963, § 2.10)

**Sec. 21-36. Hydrant use.**

No person, except an employee of the city in the performance of his duties, shall open or use any fire hydrant except in case of emergency, without first securing a written permit from the department any paying such charges as may be prescribed.

(Code 1963, § 2.11)

**Sec. 21-37. Lawn sprinkling.**

The superintendent, subject to approval by the council, may regulate, limit or prohibit the use of water for any purpose. Such regulations shall restrict less essential water uses to the extent deemed necessary to assure an adequate supply for essential domestic and commercial needs and for firefighting. No such regulation, limitation or prohibition shall be effective until 24 hours after the publication thereof in a newspaper of general circulation in the city. Any person violating such rule or regulation shall, upon conviction thereof, be punished as prescribed in section 1-13.

(Code 1963, § 2.12)

**Sec. 21-38. Additional regulations.**

The superintendent may make and issue additional rules and regulations concerning the water distribution system, connection thereto, meter installation and maintenance, connection and meter installation fees, hydrants and water mains and the appurtenances thereto, not inconsistent herewith. Such rules and regulations shall be effective upon approval by the city council. The rules and regulations now in effect shall continue until changed in accordance with this section.

(Code 1963, § 2.13)

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### **Sec. 21-39. Injury to facilities.**

No person, except an employee of the city in the performance of his duties, shall wilfully or carelessly break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is a part of the city water distribution system.

(Code 1963, § 2.14)

### **Sec. 21-40. City well pollution.**

It shall be unlawful for any person to construct or maintain, or permit to be constructed or maintained, within a radius of 200 feet from any of the municipal water wells in the city from which the city draws its water supplies, any source of possible contamination or pollution to such wells.

(Code 1963, § 2.15)

### **Sec. 21-41. Water system pollution.**

It shall be unlawful for any person to do any act, or to allow to be done any act, that may contaminate or pollute or contribute to the contamination or pollution of the water supply wells or water system of the city.

(Code 1963, § 2.16)

### **Sec. 21-42. Cross connections with public water supply system.**

- (a) The city adopts by reference the Water Supply Cross Connection Rules of the Michigan Department of Public Health being R 325.11401 to R 325.11407 of the Michigan Administrative Code.
- (b) It shall be the duty of the city water department (MWD) to cause inspections to be made of all properties served by the public water supply where cross connections with the public water supply is deemed possible. The frequency and manner of inspections and reinspections shall be based on the cross connection control program adopted by the city on July 14, 1997, and reads as follows:

"I. *Introduction.* In accordance with the requirements set forth by the Michigan Department of Environmental Quality, the City of Morenci has officially adopted the State of Michigan cross connection control rules to protect the Morenci public water supply system. "Cross connection" is defined as a connection or arrangement of piping or appurtenances through which a backflow could occur. "Backflow" means water of questionable quality, waste, or other contaminants entering a public water supply system due to a reversal of flow. The cross connection control program will take effect immediately upon approval of the Michigan Department of Environmental Quality."

"II. *Local ordinance.* The authority to carry out and enforce a local cross connection control program will be in accordance with city Ord. No. 21-42, a copy of which is included in the program."

"III. *Local inspection.* The water superintendent and/or his designated agent shall be responsible for making the initial cross connection inspections and reinspections to check for the presence of cross connections with the municipal water supply system. Individuals responsible for carrying out the cross connection inspections and reinspections shall have obtained necessary training through any available manuals on cross connection prevention, including the Cross Connection Rules Manual as published by the Michigan Department of Environmental Quality and attendance of any cross connection training sessions sponsored by the Michigan Department of Environmental Quality or other recognized agencies."

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"IV. *Schedule for inspections.* The schedule for inspections shall be in accordance with the following general outline:"

- "1. Known or suspected secondary water supply cross connections shall be inspected first (surface water, Class III wells, recirculated water, etc.)"
- "2. Known or suspected submerged inlet cross connections will be inspected next."

"In general, emphasis will be placed on making inspections initially of all industrial and commercial establishments or where cross connections are known or suspected to exist. A general areal review will follow in a logical sequence as time permits. Emphasis will be placed on inspecting all industrial and commercial establishments within a period of six (6) months following approval of this program."

"V. *Schedule for reinspection.* In order to assure against the hazards of cross connections, it will be necessary to periodically and systematically reinspect for the presence of cross connections. The schedule for reinspection shall be in accordance with the schedule as noted on page 61 of the Cross Connection Rules Manual. Whenever it is suspected or known that modifications have taken place with piping systems serving a particular water customer, reinspections of the premises will be made."

"VI. *Protective devices.* The methods to protect against the hazards of cross connections as outlined on pages 57 and 58 of the Cross Connection Rules Manual will be incorporated into the city cross connection control program. Whenever any deviation from the recommended methods of protection is contemplated, approval from the Michigan Department of Environmental Quality shall first be obtained."

"VIII. *Compliance time.* The time allowed for correction or elimination of any cross connection found shall be as follows:"

- "1. Cross connections which pose an eminent and extreme hazard shall be disconnected immediately and so maintained until necessary protective devices or modifications are made."
- "2. Cross connections which do not pose an extreme hazard to the water supply system, but nevertheless constitute a cross connection should be corrected within a reasonable period of time. The length of time allowed for correction should be reasonable and may vary depending on the type of device necessary for protection. The water utility shall indicate to each customer where a cross connection is found to exist, the time period allowed for compliance (30 to 60 days is usually sufficient time for small devices)."

"VIII. All reduced pressure principle backflow prevention devices shall be tested at least every 48 months with records of test results maintained by the water utility. Only individuals approved by the water utility shall be qualified to perform such testing. That individual(s) shall certify the results of his testing."

"IX. The water utility shall maintain sufficient and accurate records of its local cross connection control program so as to report annually on the status of the local program to the Michigan Department of Environment Quality on a form provided by the department."

- (c) The representative of the city water department shall have the right to enter at any reasonable time any property served by a connection to the public water supply system of the city for the purpose of inspecting the piping system or systems thereof for cross connections. On request, the owner, lessees or occupants of any property so served shall furnish to the inspection agency any pertinent information regarding the piping system or systems on such property. The refusal of such information or refusal of access, when requested, shall be deemed evidence of the presence of cross connections.
- (d) The city water department is hereby authorized and directed to discontinue water service after reasonable notice to any property wherein any connection in violation of this section exists, and to take such other precautionary measures deemed necessary to eliminate any danger of contamination of the public water supply system. Water service to such property shall not be restored until the cross connection or connections have been eliminated in compliance with the provisions of this section.

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- (e) The potable water supply made available on the properties served by the public water supply shall be protected from possible contamination as specified by this section and by other ordinances embodied within chapter 6 and by the state plumbing code. Any water outlet which could be used for potable or domestic purposes and which is not supplied by the potable system must be labeled in a conspicuous manner as:

WATER UNSAFE

FOR DRINKING

- (f) This section does not supersede the state plumbing code, but is supplementary to it.
- (g) Any person or customer found guilty of violating any of the provisions of this section, or any written order of the city water department, in pursuance thereof, shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than \$100.00 or by imprisonment in the county jail for not more than 90 days, or by both such fine and imprisonment for each violation. Each day upon which a violation of the provisions of this article shall occur shall be deemed a separate and additional violation for the purpose of this section.

(Code 1963, § 2.81; Ord. of 4-14-75; Ord. No. 217, 7-14-97)

Editor's note(s)—Former § 22-91, relative to cross connections with public water supply system, which derived from Code 1963, § 2.81 and an ordinance enacted April 14, 1975, has been transferred to § 21-42 herein for purposes of classification.

**Secs. 21-43—21-59. Reserved.**

### ***ARTICLE III. SEWER SERVICE<sup>47</sup>***

#### **Sec. 21-60. Objectives.**

The objectives of the ordinance from which this article derives are:

- (a) To prevent the introduction of pollutants into the wastewater system which will interfere with the normal operation of the system or contaminate the resulting municipal sludge;
- (b) To improve the opportunity to recycle and reclaim wastewater and sludge from the system;
- (c) To provide for equitable distribution of the cost associated with the operation, maintenance and replacement of equipment at the POTW.

(Ord. No. 189, 7-26-93)

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<sup>47</sup>Editor's note(s)—Provisions enacted by Ord. No. 189, adopted July 26, 1993, have been codified as superseding the provisions of former Art. III, §§ 21-61—21-90, relative to sewer service, which derived from Code 1963, §§ 2.41—2.45, 2.47—2.50, 2.52—2.57, 2.59—2.68. Former § 22-91, relative to cross connections with public water supply system, which derived from Code 1963, § 2.81 and an ordinance enacted April 14, 1975, has been retained in this chapter and transferred to § 21-42 for purposes of classification.

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## Sec. 21-61. Definitions.

Unless the context specifically indicates otherwise, the following terms and phrases, as used in this ordinance, shall have the meanings hereinafter designated.

*Act or the Act* means the Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. 1251, et seq.

*Applicable county health department* shall mean the Lenawee Health Department.

*Biochemical oxygen demand (BOD)* shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure, five days at 20 degrees centigrade expressed in terms of weight and concentration (milligrams per liter).

*Building drain* shall mean that part of the lowest horizontal piping of a drainage system which receives discharge from drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five feet outside the inner face of the building wall.

*Building sewer* shall mean the extension from the building drain to the public sewer or other place of disposal.

*Chemical oxygen demand (COD)* means the measure of the oxygen-consuming capacity of inorganic and organic matter present in water or wastewater. It is expressed as the amount of oxygen consumed from a chemical oxidant in a specified test. It does not differentiate between stable and unstable organic and thus does not necessarily correlate with biochemical oxygen demand. Also known as OC and DOC, oxygen consumed and dichromate oxygen consumed, respectively.

*Chlorine demand* shall mean the difference between the amount of chlorine applied and the amount of free chlorine available at the end of the contact time, expressed in milligrams per liter.

*City* means the City of Morenci, Michigan, its agents and employees.

*Combined sewer* shall mean a sewer receiving both surface runoff and sewage.

*Commercial waste* shall mean a liquid or water-carried waste material from a commercial business engaged in buying, selling, exchanging goods or engaging in said goods or services.

*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 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 time period whose volume is proportional to the flow in the waste stream, which are combined into one sample.

*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 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 specified below.

*Direct discharge* means the discharge of treated or untreated wastewater directly to the waters of the state.

*Environmental Protection Agency or EPA* means the U.S. Environmental Protection Agency, administrator or other duly authorized official.

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*Garbage* shall mean solid wastes from the preparation, cooking and dispensing of food and from the handling, storage and sale of produce.

*Grab sample* means a sample which is taken from a waste stream on a one-time basis with no regard to the flow in the waste stream 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 pollutants* means any pollutant which is not a compatible pollutant.

*Indirect discharge* means the discharge or the introduction of nondomestic pollutants into the POTW (including holding tanks waste discharged into the system).

*Indirect wastes* means the wastewater discharges from industrial, manufacturing, trade or business processes, or wastewater discharge from any structure with these characteristics, as distinct from their employee's domestic wastes or wastes from sanitary conveniences.

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

*Infiltration/inflow* shall mean the total quantity of water from both infiltration and inflow.

*Inflow* shall mean any waters entering the system through such sources as, but not limited to, building downspouts, footing or yard drains, cooling water discharges, seepage lines from springs and swampy areas and storm drain cross connections.

*Interference* means any discharge which alone or in conjunction with a discharge or discharges from other sources, both:

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

*Laboratory determination* means the measurements, tests and analyses of the characteristics of waters and wastes in accordance with the procedures established by the EPA pursuant to section 304(g) of the Act and contained in 40 CFR, Part 136.

*Lateral line* means that portion of the sewer system located under the street or within the street right-of-way from the property line to the trunk line and which collects sewage from a particular property for transfer to the trunk line.

*National Pollution Discharge Elimination System or NPDES permit* means a permit issued pursuant to Section 401 of the Act (33 U.S.C. 1342).

*National prohibitive discharge standard or prohibitive discharge standard* means any regulation developed under the authority of 307(b) of the Act and 40 CFR, Section 403.5.

*Natural outlet* shall mean any outlet into a watercourse, pond, ditch, lake or other body of surface or groundwater.

*Normal domestic sewage (NDS)* means wastewater which, when analyzed, shows a daily average concentration of not more than 200 mg/l of BOD; nor than 250 mg/l of suspended solids.

*Obstruction* means any object of whatever nature which substantially impedes the flow of sewage from the point of origination to the trunk line. This shall include, but not be limited to objects, sewage, tree roots, rocks and debris of any type.

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

*Owner* or owners of record of the freehold of the premises or lesser estate therein, a mortgagor or vendee in possession, assignee of rents, receiver, executor, trustee, lessee, or other person, firm or corporation in control of a building.

*Person* means any individual, partnership, copartnership, firm, company, corporation, association, joint stock company, trust estate, governmental entity or any other legal entity, or its legal representatives, agents or assigns. The masculine gender shall include the feminine, the singular shall include the plural where indicated by the context.

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

*Pollutant* means any of various chemicals, substances, and refuse materials such as solid waste, sewage, garbage, sewage sludge, chemical wastes, biological materials, radioactive materials, heat, and industrial, municipal and agricultural wastes which impair the purity of the water and soil.

*Pollution* means the man-made or man-induced alteration of the chemical, physical, biological, and radiological integrity of water.

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

*POTW treatment plant* means that portion of the POTW designed to provide treatment to wastewater.

*Private sewer lines* means all service lines and equipment for the disposal of sewage installed or located on any property, from the property line to and including any structure or facility which exists on the property.

*Properly shredded garbage* shall mean the wastes from the preparation, cooking and dispensing of food that have been shredded to such degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half (½) inch in any dimension.

*Property owner* means the owner of the property which abuts the street.

*Public sewer* shall mean a sewer in which all owners of abutting properties have equal rights, and is controlled by public authority.

*Replacement* means the replacement in whole or in part of any equipment, appurtenances and accessories in the wastewater transportation or treatment systems to insure continuous treatment or wastewater in accordance with the NPDES permit and other applicable state and federal regulations.

*Sanitary sewage* shall mean a sewer which carries sewage and to which storm, surface and groundwaters are not intentionally admitted.

*Sewage* shall mean a combination of the water-carried wastes from residences, businesses, buildings, institutions and industrial establishments, together with such groundwaters as may be present.

*Sewage treatment plant or wastewater treatment plant* shall mean any arrangement of devices and structures used for treating sewage.

*Sewer* shall mean a pipe or conduit for carrying sewage.



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*Sewer service charge* means the sum of the appropriate user charge, surcharges and debt service charges.

*Shall* is mandatory; *may* is permissive.

*Slug load* means any substance released in a discharge at a rate and/or concentration which causes interference to a POTW.

*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.

*State* means State of Michigan.

*Storm sewer or storm drain* shall mean a sewer which carries storm and surface waters and drainage, but excludes sewage and polluted industrial wastes.

*Storm water* means any flow occurring during or following any form of natural precipitation and resulting therefrom.

*Surcharge.* As part of the service charge, any customer discharging wastewater having strength in excess of normal domestic strength shall be required to pay an additional charge to cover the cost of treatment of such excess strength wastewater.

*Suspended solids* means the total suspended matter that floats on the surface of, or is suspended in, water, wastewater or other liquids, and which is 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 those listed as toxic in regulations promulgated by the administrator of the Environmental Protection Agency under the provisions of the Clean Water Act 307(a) or other Acts.

*Trunk line* means the main sewer line located under any street or within any street right-of-way which collects and transmits the sewage of the various properties served by the sewer system.

*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 treatment works pursuant to section 204(b) of the Clean Water Act.

*User class* means the kind of user connected to sanitary sewers including but not limited to residential, industrial, commercial, institutional and governmental.

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

*Commercial user* shall mean an establishment listed in the Office of the Management and Budget's "Standard Industrial Classification Manual" (SICM), 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 an industrial user.

*Institutional user* shall mean any establishment listed in the SICM involved in a social, charitable, religious, or educational function which, based on a determination by the city, discharges primarily segregated domestic wastes or wastes from sanitary conveniences.

*Governmental user* shall mean any federal, state or local government user of the wastewater treatment works.

*Industrial user* shall mean any user who introduces pollutants into a POTW from any non-domestic source regulated under the Act, state law or local ordinance.

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*Wastewater* means the liquid and water carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities and institutions, together with any groundwater, surface water, and storm water that may be present, whether treated or untreated, which is contributed into or permitted to enter the POTW.

*Watercourse* shall mean a channel in which a flow of water occurs, either continuously or intermittently.

*Waters of the state* includes:

- (1) Both surfaces and underground waters within the boundaries of this subject to its jurisdiction, including all ponds, lakes, rivers, streams, public ditches, tax ditches and public drainage systems within this state, other than those designated and used to collect, convey or dispose of sanitary sewage; and
- (2) The floodplain free-flowing waters determined by the Department of Natural Resources on the basis of 100-year flood frequency. (Any other waters specified by state law.)

(Ord. No. 189, § 1, 7-26-93)

### **Sec. 21-62. Abbreviations.**

The following abbreviations shall have the designated meanings:

- (1) BOD — Biochemical Oxygen Demand
- (2) CFR — Code of Federal Regulations
- (3) COD — Chemical Oxygen Demand
- (4) EPA — Environmental Protection Agency
- (5) l — liter
- (6) mg — milligrams
- (7) mg/l — milligrams per liter
- (8) NDS — Normal domestic sewage
- (9) NPDES — National Pollutant Discharge Elimination System
- (10) P — Phosphorus
- (11) POTW — Publicly owned treatment works
- (12) SS — Suspended solids
- (13) SWDA — Solid Waste Disposal Act, 42 U.S.C. 6901, et seq.
- (14) O&M — Operation and maintenance
- (15) CWA — Clean Water Act
- (16) SIC — Standard Industrial Classification
- (17) SICM — Standard Industrial Classification Manual

(Ord. No. 189, § 2, 7-26-93)

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**Sec. 21-63. Unsanitary deposits, discharge to natural outlets prohibited.**

- (a) It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner upon public or private property within the city or in any area under the jurisdiction of said city any human or animal excrement, garbage or other objectionable waste.
- (b) It shall be unlawful, when sewage and/or treatment facilities are available, to discharge to any natural outlet within the city, or in any area under the jurisdiction of said city, any sanitary sewage, industrial wastes, or other polluted waters, unless specifically permitted by a NPDES permit.
- (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 applicable county health department or as hereinafter provided.
- (d) The owner of all houses, buildings or properties used for human occupancy, employment, recreation or other purposes, situated and abutting on any street, alley, right-of-way in which there is now located or may in the future be located in a public sanitary or combined sewer is hereby required at his expense to install suitable sewage facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of this article, within 90 days after date of official notice to do so, unless greater than 200 feet from the sewer.

(Ord. No. 189, § 3, 7-26-93)

**Sec. 21-64. Administration; wastewater dischargers.**

It is unlawful to discharge without a wastewater contribution permit to the POTW any wastewater except as authorized by the superintendent in accordance with the provisions of this Ordinance No. 189.

(Ord. No. 189, § 4, 7-26-93)

**Sec. 21-65. Private sewage disposal.**

- (a) Where a public sewer is not available under the provisions of section 21-63(d), the building sewer shall be connected to an approved private sewage disposal system.
- (b) Before commencement of a private sewage disposal system, the owner shall first apply to the county health department for a soil evaluation test. The fee shall be determined by the county health department, and shall be paid to the county health department. At completion of the above soil evaluation test showing positive results, the property owner shall apply for a permit for installation for the proposed sewage system. He shall include plans, specifications and other information as deemed necessary by the county health department. At the time the application is filed, the fee determined by the county health department for the permit and inspection shall be paid.
- (c) A permit for a private sewage disposal system shall not become effective until the installation is completed to the satisfaction of the county health department. The county health department shall be allowed to inspect the work at any stage of construction and, in any event, the applicant for the permit shall notify the county health department when the work is ready for final inspection, and before any underground portions are covered. The inspection shall be made within seven days of the receipt of notice by the county health department. All persons receiving a permit for a private sewer disposal system shall provide the city with copies of all final approved inspection reports issued by the county health department.

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(Supp. No. 25)

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- (d) The type, capacities, location and layout of a private sewage disposal system shall comply with all recommendations of the county health department. No septic tank or cesspool shall be permitted to discharge to any public sewer or natural outlet.
  - (e) At such time as a public sewer becomes available to a property served by a private sewage disposal system as provided in section 21-63(d), a direct connection shall be made to the public sewer in compliance with this article, and any septic tanks, cesspools and similar private sewage disposal facilities shall be abandoned for sanitary use and filled with a suitable material.
  - (f) The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times at no expense to the city.
  - (g) No statement contained in this section shall be construed to interfere with any additional requirements that may be imposed by any other agency having legal jurisdiction.

(Ord. No. 189, § 5, 7-26-93)

### **Sec. 21-66. Building sewer and connections.**

- (a) No person shall uncover, make any connections with or opening into, use, alter or disturb any public sewer, street, or appurtenances thereof, without first obtaining a written permit from the city. No building sewer shall be covered until after it has been inspected and approved by the city.
- (b) The owner or his agent shall make application for a sewer permit on a form furnished by the city. The permit application shall be supplemented by any plans, specifications, or other information required by chapter 21 of the Morenci City Code or which, in the judgment of the city, is considered pertinent. There shall be a connection charge for each and every connection to the sewer system and when there is more than one building or structure being served by a single connection there shall be a separate connection charge for an additional building or structure connected to the sewer system. The amount of the connection charge shall, from time to time, be set by the Morenci City Council.
- (c) All cost and expense incident to the installation, connection and maintenance of the building sewer to the public sewer connection shall be borne by the property owner.
- (d) All liabilities incident to the installation and connection of the building sewer shall be borne by property owner. The property owner shall indemnify and save harmless the city from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.
  - (1) It shall be the duty of each property owner to maintain, clean and repair the private sewer lines on his property and the sewer lateral to the trunk line at his own expense as necessary to keep such lines free and clear of obstructions and in good working order and to maintain and keep clear of obstructions the lateral lines servicing his property. A private sewer line is considered from the property building to the sewer main.
  - (2) It shall be the duty of the city to maintain, clean and repair as necessary and at its expense the sewer main (trunk line). The city shall not be responsible for cleaning, maintenance, or repair of sewer lateral or private sewer lines from a property building to the sewer main. The city shall have no responsibility to clean a sewer lateral or private sewer line from a property building to the sewer main.
  - (3) Any property owner who shall violate the provisions of this article shall be liable to the city for civil damage incurred in correcting the defect, and in addition, shall be guilty of a misdemeanor. If any property owner fails to maintain a private sewer line as required by this article, in addition to the other penalties prescribed, the sewer may be declared a public nuisance by the county health officer and the defect may be corrected by the city. Any costs so incurred shall be assessed against the property and become a lien on the property if not timely paid.

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- (e) A separate and independent building sewer shall be provided for every building; except where one building stands at the rear of another or an interior (lot) and no private sewer is available or can be constructed to the rear building through an adjoining alley, yard or driveway, the building sewer from the front building may be extended to the rear building.
  - (f) Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the city, to meet all requirements of this article.
  - (g) The building sewer shall be constructed of PVC—Schedule 40, PVC—Schedule 80, or cast-iron soil pipe, as approved by the city. 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 concrete cradle if foundation and construction are such as to warrant such protection in the opinion of the city.
  - (h) The size and slope of the building sewer shall be subject to approval by the city, but in no event shall the diameter be less than four inches. The slope of such four-inch pipe shall be not less than one-quarter ( $\frac{1}{4}$ ) inch per foot, unless otherwise permitted. The slope of pipe, the diameter of which is six inches or more, shall be not less than one-eighth ( $\frac{1}{8}$ ) inch per foot unless otherwise permitted.
  - (i) Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. No building sewer shall be laid parallel to or within three feet of any bearing wall, which might thereby be weakened. The depth 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.
  - (j) 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 artificial means approved by the city, and discharged to the building sewer.
  - (k) All joints and connections shall be made gastight and watertight. All joints shall be approved by the city.
  - (l) No sewer connection will be permitted unless there is capacity available in the POTW.
  - (m) All newly constructed building sewers shall have a properly sized cleanout at the head of said sewer that is accessible at all times. This cleanout shall allow access of sewer cleaning equipment of a size equivalent to the size of the building sewer.
  - (n) All sewers shall be constructed in accordance with the latest edition of the "Ten States Standards."
  - (o) Any new connections of private sewer lines or laterals or repairs to existing private sewer lines or laterals must be permitted by the city with inspection done by a chosen inspector of the city who is a licensed plumber. All new connections of private sewer lines or laterals or repairs to private sewer lines and laterals shall conform to the requirements of section 22-66 and the Michigan Building and Plumbing Codes.
  - (p) All excavations in the public road or street shall be completed by the city or a contractor at the city's choice. The installation shall then be by representative of the property owner with inspection by the city before restoration of the public road or street is complete. The property owner shall be responsible for the cost of the excavation and restoration of the public road or street.
  - (q) All excavations for building sewer and lateral installation, connection, or repair shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the city.

(Ord. No. 189, § 6, 7-26-93; Ord. No. 11-297, § 1, 11-14-11; Ord. No. 20-347, § 1, 2-10-20)

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## Sec. 21-67. Use of the public sewers.

- (a) *General discharge prohibitions.* No user shall contribute or cause to be contributed, directly or indirectly, any pollutant or wastewater which will interfere with the operation or performance of the POTW. These general prohibitions apply to all such users of a POTW whether or not the user is subject to the national categorical pretreatment standards or any other national, state local pretreatment standards or requirements. The city may refuse to accept any wastes which will cause the POTW to violate its NPDES discharge limits. A user may not contribute the following substances to any POTW:
- (1) Any liquids, solids or gases which by reason of their nature and quantity are, or may be, sufficient either alone or by interaction with other substances to cause fire or explosion or be injurious in any other way to the POTW or to the operation of the POTW. Prohibited materials include, but are not limited to, gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides, and sulfides.
  - (2) Solid or viscous substances which may cause obstruction to the flow in a sewer or other interference with the operation of the wastewater treatment facilities such as, but not limited to: grease, garbage with particles greater than one-half (½) inch in any dimension, animal guts or tissues, paunch manure, bones, hair, hides or fleshings, entrails, whole blood, feathers, ashes, cinders, sand, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, waste paper, wood, plastics, gas, tar, asphalt residues, residues from refining, or processing of fuel or lubricating oil, mud, or glass grinding or polishing wastes.
  - (3) Any wastewater having pH less than 6.5 or greater than 9.5, or wastewater having any other corrosive property capable of causing damage or hazard to structures, equipment, or personnel of the POTW.
  - (4) Any noxious or malodorous liquids, gases, or solids which either singly or by interaction with other wastes are sufficient to create a public nuisance or hazard to life or are sufficient to prevent entry into the sewers for maintenance and repair.
  - (5) Any substance which may cause the POTW's effluent or any other product of the POTW such residues, sludges, or scums to be unsuitable for reclamation and reuse or to interfere with the reclamation process.
  - (6) Any substance which will cause the POTW to violate its NPDES permit or the receiving water quality standards.
  - (7) Any wastewater with objectionable color not removed in the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions.
  - (8) Any wastewater having a temperature which will inhibit biological activity in the POTW resulting in interference, but in no case wastewater with a temperature at the introduction into the POTW which exceeds 40 C (104 F) unless the approval authority, upon request of POTW, approves alternate temperature limits.
  - (9) Any pollutants, including oxygen demanding pollutants (BOD, etc.) released at a flow rate and/or pollutant concentration which will cause interference to the POTW.
  - (10) Any wastewater containing any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the EPA in compliance with applicable state or federal regulations.
  - (11) Any wastewater which causes a hazard to human life or creates a public nuisance.
  - (12) Any unpolluted water including, but not limited to storm water, groundwater, roof water, or noncontact cooling water.

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- (13) Any waters or wastes containing suspended solids or any constituent of such character and quantity that unusual attention or expense is required to handle such materials at the POTW.
  - (14) Any waste from individual sewage disposal systems except at the POTW as provided in section 21-68 except that waste from any individual sewage disposal system may be disposed of directly into a sanitary sewer upon entering into an agreement with the city, which agreement shall specify the site of disposal, sewage disposal charge and such other conditions as may be required to satisfy the sanitation and health requirements of the county. For the purpose of this subsection, "individual sewage disposal system" is defined to include every means of disposing of industrial, commercial, household, domestic or other water-carried sanitary waste or sewage other than a public sanitary sewer.
  - (15) Any sludge, precipitate or congealed substances resulting from an industrial or commercial process, or resulting from the pretreatment of wastewater or air pollutants.
  - (16) Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin in amounts that will cause interference or pass through.
- (b) *Specific pollutant limitations.* No person shall discharge wastewater containing in excess of the following or other pollutants regulated in the NPDES permit.
- (1) 100 mg/l total Kjeldahl nitrogen;
  - (2) 100 mg/l by weight of fat, oil or grease;
  - (3) 500 mg/l BOD;
  - (4) 500 mg/l suspended solids;
  - (5) 100 mg/l phosphorus.

If any waters are discharged or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated above, and which in the judgement of the city may have a deleterious effect upon the sewage works, processes, equipment, or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the city may:

- (1) Reject the wastes.
  - (2) Require control over the quantities and rates of discharge.
  - (3) Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes, sewer charges. If the city permits the pretreatment or equalization of waste flows, the design and installation of the plant and equipment shall be subject to the review and approval of the city and shall be subject to the requirements of all applicable codes, ordinances and laws.
- (c) *State requirements.* State requirements and limitations on discharges shall apply in any case where they are more stringent than federal requirements and limitations or those in this article.
- (d) *City right of revision.* The city reserves the right to establish by ordinance more stringent limitations or requirements on discharges to the wastewater disposal system if deemed necessary to comply with the objectives presented in section 21-60.
- (e) *Discharge of stormwater, groundwater and other drainage.* No user shall discharge or cause to be discharged any sewer water, surface water, any uncontaminated groundwater, water from footing drains, or roof water to any sanitary sewer or sewer connection. Any premise connected to a storm sewer shall comply with county, state and federal requirements as well as those of the city. Downspouts and roof leaders shall be disconnected from sanitary sewers within six months of the date of this Ordinance No. 189. If this is not done, the city shall perform this work and bill the user. Storm water, groundwater and all other unpolluted drainage shall be discharged to such sewers as are specifically designed as combined sewers or storm

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sewers. Discharge of cooling water or unpolluted process water to a natural outlet will be approved only by the Michigan Water Resource Commission.

- (f) *Grease, oil and sand interceptors.* Grease, oil and sand interceptors shall be provided when in the opinion of the city 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 located as to be readily and easily accessible for cleaning and inspection. Grease and oil interceptors shall be constructed of impervious material capable of withstanding abrupt and extreme changes in temperature. They shall be of substantial construction, watertight and equipped with easily removable covers, which when bolted in place shall be gastight and watertight.
- (g) *Maintenance of facilities.* Where installed, all grease, oil and sand interceptors or flow equalizing facilities shall be maintained by the owner, at his expense, in continuously efficient operation at all times.
- (h) *Sewage exceeding normal domestic strength.* Where the strength of sewage from an industrial, commercial or institutional establishment exceeds normal domestic strength sewage, an added charge, as noted below, will be made against such establishment according to the strength of such wastes. The strength of the waste shall be determined from a composite sample taken over a sufficient period of time to insure a representative sample. The cost of taking and making the first of these samples shall be borne by the city. The cost of any subsequent sampling and testing shall be borne by the industry or establishment, whether owner or lessee. Tests shall be made by an independent laboratory. Added charges shall be determined by the city. These charges shall be based on the cost of operation, maintenance, and equipment replacement for the wastewater treatment plant.

The city may require to be provided and operated at the user's own expense, monitoring facilities to allow inspection, sampling, and flow measurement of the building sewer and/or internal drainage systems. The monitoring facility should normally be situated on the user's premises, but the city may, when such a location would be impractical or cause undue hardship on the user, allow the facility to be constructed in the public street or sidewalk area and located so that it will not be obstructed by landscaping or parked vehicles. There shall be ample room in or near such sampling manholes or facility to allow accurate sampling and preparation of samples for analysis. The facility, sampling, and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expense of the user. Whether constructed on public or private property, the sampling and monitoring facilities shall be provided in accordance with plans and specifications submitted to and approved by the city and all applicable local construction standards and specifications. Construction shall be completed within 90 days following written notification by the city.

- (i) *Measurements, tests and analyses.* All measurements, tests and analyses of the characteristics of water to which reference is made in subsections (a) and (h) of this section 21-67, shall be determined in accordance with the latest edition at the time of "Standard Methods for examination of Water and Wastewater," and shall be determined at the control manhole provided for in subsection (h) of this section 21-67, or upon suitable samples taken at said control manhole. In the event that no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected.

Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence of hazards to life, limb and property. The particular analyses involved will determine whether a 24-hour composite of all outfalls of a premise is appropriate or whether grab samples should be taken. The responsibilities of industry are further defined below.

- (1) One person from each industry shall be delegated the authority to be responsible for industrial wastes admitted to the municipal sewers. Such person would be involved with maintaining the pretreatment facility operations and assuring a continual high level of performance. In case no pretreatment is



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provided, such person would be involved with the prevention of accidental discharges of process wastes admitted to the sanitary sewer system. Such person must become aware of all potential and routine toxic wastes generated by their industry. Such person must also be informed of all process alterations which could, in any manner, increase or decrease normal daily flow or waste strength discharged to the sanitary sewers.

- (2) This industrial representative must catalog all chemicals stored, used, or manufactured by their industry. Such a listing should include specific chemical names, not manufacturer's codes. Those wastes admitted to the sanitary sewer are a prime concern; however, all discharges should be cataloged. An estimate of daily average flows and strengths must be made including process, cooling, sanitary, etc. Such a determination should separate the flows according to appropriate categories. The aforementioned flow and chemical listing is to be sent to the city.
- (3) A sketch of the plant building(s) must be made, including a diagram of process and chemical storage areas. Location of any pretreatment equipment should be indicated and floor drains located near process and storage areas should be noted. Manhole and sewer locations at the industry's point of discharge into the municipal collection system should be included on the plant layout sketch.
- (4) There must be separation of spent concentrations from the sanitary sewer to prevent toxic wastes from upsetting the wastewater treatment plant. Supervision and operation of the pretreatment equipment for spent concentrations as well as all toxic wastes and high strength organic wastes to an acceptable level as detailed in this article is the responsibility of the industrial representative. All sludges generated by such treatment must be handled in an acceptable manner, such as designated areas of a sanitary landfill or by a licensed waste hauler. Adequate segregation of those waters and wastes to be pretreated to meet discharge limits is a vital portion of the industrial effort to prevent operational problems at the wastewater treatment plant.
- (5) Throughout the industry, adequate secondary containment or curbing must be provided to protect all floor drains from accidental spills and discharges to receiving sewers. Such curbing should be sufficient to hold 150 percent of the total process area tank volume. All floor drains found within the containment areas must be plugged and sealed. Spill trough and sumps within the containment area must be plugged and sealed. Spill trough and sumps within process areas must discharge to appropriate pretreatment tanks. Secondary containment should be provided for storage tanks which may be serviced by commercial haulers and for chemical storage areas. When requested by the person furnishing the report, the portion of the 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 article.

The national pollutant discharge elimination system (NPDES) permit, state disposal system permit, and/or the pretreatment programs; 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 to the general public by the city until and unless a ten-day notification is given to the user.

Agents of the city, county health department, Michigan Department of Natural Resources or U.S. Environmental Protection Agency, shall have the right to enter all properties for the purpose of inspecting, measuring, sampling and testing the wastewater discharge and copying applicable pretreatment records.

- (j) *Determination of sewage flow.* To determine the sewage flow from any establishment, the city 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 are metered; or

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- (2) If such premises are supplied with river water or water from private well as shown upon the water meter if the premises are metered; or
  - (3) If such premises are 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 estimate of the amount of sewage discharged into the sewer system made by the city; or
  - (4) The number of gallons 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 sewer system at his own expense in accordance with the terms and conditions of the permit issued by the city pursuant to section 21-66; or
  - (5) A figure determined by the city by any combination of the foregoing or by any other equitable method.
- (k) *Accidental discharge.* Where required, a user shall provide protection from accidental discharge of prohibited materials or other substances regulated by this article. Facilities to prevent accidental discharge or 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 this protection shall be submitted to the city for review, and shall be approved by the city before construction of the facility. All required users shall complete such a plan within 180 days after the adoption of this Ordinance No. 189.

If required by the city, a user who commences contribution to the POTW after the effective date of this Ordinance No. 189 shall not be permitted to introduce pollutants into the system until accidental discharge procedures have been approved by the city. 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 article. 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 location of discharge, type of waste, concentration and volume, and corrective actions.

- (1) *Written notice.* Within five days following an accidental discharge, the user shall submit to the city a detailed written report describing the cause of the discharge and the measures to be taken by the user 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 fines, civil penalties, or other liability which may be imposed by this article or other applicable law.
  - (2) *Notice to employees.* A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees of whom to call in the event of a dangerous discharge. Employers shall insure that all employees who may cause or suffer such a dangerous discharge to occur are advised of the emergency notification procedure.
- (l) No statement contained in this section shall be construed as preventing any special agreement or arrangement between the city and any person, firm or corporation whereby waste of unusual strength or character may be accepted by the city, subject to payment by the person, firm or corporation, provided such waste will not damage the sanitary sewer or storm sewer or wastewater treatment plant or the receiving waters.

(Ord. No. 189, § 7, 7-26-93)

### **Sec. 21-68. Disposal at wastewater treatment plant.**

Waste from individual sewage systems may be accepted with permission of the city at the wastewater treatment plant. No waters or wastes described in section 21-67(a) shall be disposed of at the wastewater treatment plant.

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(Ord. No. 189, § 8, 7-26-93)

**Sec. 21-69. 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 a part of the wastewater sewage works.

(Ord. No. 189, § 9, 7-26-93)

**Sec. 21-70. Municipal liability.**

The city shall not be responsible for interruptions of services due to natural calamities, equipment failures, or actions of the system users. It shall be the responsibility of the user that all connected equipment remain in good working order so as not to cause disruption of service of any sewer or treatment plant equipment.

(Ord. No. 189, § 10, 7-26-93)

**Sec. 21-71. Power and authority of inspectors.**

The city and other duly authorized employees of the city acting as his duly authorized agent, bearing proper credentials and identifications, shall be permitted to enter upon such properties as may be necessary for the purpose of inspection, observation, measurement, sampling and testing in accordance with provisions of this article.

(Ord. No. 189, § 11, 7-26-93)

**Sec. 21-72. Orders.**

If the city determines that a user has violated any provisions of this article, the city may issue an order to take action deemed appropriate under the circumstances, including but not limited to the following:

- (1) *Immediate cease and desist order.* The city may issue an order to cease and desist from discharging any wastewater, incompatible pollutant, or illegal discharge. Such order shall have immediate effect where the actual or threatened discharge of pollutants to the system presents, or may present, imminent or substantial endangerment to the health or welfare of persons, to the environment, or causes interference with the operation of the public sewers or treatment plant. If action is not taken immediately to correct illegal discharge, the city will implement whatever action is necessary to halt said discharge. Any penalties, fines, expenses or losses incurred as applicable will be assessed through provisions of the section 21-235 and sections 21-238 through 21-240.
- (2) *Order to cease discharge within a time certain.* In cases other than those defined above, the city may issue an order to show cause why an order to cease and desist by a certain time and date should not be issued. The proposed time for remedial action shall be specified in the order to show cause. Such order may also contain such conditions deemed appropriate by the city.

(Ord. No. 189, § 12, 7-26-93)

**Sec. 21-73. Enforcement—Operation.**

The city is charged with the duty of investigating, preventing and abating violations and enforcing the provisions of this article. The city shall be responsible for the supervision and control of the maintenance of the

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existing sewer line and all new connections. The city shall be responsible for the supervision and control of all other matters related to the operation, maintenance, alteration, repair, and management of the wastewater treatment works. The city may employ such person or persons in such capacity or capacities as advisable to carry out the efficient management and operations of the system and may make such necessary or recommended rules, orders and regulations to assure the efficient management and operation of the system, including the setting of rates, surcharges, fees, penalties, or other charges, for the use of said system.

(Ord. No. 189, § 13, 7-26-93)

### **Sec. 21-74. Penalties.**

- (a) Any person found to be violating any provision of this article shall be served with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.
- (b) Any person convicted of a violation of any provisions of this article shall be punished by a fine of not more than \$500.00, or by imprisonment of not more than 90 days or both, such fine and imprisonment in the discretion of the court. Each day in which any such violation shall continue, shall be deemed a separate offense.

A violation of this article is also declared to be a public nuisance and the city may enforce by injunction or other remedy, including the right to correct the violation and bill the owner or person in charge of the premises therefore and if not collected, the bill will become a lien upon the property.

Charges for sewer furnished to any premises shall be a lien thereon and any such charges delinquent for six months or more shall be certified annually to the assessor, who shall enter the same on the next tax roll against the premises to which such services shall have been rendered. Such charges shall be collected and said lien shall be enforced in the same manner as provided for the collection of taxes assessed upon such roll and the enforcement and return thereof.

- (c) Any business, industry or individual violating any of the provisions of this article, which results in fines or penalties being levied against the city, shall become liable for said fine or penalty, plus any expenses, loss or damage occasioned by such violation. This cost would be levied in addition to the fine [charges] identified in the section 21-235 and sections 21-238 through 21-240.

(Ord. No. 189, § 14, 7-26-93)

### **Sec. 21-75. Records retention.**

All users subject to this article shall retain and preserve for no less than three years, any records, books, documents, memoranda, reports, correspondence and any and all summaries thereto, relating to monitoring, sampling and chemical analyses made by or in behalf of a user in connection with its discharge. All records which pertain to matters which are the subject of administrative adjustment or any other enforcement or litigation activities brought by the city pursuant hereto shall be retained and preserved by the user until all enforcement activities have concluded and all periods of limitations with respect to any and all appeals have expired.

(Ord. No. 189, § 15, 7-26-93)

### **Sec. 21-76. Records.**

The city will maintain and keep proper books of records and accounts, separate from all other records and accounts, in which shall be made full and correct entries of all transactions relating to the system. The city will

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cause an annual audit of such books of record and account for the preceding operating year to be made by a recognized independent certified public accountant, and will supply such audit report to authorized public officials on request. In conjunction with the audit, there will be an annual review of the sewer charge system for adequacies meeting expected expenditures for the following year and to insure proportionality among user classes as required by federal regulations.

Classification of old and new industrial users shall also be reviewed annually. The city will maintain and carry insurance on all physical properties of the system, of the kinds and in the amounts normally carried by public utility companies and municipalities engaged in the operation of sewage disposal systems. All monies received for losses under any such insurance policies shall be solely to the replacement and restoration of the property damaged or destroyed.

(Ord. No. 189, § 16, 7-26-93)

**Secs. 21-77—21-230. Reserved.**

**ARTICLE IV. WATER AND SEWER RATES<sup>48</sup>**

**Sec. 21-231. 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:

*Department* shall mean the city department of water.

*Premises* shall mean each lot or parcel of land, building or premises having any connection to the water distribution system of the city or the sewage disposal system of the city.

*Superintendent* shall mean the superintendent of the department.

*Sewers or sewer system* shall mean the City of Morenci wastewater collection and treatment system.

*Water or water system* shall mean the City of Morenci water distribution and treatment system.

(Ord. No. 20-349, § 1, 5-11-20)

Cross reference(s)—Definitions and rules of construction generally, § 1-2.

**Sec. 21-232. Revenue bond ordinance.**

Nothing contained in this article shall be deemed to alter or repeal any of the provisions of any ordinance providing for the issuance of water supply system revenue bonds or sewage disposal system revenue bonds with respect to the obligations of the village and the security of the bondholders thereunder. This article is intended to be in conformity with all such bond ordinances, and should there be any conflict whereby the security of the

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<sup>48</sup>Editor's note(s)—Ord. No. 20-349, § 1, adopted May 11, 2020, amended Article IV in its entirety to read as herein set out. Former Article IV, §§ 21-231, 21-232, 21-234—21-245, pertained to similar provisions, and derived from Code 1963, §§ 2.111, 2.116, 2.118; Ord. No. 181, §§ 2.113, 2.115, 2.117, June 8, 1992; Ord. No. 189, § 17(1)—(7), July 26, 1993; Ord. No. 194, October 11, 1993; Ord. No. 198, April 25, 1994; Ord. No. 207, August 26, 1996; Ord. No. 05-281, § 1, October 24, 2005; Ord. No. 05-282, § 1, November 14, 2005.

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bondholders or the obligations of the bonds is impaired, then with respect to such conflict, the provisions of such bond ordinances shall prevail.

(Ord. No. 20-349, § 1, 5-11-20)

**Sec. 21-233. Water charges.**

The following charges shall be collected for the use of the water system:

- (1) Usage charge.
- (2) Water willingness to serve charge.
- (3) Water service tap-in fee.

(Ord. No. 20-349, § 1, 5-11-20)

**Sec. 21-234. Water rates.**

- (a) *Usage charge.* The net rates to be charged for each premises having a connection to the city water distribution fund system shall be billed at 1,000 gallons with the rate established by resolution of the city council;
- (b) *Water willingness to serve charge.* A water willingness to serve charge shall be billed per month in an amount to be established by resolution of the city council. All premises, buildings, or sub-buildings for which the city water distribution system is available whether or not connected to the system, shall pay the water willingness to serve charge. The amount of the charge shall be based upon the size of the meter actually installed or the size of the meter that would be installed if service is not presently provided.
- (c) *Water service tap fee.* The city council may adopt, and amend by resolution from time to time, a water service tap fee. The purpose of the fee is to cover the cost of tapping the water distribution system. The fee may be established by meter size, building use or on a time and materials basis. Revenues for the service will be deposited in the sewer system operating fund.
- (d) *No free service.* No free service shall be allowed for any user of the water system.

(Ord. No. 20-349, § 1, 5-11-20)

**Sec. 21-235. Sewer charges.**

The following charges shall be collected for the use of the sewer system:

- (1) Usage charge.
- (2) Sewer service tap fee.
- (3) Sewer system access fee.
- (4) Industrial pretreatment inspection fee.

(Ord. No. 20-349, § 1, 5-11-20)

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**Sec. 21-236. Sewer user rates.**

- (a) *Established; revisions; applicability; basis for computations.* Rates and charges for the use of the sewer system of the city shall be established by resolution of city council. Such charges and rates shall be made against each lot, parcel of land or premises which may have any sewer connections with the sewer system of the city, or which may otherwise discharge sewage or industrial waste, either directly or indirectly, into such system or any part thereof. Such charges shall be based upon the quantity of water used thereon or therein.
- (b) *Sewer usage fee.*
  - (1) The rates and charges for service furnished by such system shall be levied upon each lot, parcel or premises having any sewer connection with such system, on the basis of the quantity of water used thereon or therein, as measured therein, or, in the absence thereof, by such equitable method as shall be determined by the superintendent, and shall be collected at the same time and in the same manner as provided for the payment of charges for water used, except in cases where the character of the sewage from a manufacturing or industrial plant, building or premises is such that unreasonable additional burden is placed upon the system, greater than that imposed by the normal domestic sewage delivered to the system plant, the additional costs of treatment created thereby shall be an additional charge over the regular rates set forth in this section, or the city may, if it deems it advisable, compel such manufacturing or industrial plant, building or premises to treat such sewage in such a manner as shall be specified by the city before discharging such sewage into the sewage disposal system. Rates for all users obtaining all or part of their water supply from sources other than the city water system may be determined by gauging or metering the actual sewage entering the system or by metering the water used by them, in a manner acceptable to the superintendent.
  - (2) The rate to be billed for use of the system for all users within the sanitary sewer service area of the city shall be as set by resolution of the city council from time to time.
- (c) *Sewer service tap fee.* The city council may adopt, and amend by resolution from time to time, a sewer service tap fee. The purpose of the fee is to cover the cost of tapping the sewer collection line. The fee may be established by meter size, building use or on a time and materials basis. Revenues for the service will be deposited in the sewer system operating fund.
- (d) *Sewer system access fee.* The city council may adopt, and amend by resolution from time to time, a sewer system access fee. The purpose of the fee is to cover future capital needs, along with operation and maintenance of the system. The fee represents a buy-in to the system. The fee shall be established based on water meter size.
- (e) *Industrial pretreatment inspection fee.* The city council may adopt, and amend by resolution from time to time, an industrial pretreatment inspection fee. The fee would be an annual charge for existing industrial pretreatment program permits. The purpose of the fee is to cover a portion or all of the expenses associated with administering the industrial pretreatment program. Revenues from the fee would be deposited in the sewer system operating fund.
- (f) *No free service.* No free service shall be allowed for any user of the sewer system.

(Ord. No. 20-349, § 1, 5-11-20)

**Sec. 21-237. Multiple occupancy with single shutoff.**

In the case of premises with two or more occupancy units with consumption of water metered by only one meter and/or having only one shutoff, the property owner shall receive the bills and be responsible for their payment; contrary provisions of section 21-239 notwithstanding.

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(Ord. No. 20-349, § 1, 5-11-20)

**Sec. 21-238. Rate revision.**

The water and sewer service rates prescribed in this ordinance may be altered by resolution of the city council, and when so changed shall be published at least once in a newspaper of general circulation in the city. Revisions to the rates for may be as necessary to ensure sufficiency of revenues in meeting operation and maintenance, and replacement costs, as well as debt service.

(Ord. No. 20-349, § 1, 5-11-20)

**Sec. 21-239. Billing.**

All meters shall be read monthly, however, in the event where no meter reading can be obtained due to weather or other conditions, or in the case of an inoperative meter, the city reserves the right to estimate and bill for the water consumed on the basis of records of preceding comparable monthly consumption in the previous month. Bills for water service and sewage disposal service shall be billed monthly and send to customers on the first day of the month or the next business day, thereafter, if the first day of the falls on a weekend, Friday, or a holiday. The bills shall be due and payable on the last day of the month. There shall be added to all bills not paid on or before the last day of the month a penalty of ten percent of the amount of the bill. Water shall be turned off on the 20th day of the month of the second consecutive month a utility bill has not been paid. There shall be a charge, set by resolution of the council, for turning on water to a customer whose water was shut off. Before water service shall be turned on the delinquent customer shall pay everything owed including the turn-on fee. The city is authorized to accept periodic payments on water bills; however, payments must be so made as to pay up to date all delinquent amounts due by the date of shutoff to avoid shutoff. The superintendent shall have charge of the reading of all meters. He shall keep a record of all meter readings and shall keep accounts of the charges for water and sewer service and shall render bills for the same. All water and sewer service charges shall be collected by the city, who shall credit the same to the proper account. Water and sewer service bills shall be payable at the city office.

(Ord. No. 20-349, § 1, 5-11-20; Ord. No. 20-351, § 1, 6-15-20; Ord. No. 21-351(a), § 1, 2-23-21)

**Sec. 21-240. Collection.**

- (a) The department is hereby authorized to enforce the payment of charges for water service to any premises by discontinuing the water service to such premises, and the payment of charges for sewage disposal service to any premises may be enforced by discontinuing either the water service or the sewage disposal 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 sewage disposal service, which, under the provisions of Act No. 94 of the Public Acts of Michigan of 1933 of the State of Michigan (MCL 141.101 et seq.), as amended, are made a lien on the premises to which furnished, are hereby recognized to constitute such lien; and the superintendent of the department shall, annually, on April 1, certify all unpaid charges for such services furnished to any premises, which, March 31 preceding, have remained unpaid for a period of six months, to the city assessor who shall place the same on the next tax roll of the city. Such charges so assessed shall be collected in the same manner as general city taxes.
- (c) In cases where the city is properly notified in accordance with Act No. 94 of 1933, that a tenant is responsible for water or sewage disposal service charges, no such service shall be commenced or continued to such premises until there has been deposited with the department, a \$250.00 deposit.

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(Supp. No. 25)

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- (d) Where the water service to any premises is turned off to enforce the payment of water service charges or sewage disposal service charges, the water service shall not be recommenced until all delinquent charges have been paid and a deposit as in the case of tenants is made, and there shall be a water turn-on charge established by resolution of the city council. In any other case where, in the discretion of the superintendent, the collection of charges for water or sewage disposal service may be difficult or uncertain, the superintendent may require a similar deposit. Such deposits may be applied against any delinquent water or sewage disposal service charges, and the application thereof shall not affect the right of the department to turn off the water service and/or sewer 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 same when he shall discontinue receiving water and sewage disposal service.

(Ord. No. 20-349, § 1, 5-11-20)

**Sec. 21-241. Annual notification.**

All customers of the city's wastewater treatment works will receive an annual notification, either printed on the bill or enclosed in a separate letter, which will show the breakdown of the sewer into its components for operation, maintenance and replacement and for debt service.

(Ord. No. 20-349, § 1, 5-11-20)

**Sec. 21-242. Reserved.**

**Sec. 21-243. Same—Subdivided property.**

If an unassessed parcel is to be subdivided into single residential lots, then a single residential sewer tap-in shall be paid before any residence can be connected based on line size. If initially more than one residence is to be connected at the same time, then the charge can be prorated over the number of residences to be connected. If any of the subdivided property is to be used for commercial or industrial purposes, then the single sewer tap-in for the parcel before subdivision shall be at the highest applicable rate.

(Ord. No. 20-349, § 1, 5-11-20)

**Sec. 21-244. Same—Exemption for city-owned property.**

No property owned by the city at the time of the connection shall pay a sewer tap-in charge.

(Ord. No. 20-349, § 1, 5-11-20)

**Sec. 21-245. Reserved.**

**Chapter 22 ZONING**

**ARTICLE I. IN GENERAL**

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**Sec. 22-1. Short title.**

This chapter shall be known and may be cited as the Zoning Ordinance of the City of Morenci.  
(Code 1963, § 5.1; Ord. of 4-14-80)

**Secs. 22-2—22-25. Reserved.**

**ARTICLE II. GENERAL PROVISIONS**

**Sec. 22-26. Construction of language.**

The following rules of construction apply to the text of this chapter.

- (1) The particular shall control the general.
- (2) In the case of any difference of meaning or implication between the text of this chapter and any caption or illustration, the text shall control.
- (3) The word "shall" is always mandatory and not discretionary. The word "may" is permissive.
- (4) Words used in the present tense shall include the future; the words used in the singular number shall include the plural, and the plural the singular, unless the context clearly indicates the contrary.
- (5) A "building" or "structure" includes any part thereof.
- (6) The phrase "used for" includes "arranged for," "designed for," "intended for," "maintained for" or "occupied for."
- (7) The word "person" includes an individual, a corporation, a partnership, an incorporated association or any other similar entity.
- (8) Unless the context clearly indicates the contrary, where a regulation involves two or more items, conditions, provisions, or events connected by the conjunction "and," "or," "either/or," the conjunction shall be interpreted as follows:
  - a. "And" indicates that all the connected items, conditions, provisions or events shall apply.
  - b. "Or" indicates that the connected items, conditions, provisions or events may apply singly or in any combination.
  - c. "Either ... or" indicates that the connected items, conditions, provisions or events shall apply singly but not in combination.
- (9) Terms not defined in this chapter shall have the meaning customarily assigned to them.

(Code 1963, § 5.2; Ord. of 4-14-80)

**Sec. 22-27. Definitions.**

For the purpose of enforcing the provisions of this chapter, certain terms and words used herein are defined as follows:

*Accessory building* (R1 and R2 zoning districts) shall mean a supplementary building, detached from the main building, the use of which is incidental to that of the main building and which is located on the same lot as the

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main building. Such use shall not include any building used for dwelling, lodging, or sleeping quarters for human beings. This is not to exceed 200 square feet maximum.

*Adult foster care facility* shall mean an establishment which provides supervision, assistance, protection or personal care, in addition to room and board to adults as defined in Act No. 218 of the Public Acts of Michigan of 1979 (MCL 400.701 et seq.), as amended.

*Alley* shall mean a public way which affords only a secondary means of access to abutting property and not intended for general traffic circulation.

*Alterations* shall mean any change in the location or use of a building, or any change or modification in the supporting members of a building such as bearing walls, columns, beams, hoists, girders and similar components, or any occupancy, the consummated act of which may also be referred to herein as "altered" or "reconstructed."

*Appeal* shall mean an entreaty or demand for a hearing or review of facts and/or actions in connection with the public enforcement of this chapter.

*Architectural features* shall mean architectural features of a building shall include cornices, eaves, gutters, belt courses, sills, lintels, bay windows, chimneys and decorative ornaments.

*Automobile service station* shall mean a building or structure designed or used for the retail sale of fuel, lubricants, air, water and other operating commodities for motor vehicles, aircraft or boats.

*Automobile wash establishment* shall mean a building or portion thereof, the primary purpose of which is that of washing vehicles.

*Basement* shall mean that portion of a building wholly or partly below grade, but so constructed that the vertical distance from the average grade to the basement floor is greater than the vertical distance from the average grade to the basement ceiling. A basement shall not be included as a story for height measurement. (See illustration entitled "Basement and story definition").

*Bed and breakfast facility* shall mean an existing dwelling unit in which the principal use is that of a single-family dwelling that contains, as a subordinate use, rooms in which transient guests are lodged and boarded in return for payment, provided that no meal other than breakfast is served therein. No new structure shall be built or erected for use as a bed and breakfast establishment, and any building or structure so modified shall have been in use as a single family dwelling for a period of not less than five years.

*Bedroom* shall mean a room in a dwelling unit used for or intended to be used for sleeping purposes by human beings.

*Block* shall mean the property abutting one side of a street and lying between the two nearest intersecting streets, crossing or terminating; or between the nearest such street and railroad right-of-way; unsubdivided acreage, lake, river or live stream; or between any of the foregoing and any other barrier to the continuity of development.

*Board of appeals* shall mean the city zoning board of appeals.

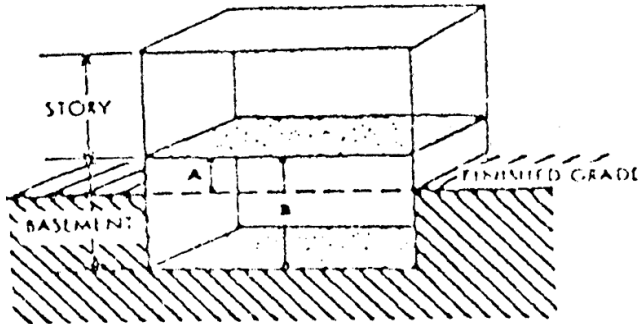
*Boardinghouse* shall mean a dwelling where meals, or lodging and meals, are provided for compensation to three or more persons by prearrangement for definite periods of not less than one week. A boardinghouse is to be distinguished as other than a motel, hotel, convalescent home or nursing home.

*Building* shall mean an independent structure having a roof supported by columns or walls, intended and/or used for shelter or enclosure of persons or chattels. When any portion thereof is completely separated from every other part by division walls from the ground up, and without openings, each portion of such building shall be deemed a separate building. This refers to both temporary and permanent structures and includes tents, sheds, garages, greenhouses or other accessory structure.

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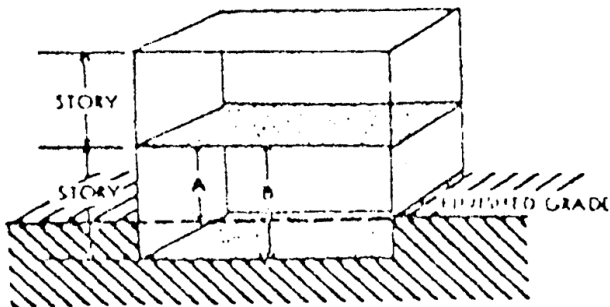
*Building and/or zoning compliance permits* shall mean the written authority issued by the zoning administrator of the city permitting the construction, removal, moving, alteration, or use of a building in conformity with the provisions of this chapter.

*Building, main or principal,* shall mean a building in which is conducted the principal use of the lot upon which it is situated.



**Basement Definition**

If the average of "A" is equal to or less than  $\frac{1}{2}$  of "B," this is a basement.



**Story Definition**

If the average of "A" is greater than  $\frac{1}{2}$  of "B," this is a story.

*Child care center* shall mean a child care center or day care center which is a facility other than a private residence, which receives one or more preschool or school age children for care for periods of less than 24 hours a day, and at which the parents or guardians are not immediately available to the children. It includes a facility that provides care for not less than two consecutive weeks, regardless of the number of hours per day. The facility is generally described as a child care center, day care center, day nursery, nursery school, parent cooperative preschool, pre-kindergarten, play group, or drop in center. Licensing rules for child care centers are governed by the state bureau of regulatory services.

*Clinic* shall mean a building or a group of buildings where human patients are admitted, but not lodged overnight, for examination and treatment by more than one professional, such as a physician, dentist, or the like.

*Commercial use* shall mean a commercial use relates to the use of property in connection with the purchase, sale, barter, display or exchange of goods, wares, merchandise or personal services or the maintenance of offices or recreational or amusement enterprises.

*Commission or planning commission* shall mean the city planning commission.

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*Convalescent or nursing home* shall mean a convalescent home or nursing home is a home for the care of children or the aged or the infirm, or a place of rest for those suffering serious bodily disorders, wherein three or more persons are cared for. Such home shall also conform to, and qualify for license under the applicable state laws (even though state law may provide for different regulations).

*Dead storage* shall mean goods not in use and not associated with any office, retail, or other business use on the premises.

*Drive-in restaurant* shall mean a drive-in restaurant is any establishment whose principal business is the sale of foods, frozen desserts or beverages to the customer in a ready-to-consume state, and whose design, method of operation or any portion of whose business includes one or both of the following characteristics:

- (1) Foods, frozen desserts or beverages are served directly to the customer in a motor vehicle either by a carhop or by other means which eliminates the need for the customer to exit the motor vehicle.
- (2) The consumption of foods, frozen desserts or beverages within a motor vehicle parked upon the premises or at other facilities on the premises outside the restaurant building, is allowed, encouraged, or permitted.

*Dwelling* shall mean a house, building or mobile home, or portion thereof, which is occupied wholly as the home, residence or sleeping place by one or more human beings, either permanently or transiently, but in no case shall a travel trailer, motor home, automobile chassis, tent or other portable building be considered as a dwelling. In case of mixed occupancy where a building is occupied in part as a dwelling, the part so occupied shall be deemed a dwelling for the purpose of this chapter and shall comply with the provisions thereof relative to dwellings. Garage space, whether in and attached or detached garage, shall not be deemed a part of a dwelling for area requirements.

- (1) *Dwelling, multiple*, shall mean a building used for and as a residence for three or more families living independently of each other and each having their own cooking facilities therein, including apartment houses, townhouses, and apartment hotels, but not including mobile homes.
- (2) *Dwelling, one-family*, shall mean a detached building occupied by one family and so designed and arranged as to provide living, cooking and kitchen accommodations for one family only.
- (3) *Dwelling, two-family*, shall mean a detached two-family dwelling that is occupied by two families, each provided with separate facilities for each family for living accommodations; also known as a duplex dwelling.
- (4) *Dwelling unit* shall mean any building or portion thereof, or mobile home, having cooking facilities, which is occupied wholly as the home, residence or sleeping place of one family, either permanently or transiently, but in no case shall a travel trailer, motor home, automobile chassis, tent or other portable building be considered a dwelling in single-family, two family or multiple family residential areas. In case of mixed occupancy where a building is occupied in part as a dwelling unit, the part so occupied shall be deemed a dwelling unit for the purpose of this chapter and shall comply with the provisions thereof relative to dwellings.
- (5) *Efficiency unit* shall mean a dwelling unit consisting of one or more rooms exclusive of hallways or closets directly off the principal room providing not less than 400 square feet of floor area.
- (6) *Minimum width* of the principal dwelling as built or assembled on the site shall not be less than 20 feet, as measured across the narrowest portion. Mobile homes that do not conform to the standards of this subsection shall not be used for dwelling purposes within the city unless located in a mobile home park or a mobile home subdivision zoned for such uses.

*Essential services* shall mean the erection, construction, alteration or maintenance by public utilities or public authorities of underground or overhead gas, electrical, steam or water transmission or distribution systems; collection, communication, supply or disposal systems, including poles, wires, drains, sewers, pipes, conduits,

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cables, towers, fire alarm boxes, police call boxes, traffic signals, hydrants or other similar equipment and accessories in connection therewith, not including buildings, as shall be reasonably necessary for the furnishing of adequate services by public utilities, or public authorities, or for the public health, safety or general welfare (not including buildings other than are primarily enclosures or shelters of the above essential service equipment). Same shall be permitted as authorized by law and other ordinances, the intent here being to exempt such erection from the application of this chapter.

*Family* shall mean one or more persons living together in one dwelling unit and interrelated by bonds of marriage, blood or legal adoption (additionally may include up to a total of three persons not so related who are either domestic servants or gratuitous guests), comprising a single housekeeping unit (sharing one kitchen facility for normal meal preparation—sink, oven refrigerator); as distinguished from a group occupying a hotel, motel, boardinghouse, club, fraternity or sorority house, or tourist home. Every additional person or group of two or more persons not related or included in the family as herein defined, shall be considered a separate family for the purpose of this chapter.

*Floor area* shall be defined as follows:

- (1) *Floor area, gross*, shall mean the sum of the gross horizontal areas of the several floors of the building measured from the exterior faces of the exterior walls or from the centerline of walls separating two buildings. The "floor area" of a building, which is what this normally is referred to as, shall include the basement floor area when more than one-half of the basement height is above the established curb level or finished lot grade, whichever is higher (see Basement definition). Any space devoted to off-street parking or loading shall not be included in "floor area." Areas of basements, breezeways, unfinished attics, porches (enclosed or unenclosed) or attached garages are not included.
- (2) *Floor area, useable*, shall mean the measurement of useable floor area shall include that portion of the floor area, measured from the interior face of the exterior walls, used for or intended to be used for services to the public or customers, patrons, clients, or patients; including areas occupied by fixtures or equipment used for display or sale of goods or merchandise, but not including areas intended to be used for storage of merchandise, utility or mechanical equipment rooms, or sanitary facilities. In the case of a half story, the useable floor area shall be considered to be only that portion having a clear height above it of four feet or more (see illustrations entitled "Basic structural terms" and "Floor area terminology").

*Garage, building (R1 and R2 zoning districts)*, shall mean a space or structure suitable for the storage of motor vehicles having no public shop or service in connection therewith for the use solely of the owner or occupant of the principal building on a lot, or his family or domestic employee. Garage must be located on the same lot as the principal building.

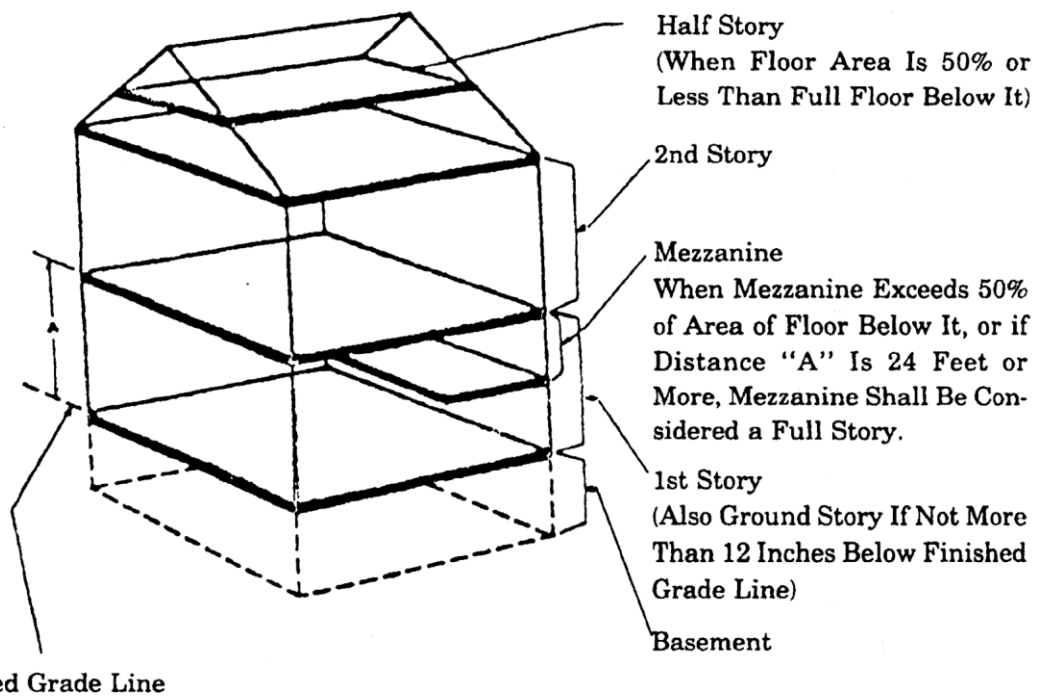
*Garage, private*, shall mean a space or structure suitable for the storage of motor vehicles having no public shop or service in connection therewith, for the use solely of the owner or occupant of the principal building on a lot, or of his family or domestic employee.

*Grade or building grade* shall, in the case of fairly level ground conditions, mean the level of the ground adjacent to the walls. For substantially unlevel ground conditions, the grade shall be the average elevation of the ground adjacent to the walls.

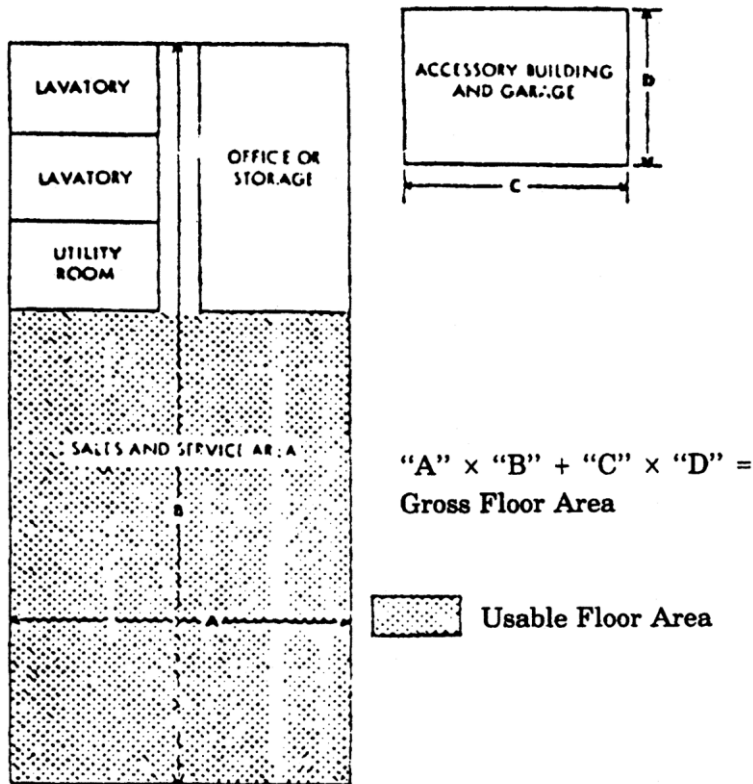
*Grower* means a licensee that is a commercial entity located in this state that cultivates, dries, trims, or cures and packages marijuana for sale to a processor or provisioning center.

*Height, building*, shall mean the vertical distance measured from the grade of the building to the highest point of the roof. Where a building is located upon a terrace, the height may be measured from the average ground level of the terrace at the building wall.

*Home occupation*



Basic Structural Terms



Floor Area Terminology

*Hospital* shall mean a building structure or institution in which sick or injured persons, primarily inpatients, are given medical or surgical treatment and operating under license by the health department of the state.

*Housing for elderly* shall mean housing designed or intended to accommodate persons aged 65 or older.

*Hotel* shall mean a building occupied as a more or less temporary abiding place for individuals, who are lodged with or without meals in rooms occupied singly for hire, in which provision is not made for cooking on any individual plan and in which there are more than ten sleeping rooms.

*Independent commercial storage* shall mean dead storage of merchandise normally carried in stock in connection with a commercial business use on a separate non-contiguous lot or parcel independent from the site of the commercial business use. Independent commercial storage shall not include trucking terminals or transfer stations.

*Independent industrial storage* shall mean dead storage of goods used in or produced by industrial uses or related activities on a separate non-contiguous lot or parcel independent from the site of the industrial use. Independent industrial storage shall not include trucking terminals or transfer stations.

*Kennel* shall mean any lot or premises on which three or more dogs or cats are kept either permanently or temporarily boarded. All kennels shall comply with all applicable city, county and state regulations.

*Licensee* means a person holding a state operating license issued under the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq.

*Loading space* shall mean an off-street space on the same lot with a building or group of buildings, for temporary parking of a commercial vehicle while loading or unloading merchandise or materials.



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*Lot* shall mean a piece or parcel of land occupied or intended to be occupied by a building and any accessory buildings or by any other use or activity permitted thereon and including the open spaces and yards required under this chapter, and having its frontage upon a public street or road either dedicated to the public or designated on a recorded subdivision.

- (1) *Lot depth* shall mean the depth of a lot is the mean horizontal distance from the center of the front street line to the center of the rear lot line.
- (2) *Lot, double frontage*, shall mean a lot other than a corner lot having frontage on two more or less parallel streets. In the case of a row of double frontage lots, one street will be designated as the front street for all lots in the plat and in the request for a zoning compliance permit. If there are existing buildings in the same block fronting on one or both of the streets, the required minimum front yard setback shall be observed on those streets where buildings presently front.
- (3) *Lot, interior*, shall mean an interior lot is a lot other than a corner lot with only one lot line fronting on a street.
- (4) *Lot, width*, shall mean the horizontal distance between the side lot lines, measured at the two points where the building line, or setback line, intersects the side lot lines.

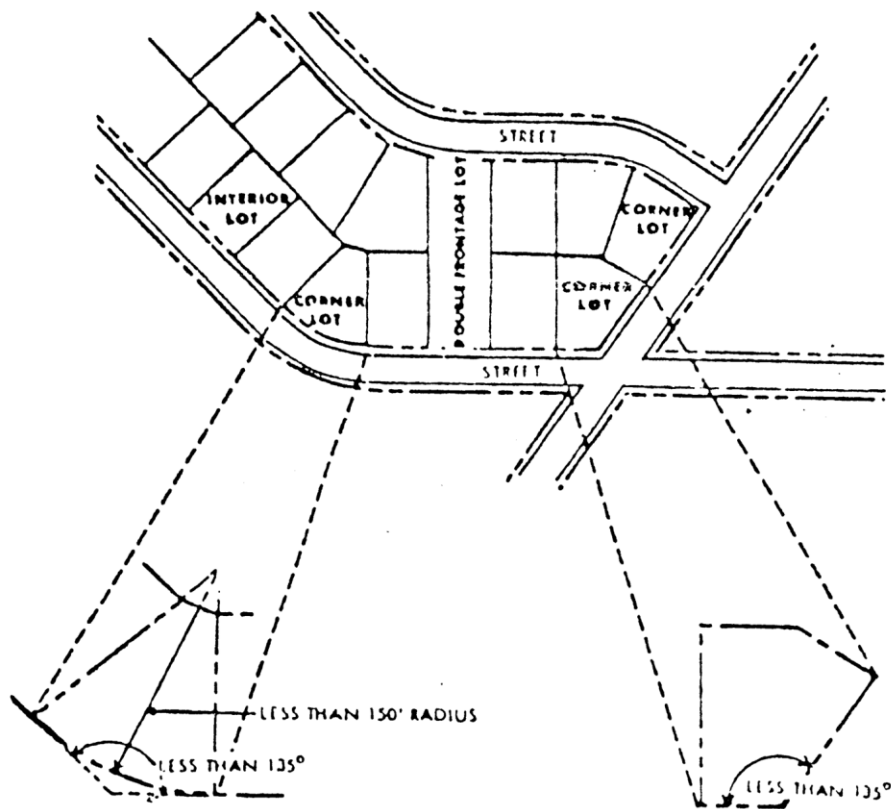
*Lot, corner*, shall mean a lot where the interior angle of two adjacent sides at the intersection of two streets is less than 135 degrees. A lot abutting upon a curved street or streets shall be considered a corner lot for the purpose of this chapter if the arc is of less radius than 150 feet and the tangents to the curve, at the two points where the lot lines meet the curve, at the two points where the lot lines meet the curve or the straight street line extended, form an interior angle of less than 135 degrees (see illustration entitled "Corner, interior and double frontage lots").

*Lot coverage* means the gross floor area of the ground or street level floor of all principal buildings, accessory structures, swimming pools and decks whose height is 24 inches above grade, divided by the net lot area of the lot upon which the building is located, where the divisor and dividend are both expressed in the same unit of measure and the result is expressed as a percentage.

*Lot lines* shall mean any line dividing one lot from another or from the right-of-way and thus constitute property lines bounding a lot.

- (1) *Lot line, front*, in the case of an interior lot abutting on one public or private street, shall mean the line separating the lot from such street right-of-way. In the case of a corner or double frontage lot, the front lot line shall be that line separating such lot from that street which is designated as the front street in the plat and/or in the request for a zoning compliance permit.
- (2) *Lot line, rear*, shall mean that boundary which is opposite and most distant from the front lot line. In the case of a lot pointed at the rear, the rear lot line shall be that assumed line parallel to the front lot line not less than ten feet long lying farthest from the front lot line and wholly within the lot. In any case, when this definition does not apply, the zoning board of appeals shall designate the rear lot line.
- (3) *Lot line, side*, shall mean any lot boundary line not a front lot line or a rear lot line. A side lot line separating a lot from a street is a side street lot line. A side lot line separating a lot from another lot or lots is an interior lot line.

*Lot of record* shall mean a lot the dimension and configuration of which are shown on a map recorded in the office of the county register of deeds, or a lot or parcel described by metes and bounds, the accuracy of which is attested by a professional engineer or land surveyor (so registered and licensed in the state) and likewise so recorded on a file with the county.



Corner, Interior and Double Frontage Lots

*Marijuana* or *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 Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq.; and the Marihuana Tracking Act, MCL 333.27901 et seq.

*Marijuana facility* means an enterprise at a specific location at which a licensee is licensed to operate under the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq., including a marijuana grower, marijuana processor, marijuana provisioning center, marijuana secure transporter, or marijuana safety compliance facility. The term does not include or apply to a "primary caregiver" or "caregiver" as that term is defined in the Michigan Medical Marihuana Act, MCL 333.26421 et seq.

*Mobile home* shall mean a detached, portable, structure designed for permanent year around living as a single-family dwelling unit. It is prefabricated on its own chassis and designed to be transported after fabrication to location for connection with existing utilities and long-term occupancy as a completed dwelling. A mobile home structure shall have plumbing, heating, electrical system, and not be motorized or self-propelled. Mobile homes sited on individual lots as dwellings must:

- (1) Have been approved by HUD and evidenced by a HUD sticker.
- (2) Have a minimum floor area per dwelling unit of 960 square feet if site zoned AG or R-1, and 720 square feet if site zoned R-2 or RM.

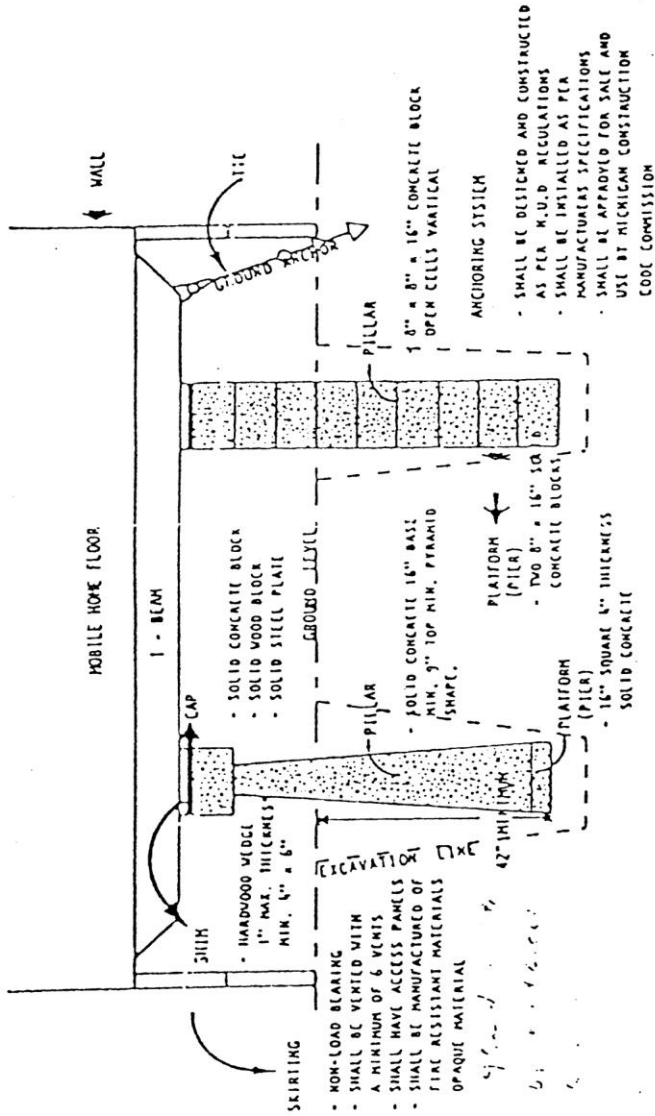
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- (3) Be attached to a permanent foundation constructed onsite, which meets building code requirements as specified in the illustration labeled, "Foundation systems for mobile homes."
  - (4) Be installed to manufacturer's setup requirements and served by an anchoring system that meets the requirements of the mobile home council.
  - (5) Be permanently attached to a masonry foundation not less than six inches thick nor less than 42 inches deep, such foundation shall have the same perimeter dimensions as the dwelling. Anchors shall be placed at intervals not exceeding eight feet. In no instance shall a mobile home be permitted to be located solely upon the concrete pillars or cement blocks illustrated in "Foundation system for mobile homes." The foundation shall be constructed of such material and type as required by the applicable general building code provisions as specified in chapter 6.
    - a. There shall be a 20-inch crawl space below the bottom of the floor, 12 inches of which may be below finished exterior grade.
    - b. The crawl space shall not be utilized as for storage purposes.
    - c. A basement satisfying the same standards as for a single-family dwelling, in accordance with this Code and city ordinances, may be substituted for the 42-inch masonry foundation.

The foundation or basement shall not be a substitute for support pillars unless a mobile home manufacturer's specifications for supporting the mobile home are satisfied.

- (6) Dwelling must have storage area inside or outside the dwelling of at least 15 percent of the square footage of the dwelling or 150 square feet.
- (7) Have its wheels and towing mechanism removed and its undercarriage not exposed.
- (8) Be aesthetically compatible in design and appearance with other residences in the vicinity, with either a roof overhang of not less than six inches, or alternatively with window sills or roof drainage systems concentrating roof drainage at collection points along the sides of the dwelling; has not less than exterior doors with the second one being either in the rear or side of the dwelling; and containing steps connected to such door areas or porches connected to such door areas where a difference in elevation requires the same. The compatibility of design and appearance is to be determined by the city zoning administrator with an appeal possible to the zoning board of appeals.
- (9) Must comply with section 22-226 et seq. being the schedule of regulations, area, height, bulk and placement regulations.
- (10) Contain no additions or rooms not of the same or better workmanship than the original structure.
- (11) Comply with pertinent building and fire codes and meet or exceed snow load and strength requirements.
- (12) And comply with all other sections contained in the city Code where not superseded or otherwise specified by this section.

*Mobile home park* shall mean a specifically designated parcel of land designed and developed to accommodate two or more mobile home sites for residential use.

*Motels or motor courts* shall mean a building or a group of buildings in which overnight lodging is provided and offered to the public for compensation and catering primarily to the public traveling by motor vehicles.



### Foundation Systems For Mobile Homes

*Nonconforming building* shall mean a building or portion thereof lawfully existing at the effective date of this chapter, or amendments thereto, and which does not conform to the provisions (e.g., setbacks, height, lot coverage, parking) of this chapter in the zoning district in which it is located.

*Off-street parking lot* shall mean a facility providing vehicular parking spaces along with adequate drives and aisles. Adequate maneuvering space shall be provided which allows unrestricted access and egress.

*Open air business uses* shall mean and include the following business uses:

- (1) Retail sale of trees, shrubbery, plants, flowers, seed, topsoil, humus, fertilizer, trellises, lawn furniture, playground equipment and other home garden supplies and equipment.
- (2) Retail sale of fruits and vegetables.

- 
- (3) Tennis courts, archery courts, shuffleboard, horseshoe courts, miniature golf, golf driving range, children's amusement park and/or similar recreation uses.
  - (4) Bicycle, utility truck or trailer, motor vehicle, boats or home equipment sale; rental or repair services.
  - (5) Outdoor display and sale of garages, swimming pools, motor homes, mobile homes, snowmobiles, farm implements, and similar products.

*Outdoor production* means growing marijuana in an expanse of open or cleared ground or in a greenhouse, hoop house, or similar non-rigid structure that does not utilize any artificial lighting, including but not limited to electrical lighting sources.

*Outlot* shall mean a lot or parcel of land dedicated to public or private uses other than a dwelling site.

*Parking space* shall mean an area for each automobile or motor vehicle, such space being exclusive of necessary drives, aisles, entrances or exits, and being fully accessible for the storage or parking of self-propelled vehicles.

*Planned residential development* shall mean an optional means of development allowing a mixture of types of residential units, i.e., single-family, two-family and multiple family, in conformance to a comprehensive physical plan.

*Porch, enclosed*, shall mean a covered entrance to a building or structure which is totally enclosed, and projects out from the main wall of such building or structure and has a separate roof or an integral roof with the principal building or structure to which it is attached.

*Porch, open*, shall mean a covered entrance to a building or structure which is unenclosed except for columns supporting the porch roof, and projects out from the main wall of the building or structure and has a separate roof or an integral roof with the principal building or structure to which it is attached.

*Processor* means a licensee that is a commercial entity located in this state that purchases marijuana from a grower and that extracts resin from the marijuana or creates a marijuana-infused product for sale and transfer in packaged form to a provisioning center.

*Provisioning center* means a licensee that is a commercial entity located in this state that purchases marijuana from a grower or processor and sells, supplies, or provides marijuana to registered qualifying patients, directly or through the patients' registered primary caregivers. Provisioning center includes any commercial property where marijuana is sold at retail to registered qualifying patients or registered primary caregivers. A noncommercial location used by a primary caregiver to assist a qualifying patient connected to the caregiver in accordance with the Michigan Medical Marijuana Act, MCL 333.26421 et seq., is not a provisioning center for purposes of this article.

*Public or private park* shall mean a parcel of land for use as a recreation area, play area, picnic area or nature area, without commercial trade.

*Public utility* shall mean any person, municipal department or board duly authorized to furnish and furnishing under municipal or state regulation to the public; transportation, water, gas, electricity, telephone, steam, telegraph or sewage disposal.

*Recreational unit* shall mean a motorized vehicular unit primarily designed for travel and/or recreational usage, which may contain facilities for overnight lodging. This term does not apply to mobile homes.

*Safety compliance facility* means a licensee that is a commercial entity that receives marijuana from a marijuana facility or registered primary caregiver, tests it for contaminants and for tetrahydrocannabinol and other cannabinoids, returns the test results, and may return the marijuana to the marijuana facility.

*Secure transporter* means a licensee that is a commercial entity located in this state that stores marijuana and transports marijuana between marijuana facilities for a fee.

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*Self-service storage facility* shall mean a building or group of buildings in a controlled access and fenced compound that contains individual compartmentalized and controlled access stalls or lockers for dead storage of customer goods or wares.

*Setback* shall mean the minimum horizontal distance required to exist between the front line of the building, excluding steps or unenclosed porches and the front street or right-of-way line. The required setback area is that area encompasses by the respective lot lines and setback lines (see illustration "Lot terms").

*Signs* shall mean and words, lettering, parts of letters, figures, numerals, phrases, sentences, emblems, devices, designs, trade names or marks, or other representation, or combination thereof, by which anything is made known, such as the designation of an individual, a firm, an association, a profession, a business, a commodity or product, which is located upon any land or on or in any building, in such manner as to attract attention from outside the premises. (Refer to article XI-B: signs, for additional definitions pertaining to signs.)

*Snow fence* shall mean a temporary type of porous fencing that forces windblown, drifting snow to accumulate in a desired place rather than accumulating on roads, private drives and other property areas where accumulation and drifts of snow are not desirable. A snow fence can be either a perforated plastic sheeting or a lightweight wood strip and wire fence, attached to metal "T" posts or "U" posts at regular intervals. As used in this section, the term "snow fence" includes not only the fencing material but also all posts to which the fencing material is attached.

*State licensed residential facility* shall mean a structure constructed for residential purposes that is licensed by the state which provides resident services for persons under 24-hour supervision or care for persons in need of that supervision.

*Story* shall mean that portion of a building, other than a mezzanine, included between the surface of any floor and the floor next above it, or if there be no floor above it, then the space between the floor and the ceiling next above it.

- (1) *Mezzanine*. A "mezzanine" floor may be used in this definition of a full story when it covers more than 50 percent of the area of the story underneath such mezzanine, or, if the vertical distance from the floor next below it to the floor next above it is 24 feet or more.
- (2) *Half* shall mean that part of a building between a pitched roof and the uppermost full story, such part having a floor area which does not exceed one-half the floor area of the full story, provided the area contains at least 200 square feet with a clear height of at least seven feet and six inches.

*Street*. The public thoroughfare which affords traffic circulation and principal means of access to abutting property, including avenue, place, way, drive, lane, boulevard, highway, road and other thoroughfares, except an alley.

*Swimming pool* shall mean any structure or container located whether above or below grade designed to hold water to a depth greater than 24 inches, intended for swimming or bathing. A swimming pool shall be considered as an accessory building for the purpose of determining required yard spaces and maximum lot coverage.

*Tea room* shall mean a facility commercially available, on a daily or short-term basis, for rent or the services of which are otherwise made available at a charge to accommodate meetings, business and/or social gatherings. Such a facility, including any food service or on-premises catering, shall be operated in strict compliance with all laws and administrative rules promulgated by federal, state or local authorities that may be applicable to any such gathering or function to be conducted on the premises.

*Use* shall mean the purpose of which land or premises of a building thereon is designed, arranged, intended, or for which it is occupied, maintained, let, or leased.

- (1) *Accessory* shall mean a use naturally and normally incidental to, subordinate to, and devoted exclusively to the main use of the premises.

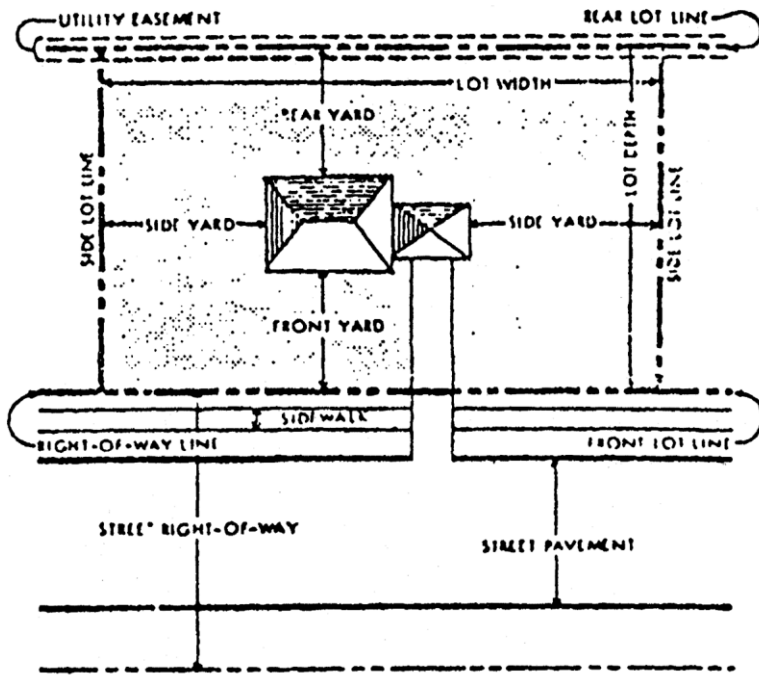
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*Utility room* shall mean a room in a dwelling, not located in the basement, the use of which is primarily for storage or for housing a heating unit, or for laundry purposes.

*Variance* shall mean a modification of the literal provisions of this chapter which is granted when strict enforcement would cause undue hardship owing to circumstances unique to the individual property on which the variance is granted.

*Yard, required side-rear-front*, shall mean an open space of prescribed width or depth, adjacent to a lot or property line, on the same land with a building or group of buildings, which open space lies in the area between the building or group of buildings and the nearest lot line and is unoccupied and unobstructed from the ground upward, except as otherwise provided herein. This regulation shall not exclude eaves provided above the adjacent ground level (see illustration entitled "Lot terms").

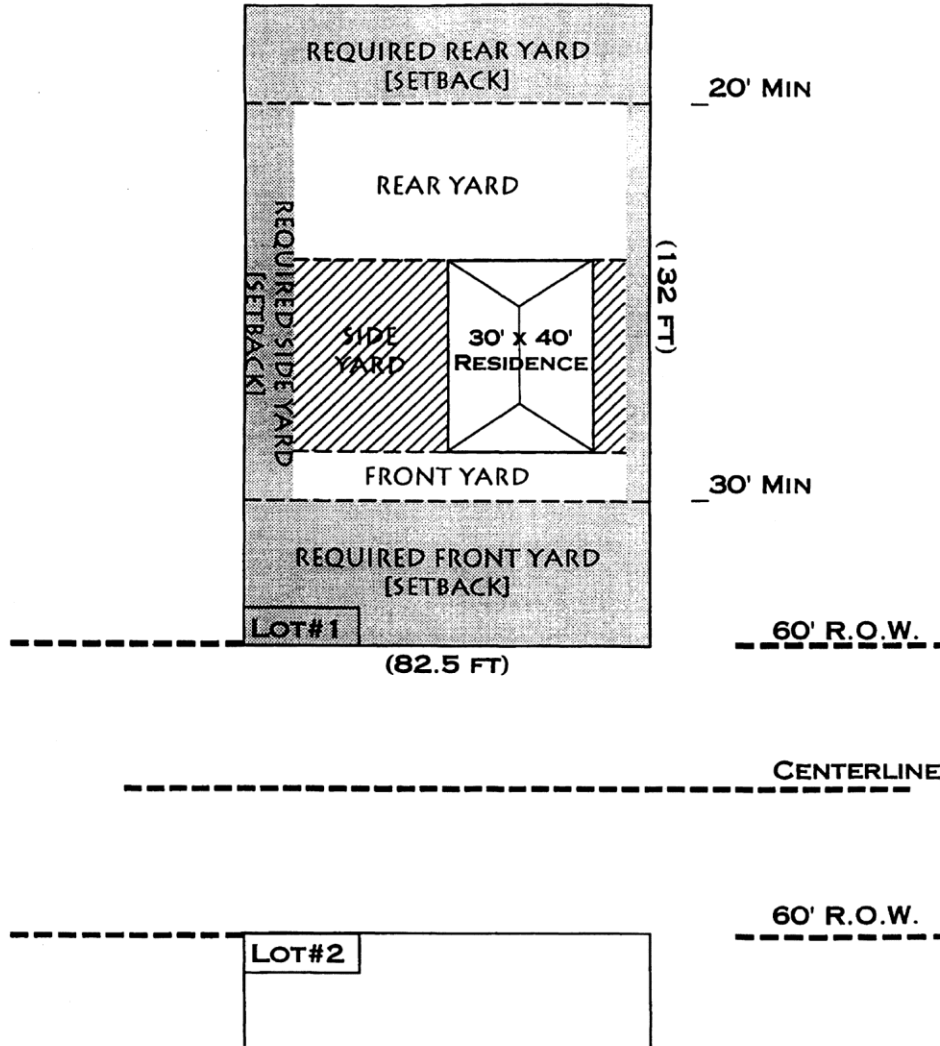
- (1) *Required front yard* shall mean an open space extending the full width of a lot and of a depth measured horizontally at right angles to the front property line, lot line, or right-of-way.
- (2) *Required rear yard* shall mean an open space extending the full width of a lot and of a depth measured horizontally at right angles to the rear property line, lot line, or right-of-way, except as otherwise provided in this chapter.
- (3) *Required side yard* shall mean an open space extending on each side of the lot from the required front yard to the required rear yard, and of a width measured horizontally at right angles to the respective side property line, lot line or right-of-way.
- (4) *Front yard* shall mean that area located between the front line of the principal structure, excluding steps and unenclosed porches, as such line is extended to each required side yard setback and otherwise bounded by the lines formed by the required side and front yard setbacks. (See illustration entitled "Lot terms").
- (5) *Rear yard* shall mean that area located between the rear line of the principal structure, excluding steps and unenclosed porches, as such line is extended to each required side yard setback and otherwise bounded by the lines formed by the required side and rear yard setbacks. (See illustration entitled "Lot terms").
- (6) *Side yard* shall mean that area located between the respective required side yard setback and the respective side line of the principal structure located on the parcel, excluding steps or unenclosed porches, extended to the lines of the required front yard and rear yard setbacks.



Lot Terms



**TYPICAL YARDS: FRONT, SIDE, BACK  
R1 DISTRICT - 82.5 X 132' LOT**



Yard Requirements

*Zoning administrator* shall refer to the zoning administrator of the city, or his authorized representative.

(Code 1963, §§ 5.3—5.9; Ord. No. 155, 2-11-85; Ord. of 4-14-80; Ord. No. 187, § 5.9(2), 5-10-93; Ord. No. 98-225, 4-27-98; Ord. No. 98-226, 5-28-98; Ord. No. 98-230, 9-28-98; Ord. No. 99-234, 2-22-99; Ord. No. 02-248, 5-22-02; Ord. No. 02-249, 5-20-02; Ord. No. 02-253, 8-12-02; Ord. No. 02-A257, 9-23-02; Ord. No. 04-270, 3-22-04; Ord. No. 14-310, § 1, 12-8-14; Ord. No. 15-320, § 1, 11-23-15; Ord. No. 16-326, § 1, 8-22-16; Ord. No. 17-333, § 1, 10-23-17)

Cross reference(s)—Definitions and rules of construction generally, § 1-2.

**Sec. 22-28. Districts established.**

The city is hereby divided into the following districts:

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AG Agricultural district.  
R-1 One-family residential district.  
R-2 One-family residential district.  
RM Multiple-family residential district.  
C-1 Local commercial district.  
C-2 Central business commercial district.  
C-3 General commercial district.  
I-1 Industrial district.

(Code 1963, § 5.10; Ord. of 4-14-80)

### **Sec. 22-29. Map.**

The boundaries of these districts are shown upon the official zoning map of the city and made a part of this chapter. All notations, references, and other information shown thereon are a part of this chapter and have the same force and effect as if fully described herein.

(Code 1963, § 5.11; Ord. of 4-14-80)

### **Sec. 22-30. Interpretation of district boundaries.**

Where uncertainty exists with respect to the boundaries of the various districts as shown on the zoning map the following rules shall apply:

- (1) Boundaries indicated as approximately following the centerlines of streets, highways, or alleys shall be construed to follow such centerlines.
- (2) Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
- (3) Boundaries indicated as approximately following city limits shall be construed as following city limits.
- (4) Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks.
- (5) Boundaries indicated as following shorelines shall be construed to follow shorelines, and in the event of change in the shoreline, shall be construed as moving with the actual shoreline; boundaries indicated as approximately following the centerline of streams, rivers, canals, lakes or other bodies of water shall be construed to follow such centerlines.
- (6) Boundaries indicated as parallel to or extensions of features indicated in subsections (1) through (5) above shall be so construed. Distances not specifically indicated on the official zoning map shall be determined by the scale of the map.
- (7) Where physical or cultural features existing on the ground are at variance with those shown on the official zoning plan or in other circumstances not covered by subsections (1) through (6) above, the board of appeals shall interpret the district boundaries.
- (8) Insofar as some or all of the various districts may be indicated on the zoning map by patterns which, for the sake of map clarity, do not cover public rights-of-way, it is intended that such district boundaries do extend to the center of any public right-of-way.

(Code 1963, § 5.12)

**Secs. 22-31—22-50. Reserved.**

### **ARTICLE III. AG, AGRICULTURAL ZONING DISTRICT<sup>49</sup>**

**Sec. 22-51. Intent.**

(a) *AG, agricultural district:* The intent of the AG, agricultural district is to set aside land suitable for agricultural development and agricultural related uses.

(Ord. No. 17-331, § 1(Exh. A), 9-25-17)

**Sec. 22-52. Permitted uses.**

<b>Agricultural District Permitted Land Uses (P), Special Land Uses (S), and Prohibited Land Uses (—)</b>		
	<b>AG</b>	<b>Additional Requirements</b>
<b>Uses</b>		
Accessory buildings and uses customarily incidental to the permitted principal use	P	
Airports, airfields, runways, hangars, beacons, and other facilities involved with aircraft operations	S	Section 22-58
Cemeteries	S	Perimeter Side of Fence Must Abide to Section 22-265
Churches	S	Section 22-56
Farms	P	
Golf courses, private parks, country clubs, and gun clubs	S	
Home occupations	S	Section 22-264
Large wind turbines	S	Section 22-275
Raising of fur-bearing animals	S	Section 22-55
Roadside stands, principally for the marketing of agricultural products produced on the premises	S	
Publicly owned and operated museums, libraries, parks, and playfields, playgrounds, recreational facilities and conservation	P	

<sup>49</sup>Editor's note(s)—Ord. No. 17-331, § 1(Exh. A), adopted September 25, 2017, repealed the former Art. III, §§ 22-51—22-54, and enacted a new Art. III as set out herein. The former Art. III pertained to similar subject matter and derived from Code 1963, §§ 5.14—5.17; Ord. of 4-14-80; Ord. No. 14-309, § 1, 12-8-14. Section 1 of said ordinance also repealed Art. III-A, §§ 22-55—22-58, which pertained to PO, Parks and Open Space District and derived from Ord. No. 02-254, 8-12-02; Ord. No. 14-309, § 2, 12-8-14. The user's attention is directed to Art. IV, § 22-60 et seq.

Public, parochial or other private elementary, intermediate schools and/or high schools offering courses in general education and not operated for profit on sites of not less than ten acres	P	
Public utility buildings	S	Section 22-57
Sale of farm machinery, equipment and supplies	S	Section 22-59
Sand and gravel operations in accordance with state law	S	
Single-family detached dwellings (Both farm and non-farm related)	P	
Small wind turbines	S	Section 22-276
Stables with a minimum of five (5) acres; riding academies with a minimum site size of ten (10) acres	S	
Temporary buildings for use incidental to construction work for a period not to exceed one (1) year	S	
<b>Prohibited Uses</b>		
<b>AG:</b> Any use not expressly stated above is prohibited in specified zoning districts.		

(Ord. No. 17-331, § 1(Exh. A), 9-25-17)

**Sec. 22-53. Schedule of regulations.**

<b>Agricultural Districts Schedule of Regulations</b>	
	<b>AG</b>
<b>Maximum Height</b>	
Building height (feet)	80
Stories	—
<b>Lot Size (minimum unless otherwise noted)</b>	
Area (square feet)	43,560
Lot width (feet)	150
<b>Maximum Lot Coverage (includes all buildings in percent of lot area)</b>	
Buildings	20
<b>Setbacks (minimum unless otherwise noted)</b>	
Front (feet)	50
Side (least) (feet)	20
Side (total) (feet)	35
Rear (feet)	35
<b>Minimum Floor Area Per Dwelling Unit (a)</b>	
Minimum floor area per dwelling unit (square feet)	960

- (a) Required minimum floor area for each dwelling unit shall not include area of basements, utility rooms, breezeways, porches or attached garages.

(Ord. No. 17-331, § 1(Exh. A), 9-25-17)

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**Sec. 22-54. Use regulations.**

*Purpose:* This zoning ordinance differentiates between permitted uses and permitted use after special approval for uses within the agricultural zoning districts in the City of Morenci. A permitted use does not require a special land use permit from the planning commission, while the opposite is true for a permitted use after special approval, which does require such use to be permitted by the planning commission. The process for special land use permits is defined in Section 22-260 of the Morenci Code of Ordinances.

(Ord. No. 17-331, § 1(Exh. A), 9-25-17)

**Sec. 22-55. Raising of fur-bearing animals.**

- (a) The raising of fur-bearing animals, subject to the following conditions:
- (1) The commercial raising of fur-bearing animals, including minks, chinchillas, rabbits, fox, guinea pigs and similar animals, shall be located on a continuous parcel of land 20 acres or more in area. All outdoor runs or breeding areas shall be enclosed on all sides by an obscuring wall or fence not less than four feet in height. All such runs or breeding areas and shelter areas shall be set back from the front property line a minimum of 100 feet.
  - (2) The commercial raising of domestic or laboratory animals such as cats, dogs, mice, rats or other similar animals shall be located on a parcel of property not less than ten acres in area. All outdoor runs or breeding areas shall be enclosed on all sides by a wall or fence.

(Ord. No. 17-331, § 1(Exh. A), 9-25-17)

**Sec. 22-56. Churches.**

- (a) Churches, subject to the following requirements:
- (1) Buildings of greater than the maximum height allowed in article X, schedule of regulations may be allowed provided front, side and rear yards are increased above the minimum required yards by one foot for each foot of building height that exceeds the maximum height allowed.

(Ord. No. 17-331, § 1(Exh. A), 9-25-17)

**Sec. 22-57. Public utility buildings.**

- (a) Public utility buildings, subject to the following requirements:
- (1) When operating requirements necessitate locating within the district to serve the immediate vicinity.

(Ord. No. 17-331, § 1(Exh. A), 9-25-17)

**Sec. 22-58. Airports, airfields.**

- (a) Airports, airfields, runways, hangars, beacons, and other facilities involved with aircraft operations, subject to the following requirements:
- (1) All rules and regulations of the Federal Aeronautics Administration shall be followed and such agency shall approve the preliminary plans submitted to the county. Land beneath all aircraft approach lanes, as established by appropriate aeronautical authorities, which is not part of the airport, shall be so

developed as to not endanger safe flight conditions to and from an established airport. Permitted height of buildings, structures, telephone and electric lines and appurtenances thereto shall be established by the county planning commission after consultation with the appropriate aeronautical agencies.

(Ord. No. 17-331, § 1(Exh. A), 9-25-17)

**Sec. 22-59. Sale of farm machinery, equipment and supplies, subject to the following conditions:**

- (a) The site shall have direct access to a county primary road as defined in the county comprehensive development plan.
- (b) Such use shall be located at least 50 feet away from any property line abutting residentially zoned lands.

(Ord. No. 17-331, § 1(Exh. A), 9-25-17)

**ARTICLE IV. PO, PARKS AND OPEN SPACE ZONING DISTRICT<sup>50</sup>**

**Sec. 22-60. Intent.**

- (a) *PO, Parks and Open Space District:* The intent of the PO, parks and open space district is to set aside those lands that, because of their physical characteristics, would be suitable for parks, recreation and open space use.

(Ord. No. 17-331, § 1(Exh. A), 9-25-17)

**Sec. 22-61. Permitted uses.**

Parks and Open Space District Permitted Land Uses (P), Special Land Uses (S), and Prohibited Land Uses (—)		
	PO	Additional Requirements
Uses		
Accessory uses or structures	P	
A lot may be used for the raising or growing of plants, trees, scrubs, and nursery stock	P	
Essential services and structures of a non-industrial character, and not including maintenance depots or warehouses	P	
Golf course and club	P	
Large wind turbines	S	Section 22-275

<sup>50</sup>Editor's note(s)—Ord. No. 17-331, § 1(Exh. A), adopted September 25, 2017, repealed the former Art. IV, §§ 22-76—22-80, and enacted a new Art. IV as set out herein. The former Art. IV pertained to R-1 and R-2, One-Family Residential Districts and derived from Code 1963, §§ 5.20—5.23; Ord. of 4-14-80; Ord. No. 97-221, 10-27-91; Ord. No. 02-248, 5-22-02; Ord. No. 02-249, 5-20-02; Ord. No. 04-273, 6-28-04; Ord. No. 14-309, § 3, 12-8-14. The user's attention is directed to Art. V, § 22-76 et seq.

Mobile food vending	P	Section 22-272A
Private or publicly operated trails, commercial or not for profit, for use by pedestrian and bicycles	P	
Public or private forest preserve, game refuge, park, rustic camping ground, playground, or other recreation purpose	S	Section 22-84 (a) (3)
Public and private conservation areas and structures for the development, protection and conservation of open space, watersheds, water, soil, forest, and wildlife recourses	P	
Small wind turbines	S	Section 22-276
Travel trailer parks	S	
<b>Prohibited Uses</b>		
PO: Any use not expressly stated above is prohibited in specified zoning districts.		

(Ord. No. 17-331, § 1(Exh. A), 9-25-17)

**Sec. 22-62. Schedule of regulations.**

<b>Parks and Open Space District Schedule of Regulations</b>	
	<b>PO</b>
<b>Maximum Height</b>	
Building height (feet)	—
Stories	—
<b>Lot Size (minimum unless otherwise noted)</b>	
Area (square feet)	—
Lot width (feet)	—
<b>Maximum Lot Coverage (includes all buildings in percent of lot area)</b>	
Buildings	—
<b>Setbacks (minimum unless otherwise noted)</b>	
Front (feet)	—
Side (least) (feet)	—
Side (total) (feet)	—
Rear (feet)	—
<b>Minimum Floor Area Per Dwelling Unit (a)</b>	
Minimum floor area per dwelling unit(square feet)	—

- (a) Required minimum floor area for each dwelling unit shall not include area of basements, utility rooms, breezeways, porches or attached garages.

(Ord. No. 17-331, § 1(Exh. A), 9-25-17)

**Secs. 22-63—22-75. Reserved.**

**ARTICLE V. R-1 AND R-2, ONE-FAMILY RESIDENTIAL ZONING DISTRICTS.<sup>51</sup>**

**Sec. 22-76. Intent.**

The R-1 and R-2, one-family residential districts are designed to be the most restrictive of the residential districts. The intent is to provide for an environment of predominantly low density one-family detached dwellings along with other residentially related facilities, which serve the residents of the district.

(Ord. No. 17-331, § 1(Exh. A), 9-25-17)

**Sec. 22-77 Uses.**

<b>One-family Residential Districts Permitted Land Uses (P), Special Land Uses (S), and Prohibited Land Uses (—)</b>			
	R-1	R-2	Additional Requirements
<b>Uses</b>			
Accessory uses and buildings customarily incidental to the permitted principal uses	P	P	Section 22-254
Bed and breakfast facility	S	S	Section 22-273
Cemeteries	S	S	Perimeter Side of Fence Must Abide to Section 22-265
Churches	S	S	Section 22-81
Golf course	S	S	Section 22-82
Home occupation	S	S	Section 22-264
Large wind turbines	S	S	Section 22-275
Nursery schools, group day care homes and child care centers, except family day care homes as defined by state statute, that meet state licensing requirements	S	S	
Public, parochial or other private elementary, intermediate, and / or high schools offering courses in general education, not operated for profit, with a minimum site size of ten acres	P	P	
One-family detached dwellings	P	P	
Publicly owned and operated museums, libraries, parks, playfields, playgrounds, recreation facilities and conservation areas	P	P	

<sup>51</sup>Editor's note(s)—Ord. No. 17-331, § 1(Exh. A), adopted September 25, 2017, repealed the former Art. IV, §§ 22-76—22-80, and enacted a new Art. V as set out herein. The former Art. V pertained to RM, Multiple-Family Residential District and derived from Code 1963, §§ 5.26—5.30; Ord. of 4-14-80; Ord. No. 02-248, 5-22-02; Ord. No. 02-249, 5-20-02; Ord. No. 14-309, § 4, 12-8-14. The user's attention is directed to Art. V-A, § 22-178 et seq.



Public utility buildings	S	S	Section 22-83
Small wind turbines	S	S	Section 22-276
State licensed residential facilities, including adult foster care facilities and family day care homes, as those terms are defined by state statute, serving six or less persons, but excluding adult foster care facilities licensed by a state agency for care and treatment of persons released from or assigned to adult correction institutions	P	P	
Tea rooms	S	S	
Temporary buildings	S	S	Section 22-84
Two-family dwellings	—	S	Section 22-85
<b>Prohibited Uses</b>			
<b>R-1 and R-2:</b> Any use not expressly stated above is prohibited in specified zoning districts.			

(Ord. No. 17-331, § 1(Exh. A), 9-25-17)

**Sec. 22-78. Reserved.**

**Sec. 22-79. Schedule of regulations.**

<b>Residential Districts Schedule of Regulations</b>		
	<b>R-1</b>	<b>R-2</b>
<b>Maximum Height</b>		
Building height (feet)	35	35
Stories	3	3
<b>Lot Size (minimum unless otherwise noted)</b>		
Area (square feet)	7,500	7,500
Lot width (feet)	60	60
<b>Maximum Lot Coverage (includes all buildings in percent of lot area)</b>		
Buildings	30	30
<b>Setbacks (minimum unless otherwise noted)</b>		
Front (feet)	30	30
Side (least) (feet)	5	5
Side (total) (feet)	15	15
Rear (feet)	20	20
<b>Minimum Floor Area Per Dwelling Unit</b>		
Minimum floor area per dwelling unit (square feet)	720	720

[(a)] Required minimum floor area for each dwelling unit shall not include area of basements, utility rooms, breezeways, porches or attached garages.

(Ord. No. 17-331, § 1(Exh. A), 9-25-17; Ord. No. 19-340, § 1, 1-14-19)

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## **Sec. 22-80. Use regulations.**

*Purpose:* This zoning ordinance differentiates between permitted uses and permitted use after special approval for uses within the residential zoning districts in the City of Morenci. A permitted use does not require a special land use permit from the planning commission, while the opposite is true for a permitted use after special approval, which does require such use to be permitted by the planning commission. The process for special land use permits is defined in section 22-260 of the Morenci Code of Ordinances.

(Ord. No. 17-331, § 1(Exh. A), 9-25-17)

## **Sec. 22-81. Churches.**

(a) Churches, subject to the following requirements:

- (1) Buildings of greater than the maximum height allowed in article X, schedule of regulations may be allowed provided front, side and rear yards are increased above the minimum required yards by one foot for each foot of building height that exceeds the maximum height allowed.

(Ord. No. 17-331, § 1(Exh. A), 9-25-17)

## **Sec. 22-82. Golf courses.**

(a) Golf courses, subject to the following requirements:

- (1) Development features including the principal and accessory buildings and structures shall be so located and related as to minimize the possibilities of any adverse effects upon adjacent property. This shall mean that all principal or accessory buildings shall be not less than 200 feet from any property line of abutting residentially zoned lands.

(Ord. No. 17-331, § 1(Exh. A), 9-25-17)

## **Sec. 22-83. Public utility buildings.**

(a) Public utility buildings, subject to the following requirements:

- (1) When operating requirements necessitate locating within the district to serve the immediate vicinity.

(Ord. No. 17-331, § 1(Exh. A), 9-25-17)

## **Sec. 22-84. Temporary buildings.**

(a) Temporary buildings, subject to the following requirements:

- (1) *Burnouts and incidental occurrences.* Travel trailers, motor homes, and recreational vehicles may be occupied as a temporary dwelling in residential (R1, R2) areas, provided said unit is situated on a parcel of land upon which is located water and sanitary facilities accessible to the occupants and is certified by the zoning inspector, for a period of time not to exceed 14 days consecutively. The city council shall require registration with the fee set yearly by resolution of the city council. No travel trailer, motor home or recreational vehicle may be situated on a street. No occupancy may exceed more than 30 days cumulatively within a 365-day period of time. Extensions may be granted by the zoning administrator, for greater than 30 days consecutively and cumulatively, when occupants are owners of

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a residence that has burned and is being repaired. The temporary dwelling shall be removed within ten days if work has ceased or an occupancy permit is issued.

- (2) *Temporary offices used as a temporary dwelling.* Mobile homes/offices or construction trailers may be used on-site as temporary facilities during construction of a permanent multi-family, commercial, or industrial project. The applicant shall provide a description of the temporary units and their location on the site plan, or temporary land use permit. Adequate fresh water and sanitary facilities shall be provided and certified by the zoning administrator. The mobile units shall be removed within ten days after an occupancy permit is issued, or at such time as the temporary land use permit expires. Such offices may not be occupied as a dwelling for a period greater than ten days, consecutively, nor greater than 40 days cumulatively within a 365-day period of time. The city council has the option of requiring the posting of a bond, or other performance guarantee, at the time the land use permit is issued. The city council may declare a forfeiture of the bond or other financial guarantee if the site is not cleaned up to the satisfaction of the zoning administrator.
- (3) *Tents within the city and its parks.* The use of tents as a temporary dwelling in connection with recreational activities is permitted as long as the necessary and proper health, sanitation, plumbing and freshwater facilities are provided and accessible. This type of activity is limited to a period of three nights. The city council may require registration and a fee from the individual or the event director for such use.
- (4) *Tractor-trailer sleepers.* Overnight occupancy of a tractor-trailer cab shall not be permitted in any other area than that licensed and/or specified by the city council for such purpose.

(Ord. No. 17-331, § 1(Exh. A), 9-25-17)

### **Sec. 22-85. Two-family dwellings.**

- (a) Two-family dwellings are permitted in the R-2 zoning district, subject to the following requirements:
  - (1) Minimum lot size shall be 12,000 square feet.
  - (2) Minimum lot width shall be 80 feet.
  - (3) All other requirements shall be as set for the R - 2 district in the schedule of regulations in section 22-79.

(Ord. No. 17-331, § 1(Exh. A), 9-25-17)

## **ARTICLE V-A. RM, MULTIPLE-FAMILY RESIDENTIAL DISTRICT**

### **Sec. 22-86. Intent.**

The RM, multiple-family residential district is designed to permit a high density of population and a high intensity of land use in those areas which abut or are adjacent to such other uses or amenities which support, compliment, or serve such a density or intensity.

(Ord. No. 17-331, § 1(Exh. A), 9-25-17)

**Sec. 22-87. Use regulations.**

<b>Multiple-family Residential Zoning District Permitted Land Uses (P), Special Land Uses (S), and Prohibited Land Uses (—)</b>		
	<b>RM</b>	<b>Additional Requirements</b>
<b>Uses</b>		
Adult foster care homes	S	Section 22-90
Accessory uses and building customarily incidental to the permitted principal uses.	P	
All permitted uses in the R-1 and R-2 districts subject to the terms and conditions provided therein.	P	
Bed and breakfast	S	Section 22-273
Colleges, universities and other such institutions of higher learning, public and private, offering courses in general, technical or religious education and not operated for profit	S	Section 22-92
Funeral homes	S	Section 22-93
Hospitals	S	Section 22-94
Housing for the elderly	S	Section 22-95
Mobile home parks	S	Section 22-270
Multiple-family dwelling units including townhouses (single-family attached dwellings), apartments and row or terrace dwellings.	P	
Planned residential developments	S	Section 22-269
Orphanages	S	Section 22-96
Rehabilitation centers	S	Section 22-91
Small wind turbines	S	Section 22-276
State licensed residential facilities.	P	
Tea rooms	S	
<b>Prohibited Uses</b>		
<b>RM:</b> Any use not expressly stated above is prohibited in specified zoning districts.		

(Ord. No. 17-331, § 1(Exh. A), 9-25-17)

**Sec. 22-88. Schedule of regulations.**

<b>Multiple-family Residential Zoning District Schedule of Regulations</b>	
	<b>RM</b>
<b>Maximum Height</b>	
Building height (feet)	35
Stories	3
<b>Lot Size (minimum unless otherwise noted)</b>	
Area (square feet)	(a)
Lot width (feet)	(a)
<b>Maximum Lot Coverage (includes all buildings in percent of lot area)</b>	
Buildings	30

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(Supp. No. 25)

Setbacks (minimum unless otherwise noted)	
Front (feet)	50
Side (least) (feet)	25
Side (total) (feet)	50
Rear (feet)	50
Minimum Floor Area Per Dwelling Unit	
Minimum floor area per dwelling unit (square feet)	(b)

(a) Minimum land area required for each dwelling unit in the RM district shall be:

Dwelling Unit Size	Area in Square Feet	
	<i>Apartment</i>	<i>Condominium</i>
Efficiency or one-bedroom unit	3,000	4,200
Two-bedroom unit	4,200	5,400
Three-bedroom unit	5,400	7,200
Four or more bedroom unit	7,200	7,200

(b) Required minimum floor area for each dwelling unit shall be:

Dwelling Unit Size	Area in Square Feet	
	<i>Apartment</i>	<i>Condominium</i>
Efficiency or one-bedroom unit	400	—
Two-bedroom unit	600	600
Three-bedroom unit	750	800
Four or more bedroom unit	900	1,000

(Ord. No. 17-331, § 1(Exh. A), 9-25-17)

### Sec. 22-89. Use regulations.

*Purpose:* This zoning ordinance differentiates between permitted uses and permitted use after special approval for uses within residential zoning districts within the City of Morenci. A permitted use does not require a special land use permit from the planning commission, while the opposite is true for a permitted use after special approval, which does require such use to be permitted by the planning commission. The process for special land use permits is defined in section 22-260 of the Morenci Code of Ordinances.

(Ord. No. 17-331, § 1(Exh. A), 9-25-17)

### Sec. 22-90. Adult foster homes.

(a) Adult foster care facilities subject to the following conditions:

- (1) Floor area. The following minimum floor space for sleeping rooms shall be provided.
  - (i) Sleeping rooms for one person, 80 square feet.
  - (ii) Sleeping rooms for two persons, 75 square feet per person.

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- (2) The planning commission shall find that there is reasonable floor area remaining for the family occupying the balance of the structure.
  - (3) No more than 20 foster care persons shall be so housed; no more than six over the age of 65.
  - (4) The use shall be subject to the requirements of section 22-88.
  - (5) Parking. There shall be provided the following space for off-street parking: two spaces for the dwelling unit plus one space for each three beds.
  - (6) The structure and use shall meet all other applicable codes and ordinances of the city and the state.

(Ord. No. 17-331, § 1(Exh. A), 9-25-17)

### **Sec. 22-91. Rehabilitation centers.**

- (a) Rehabilitation centers when the following conditions are met:
  - (1) There shall be provided on the site, not less than 750 square feet of open space for each bed in the home. The 750 square feet of land area shall provide for a landscape setting, yard requirements and accessory uses, but shall not include the area covered by the main buildings, off-street parking, service drives or loading spaces.
  - (2) No building shall be closer than 40 feet to any property line. Accessory buildings shall be permitted only within side or rear yards with the following setbacks controlling: 15 feet when adjacent to a nonresidential district, and 25 feet when adjacent to a residential district.

(Ord. No. 17-331, § 1(Exh. A), 9-25-17)

### **Sec. 22-92. Colleges, universities and other such institutions of higher learning, public and private, offering courses in general, technical or religious education and not operated for profit.**

- (a) Colleges, universities and other such institutions of higher learning, public and private, offering courses in general, technical or religious education and not operated for profit, all subject to the following conditions:
  - (1) Buildings of greater than the maximum height allowed in article X, schedule of regulations may be allowed provided front, side and rear yards are increased above the minimum required yards by one foot for each foot of building height that exceeds the maximum height allowed.

(Ord. No. 17-331, § 1(Exh. A), 9-25-17)

### **Sec. 22-93. Funeral homes.**

- (a) Funeral homes subject to the following conditions:
  - (1) Adequate assembly area shall be provided off-street for vehicles to be used in the funeral procession, provided further that such assembly area shall be provided in addition to any required off-street parking area.
  - (2) A caretaker's residence may be provided within the main building of a funeral home.

(Ord. No. 17-331, § 1(Exh. A), 9-25-17)

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### **Sec. 22-94. Hospitals.**

- (a) Hospitals, provided the following conditions are met:
- (1) If one or more boundaries of the proposed site lies opposite or contiguous to a residential district, the minimum distances between any hospital structure or accessory use and the residential district boundary shall be at least 100 feet for buildings containing two stories, the building shall be set back from the initial 100 foot setback an additional one foot for each foot of additional height above two stories.
  - (2) The minimum distance from any street line shall not be less than 40 feet for buildings containing two stories or less, while buildings above two stories shall be set back an additional one foot for each five feet of height above two stories.
  - (3) The minimum distance from any nonresidential lot line shall not be less than 25 feet.
  - (4) Ambulance and delivery areas shall be obscured from all residential view with a wall at least six feet in height and such wall shall be further subject to the requirements of section 22 - 264.
  - (5) Development plan shall show any future construction and projected maximum patient census.
  - (6) Noise producing activities, such as ambulance and delivery areas, shall be located not less than 500 feet from any residential area.

(Ord. No. 17-331, § 1(Exh. A), 9-25-17)

### **Sec. 22-95. Housing for the elderly.**

- (a) Housing for the elderly. All housing for the elderly shall be provided as a planned development and may provide for the following:
- (1) Cottage-type dwellings and/or apartment-type dwelling units.
  - (2) Common services containing but not limited to central dining rooms, recreational rooms, central lounge, and workshops.
  - (3) All dwellings shall consist of at least 400 square feet per unit (not including hallways and closets).
  - (4) Total coverage of all buildings (including dwelling units and related service buildings) shall not exceed 50 percent of the total site exclusive of any dedicated public rights-of-way.

(Ord. No. 17-331, § 1(Exh. A), 9-25-17)

### **Sec. 22-96. Orphanages.**

- (a) Orphanages when the following conditions are met:
- (1) There shall be provided on the site, not less than 1,200 square feet of open space for each bed in the home. The 1,200 square feet of land area shall provide for a landscape setting, yard requirements and accessory uses, but shall not include the area covered by main building, accessory buildings, off-street parking, service drives or loading spaces.
  - (2) No building shall be closer than 40 feet to any property line. Accessory buildings shall be permitted only within side or rear yards with the following setbacks controlling: 15 feet when adjacent to a nonresidential district, and 25 feet when adjacent to a residential district.

(Ord. No. 17-331, § 1(Exh. A), 9-25-17)

**Secs. 22-97—22-125. Reserved.**

**ARTICLE VI. C-1, C-2 AND C-3, COMMERCIAL ZONING DISTRICTS<sup>52</sup>**

***DIVISION 1. [IN GENERAL]***

**Sec. 22-126. Intent.**

- (a) *C-1, Local Commercial:* The C-1, local commercial district is designed to encourage planned and integrated groupings of stores that will provide personal services to meet regular and recurring needs of the neighborhood resident population. To these ends certain uses which would function more effectively in other district would interfere with the operation of these business activities and the purpose of this district have been excluded.
- (b) *C-2, Central Business District:* The C-2, central business district is intended to encompass the retail, service, and administrative establishments which form the central business district and which provide retail convenience and comparison goods and personal and professional services for the trade area. Heavy volumes of traffic in this district necessitate and efficient system of arterial streets and highways and adequate parking facilities. The nature and high density and intensity of commercial and related uses in this district eliminate the necessity for lot and yard requirements.
- (c) *C-3, General Commercial District:* The C-3, general commercial district is intended to provide sufficient space in appropriate locations for a wide variety of commercial service and administrative establishments generally serving a wide area and located particularly along certain existing major thoroughfares where a general mixture of commercial and service activity now exists.

(Ord. No. 17-331, § 1(Exh. A), 9-25-17)

**Sec. 22-127. Uses.**

<b>Commercial Districts</b>				
<b>Permitted Land Uses (P), Special Land Uses (S), and Prohibited Land Uses (—)</b>				
	<b>C-1</b>	<b>C-2</b>	<b>C-3</b>	<b>Additional Requirements</b>
<b>Residential</b>				
Upper level residential units (Upper level residential units is considered anything from the second floor and higher in the structure; basement and first floor residential units are prohibited)	—	P	P	Section 22-162

<sup>52</sup>Editor's note(s)—Ord. No. 17-331, § 1, adopted September 25, 2017, repealed the former Art. VI., §§ 22-126—22-129, and enacted a new Art. VI as set out herein. The former Art. VI pertained to C-1, Local Commercial and derived from Code 1963, §§ 5.33—5.36; Ord. of 4-14-80; Ord. No. 02-249, 5-20-02; Ord. No. 14-309, § 5, 12-8-14; Ord. No. 14-310, § 2, 12-8-14.



Entertainment & Recreational				
Amusement arcades	—	P	P	
Banquet halls (parking requirements are the same as that of a restaurant/tavern)	—	P	P	
Commercial recreation facilities (such as bowling alleys, theaters, or similar uses)	—	P	P	Section 22-154
Health, fitness and exercise clubs	—	P	P	
Private clubs	P	P	P	
Public/private park or community space	—	P	—	
Health Care Facilities				
Medical, dental and physical therapy offices, clinics, medical and dental laboratories and similar uses (overnight patients not permitted)	P	P	P	
State licensed day care centers	P	P	P	
Service, Retail & Office				
Accessory buildings and uses customarily incidental to the permitted principal use	P	P	P	
Art, music, dance, craft, ceramic, glass, cooking and similar schools and studios for profit	P	P	P	
Banks, credit unions, savings and loans and similar uses	P	P	P	
Bus passenger stations	—	P	P	
Business service establishments (including printing and photocopying services, mail and packaging services, newspapers, data processing and office services and similar uses)	—	P	P	
Computer service centers and similar uses (including maintenance of electronic equipment)	—	P	P	
Drive-in and drive through facilities	—	—	S	Section 22-156
Funeral homes	P	P	P	
Laundry or dry cleaning customer outlets, coin-operated laundromats, self-serve dry cleaning centers and the like. (Dry cleaning or laundry plants serving more than one customer service outlet are prohibited.)	P	P	P	
Lodging facilities (hotels and motels)	—	P	P	
Massage establishments	—	S	S	Section 22-163
Mobile food vending	—	P	P	Section 22-272A
Office buildings	P	P	P	
Open space businesses	—	—	S	Section 22-155
Pawnbrokers (A person, corporation or other entity that loans money on deposit or pledge of personal property or other valuable items, other than securities or printed evidence of indebtedness, or who deals in the purchasing of personal property or other valuable	—	—	P	

items on condition of selling the same back at a stipulated price.)				
Plant nursery	—	—	S	Section 22-158
Planned shopping center	—	—	S	Section 22-153
Production facilities and offices/showrooms for plumbers, electricians, decorators, or similar trades	—	P	P	Section 22-161
Service and repair establishments (photographic studios; barber and beauty shops; tanning studios; body decorating salons; watch, clothing and shoe repair shops; dressmaking; interior decorating; lock smith; tailor shops; small household appliances; musical instruments, bicycles, furniture, eyeglasses, office or business machines and similar establishments)	P	P	P	
Shops of building trades, caterers, architects and similar services	—	P	P	
Sidewalk cafes	—	S	—	
Standard restaurants	—	P	P	
Standard restaurants with outdoor seating	—	S	S	
Tea room	P	P	P	
Vehicle dealerships	—	—	S	Section 22-155
Vehicle filling and service stations	—	—	S	Section 22-159
Vehicle repair, minor	—	—	S	Section 22-159
Vehicle washes (when completely enclosed in a building)	—	—	S	Section 22-160
Veterinary offices and hospitals, groomers (including accessory boarding; outdoor exercise runs or pens are prohibited)	—	S	S	Section 22-157
<b>Public, Institutional &amp; Utilities</b>				
Business and technical schools	—	P	P	
Churches	P	P	P	
Essential services	P	P	P	Section 22-266
Large wind turbines	S	S	S	Section 22-275
Libraries	—	P	P	
Museums	—	P	P	
Public buildings (governmental offices, police and fire stations and community centers, but not including service or storage yards)	P	P	P	
Public utility buildings (when operation requirements necessitate locating within the district to serve the immediate vicinity) (storage yards are excluded)	P	P	P	
Small wind turbines	S	S	S	Section 22-276
Trade and vocational schools	—	—	—	
<b>Prohibited Uses</b>				
<b>C-1, C-2, and C-3:</b> Any use not expressly stated above is prohibited in specified zoning districts.				

(Ord. No. 17-331, § 1(Exh. A), 9-25-17; Ord. No. 17-333, § 2, 10-23-17; Ord. No. 18-337, § 1, 3-26-18; Ord. No. 18-338, § 3, 7-23-18)

**Sec. 22-128. Reserved.**

**Sec. 22-129. Schedule of regulations.**

<b>Commercial Districts Schedule of Regulations</b>			
	<b>C-1</b>	<b>C-2</b>	<b>C-3</b>
<b>Maximum Height</b>			
Building height (feet)	35	35	35
Stories	3	3	3
<b>Lot Size (minimum unless otherwise noted)</b>			
Area (square feet)	—	—	—
Lot width (feet)	—	—	—
<b>Maximum Lot Coverage (includes all buildings in percent of lot area)</b>			
Buildings	—	—	—
<b>Setbacks (minimum unless otherwise noted)</b>			
Front (feet)	30	—	30
Side (least) (feet)	a	a	a
Side (total) (feet)	a	a	a
Rear (feet)	b	b	b
<b>Minimum Floor Area Per Dwelling Unit (c)</b>			
Minimum floor area per dwelling unit (square feet)	—	—	—

- (a) In any commercial district, sideyards are not required except where a commercial district borders on a side street and a residential district exists in the same block there shall be provided a setback of 20 feet for all buildings, parking, and loading areas. Where a residential district exists adjacent to a business district and on the same side of the street, there shall be provided setback of 20 feet for all buildings, parking, and loading areas.
- (b) Loading space shall be provided in the rear yard in the ratio of at least ten square feet per front foot of building and shall be computed separately from the off-street parking requirements. Where an alley exists, or is provided at the rear of buildings, the rear building setback and loading requirements may be computed from the center of such alley.
- (c) Required minimum floor area for each dwelling unit shall not include area of basements, utility rooms, breezeways, porches or attached garages.

(Ord. No. 17-331, § 1(Exh. A), 9-25-17)

**Sec. 22-130. Medical marihuana facilities overlay district (MMCF0).**

The State of Michigan has adopted legislation to permit five different types of medical marijuana facilities. The medical marihuana facilities commercial overlay district (MMFCO) is established as a special district to permit the establishment of such facilities in the city.

(Ord. No. 18-338, § 1, 7-23-18)

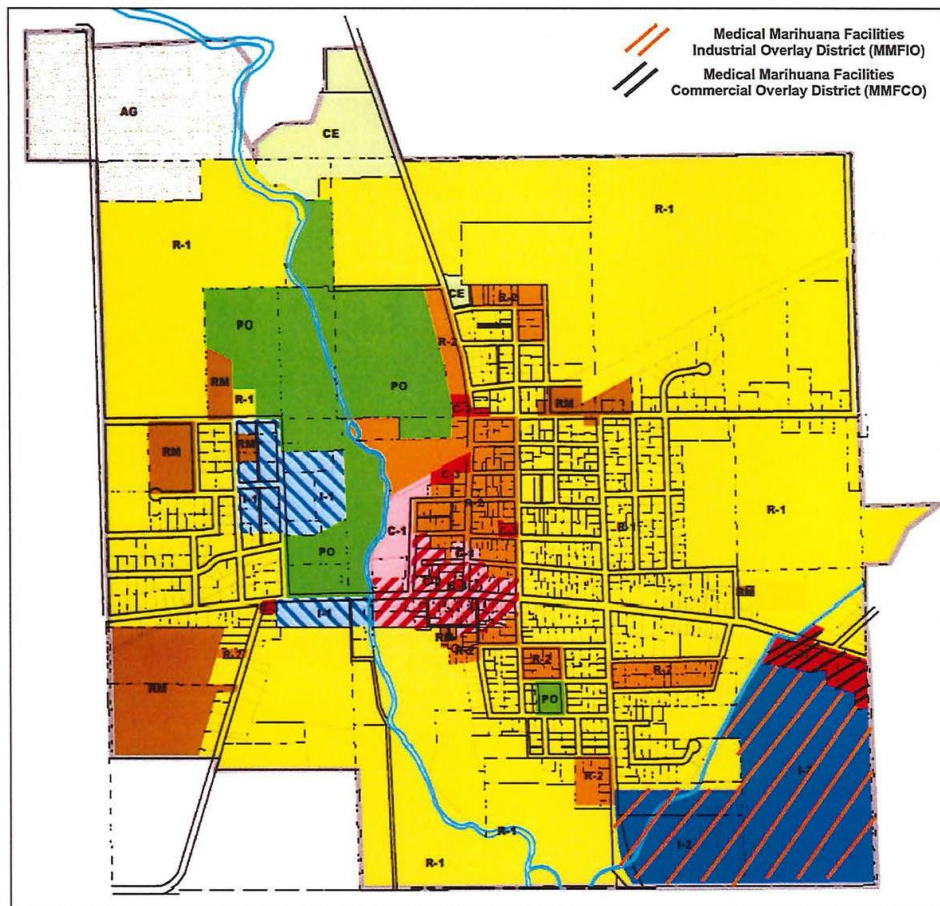
**Sec. 22-131. Intent.**

The MMFCO overlay district is intended to overlay certain designated and/or named properties in the C-3 commercial zoning district.

(Ord. No. 18-338, § 1, 7-23-18)

**Sec. 22-132. Lands to be designated.**

All parcels and portions of parcels located within the boundaries of the MMFCO district, as shown on the Official Zoning Map for the MMFCO district (as depicted below).



(Ord. No. 18-338, § 1, 7-23-18)

**Sec. 22-133. Permitted uses.**

The following types of medical marihuana facilities, as authorized by the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq. and the City of Morenci Regulation of Medical Marihuana Facilities Ordinance, are permitted uses in the MMFCO district:

- 
- a. Marihuana provisioning centers.
  - b. Marihuana secure transporters, as long as the storage space for secure transporters does not occur in the store frontage. Secure transporters shall solely be located within the building.

All of the above uses are subject to the development standards set forth provisions of article XI, section 22-276A.

(Ord. No. 18-338, § 1, 7-23-18)

### **Sec. 22-134. Recreational marihuana facilities.**

The following types of recreational marihuana facilities, as authorized by the Michigan Regulation and Taxation of Marihuana Act (Initiated Law 1 of 2018) and the City of Morenci Regulation of Medical Marihuana Facilities Ordinance, are permitted uses in the MMFCO district:

- a. Marihuana retailer.
- b. Marihuana secure transporters, as long as the storage space for secure transporters does not occur in the store frontage. Secure transporters shall solely be located within the building.

(Ord. No. 19-344, § 1, 10-28-19)

### **Secs. 22-135—22-150. Reserved.**

## *DIVISION 2. [ESTABLISHED]*

### **Sec. 22-151. Principal use and storage.**

The principal use for a building shall occur in 75 percent of the building. It is recognized that storage could occur in buildings located within commercial districts. Such storage shall be restricted to no more than 25 percent of the building and shall occur in the rear of the building. Commercial buildings may have one or more permitted uses or permitted uses with special approval located onsite.

(Ord. No. 17-331, § 1(Exh. A), 9-25-17)

### **Sec. 22-152. Use regulations.**

*Purpose:* This zoning ordinance differentiates between permitted uses and permitted use after special approval for uses within commercial zoning districts within the City of Morenci. A permitted use does not require a special land use permit from the planning commission, while the opposite is true for a permitted use after special approval, which does require such use to be permitted by the planning commission. The process for special land use permits is defined in Section 22-260 of the Morenci Code of Ordinances.

(Ord. No. 17-331, § 1(Exh. A), 9-25-17)

### **Sec. 22-153. Planned shopping center.**

- (a) Planned shopping center based upon the following criteria:

- 
- (1) A planned shopping center when used in this context means a commercial development which has been designed, developed and operated as a unit and can satisfy the following criteria: a site of three to six acres; a supporting population of at least five stores and a floor area of 10,000 to 50,000 square feet in size.
  - (2) A planting strip of at least ten feet wide shall be provided around the entire perimeter of the site except for driveways onto the public street system. A wall or barrier, constructed to be visually impervious, not less than five feet high shall be constructed along those property lines which abut a residential district.
  - (3) No main or accessory building shall be situated less than 50 feet from any perimeter property line.
  - (4) A landscape plan which includes the entire site shall be submitted for approval to determine compliance with screening and planting strips.
  - (5) All signs shall conform to the provisions of article XI-B.
  - (6) Because of the nature of the parking and ingress and egress to shopping centers, carryout restaurants shall not be permitted.
  - (7) All off-street parking shall be within its own area and an internal system of roads and walks which will effectively separate pedestrian and vehicular traffic.

(Ord. No. 17-331, § 1(Exh. A), 9-25-17)

#### **Sec. 22-154. Commercial recreation facilities.**

- (a) Commercial recreation facilities such as bowling alleys, theaters, or similar uses provided the following conditions are met:
  - (1) No main or accessory building shall be situated less than 50 feet from any adjoining residentially zoned property. A wall or barrier of suitable material not less than five feet high shall be constructed and maintained along those property lines abutting a residential district.

(Ord. No. 17-331, § 1(Exh. A), 9-25-17)

#### **Sec. 22-155. Outdoor sales space.**

- (a) Outdoor sales space including but not limited to the following uses: new and secondhand automobiles, mobile homes, campers, boats, rental of trailers and/or automobiles, farm implements, building materials, all subject to the following:
  - (1) The lot area shall be graded and paved with portland concrete, bituminous concrete or bituminous aggregate in a manner approved by the city council or its authorized representative.
  - (2) Access to the outdoor sales area shall be at least 60 feet from the intersection of any two streets.
  - (3) All lighting shall be shielded from adjacent residential districts.

(Ord. No. 17-331, § 1(Exh. A), 9-25-17)

#### **Sec. 22-156. Drive-in or open front store.**

- (a) Business in the character of a drive-in or open front store, subject to the following conditions:

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- (1) A setback of at least 60 feet from the right-of-way line of any existing or proposed street must be maintained.
  - (2) Access points shall be located at least 60 feet from the intersection of any two streets.
  - (3) All lighting shall be shielded from adjacent residential districts.

(Ord. No. 17-331, § 1(Exh. A), 9-25-17)

### **Sec. 22-157. Veterinary hospitals.**

- (a) Veterinary hospitals or clinics, subject to the following conditions:
  - (1) All activities shall be conducted within a totally enclosed main building.
  - (2) All buildings shall be set back a minimum of 200 feet from abutting residential districts on the same side of the street.

(Ord. No. 17-331, § 1(Exh. A), 9-25-17)

### **Sec. 22-158. Plant nurseries.**

- (a) Plant materials, nursery for the retail sale of plant materials not grown on the site, and sales of lawn furniture, playground equipment, and garden supplies, subject to the following conditions:
  - (1) The storage and/or display of any materials and or products shall meet all setback requirements of the structure.
  - (2) All loading and parking shall be provided off-street.
  - (3) The storage of any soil, fertilizer or other loose, unpackaged materials shall be contained so as to prevent any effects on adjacent uses, and shall be shielded or screened as specified by the board of appeals.

(Ord. No. 17-331, § 1(Exh. A), 9-25-17)

### **Sec. 22-159. Automobile service stations.**

- (a) Automobile service stations, provided the following conditions are met:
  - (1) An automobile service station shall be located on a lot having a frontage along the principal street of not less than 100 feet, and having a minimum area of not less than 15,000 square feet.
  - (2) An automobile service station building housing an office and/or facilities for servicing, greasing and/or washing motor vehicles shall be located not less than 40 feet from any street lot line, and not less than 25 feet from any side or rear lot line adjoining a residentially zoned district.
  - (3) All driveways providing ingress to or egress from an automobile service station shall be not more than 30 feet wide at the property line. No driveway or curb opening shall be located nearer than 20 feet to any intersecting street right-of-way, or adjacent to residential property. No driveway shall be located nearer than 30 feet, as measured along the property line, to any other driveway giving access to or from the same automobile service stations.
  - (4) All lubrication equipment, motor vehicle washing equipment, hydraulic hoists and pits shall be enclosed entirely within a building. All gasoline pumps shall be located not less than 15 feet from any

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lot line, and shall be arranged so that motor vehicles shall not be supplied with gasoline or serviced while parked upon or overhanging any public sidewalk, street or right-of-way.

- (5) Where an automobile service station adjoins property located in any residential district, a buffer wall of suitable material or planting strip shall be erected and maintained along the interior line. This wall or planting strip shall be at least four feet but not greater than six feet in height.
- (6) All exterior lighting, including illuminated signs, shall be erected and hooded or shielded so as to be deflected away from adjacent property.
- (7) Outdoor storage or parking of wrecked or partially dismantled vehicles shall be prohibited for a period greater than ten days.
- (8) All signs shall conform to the provisions of article XI-B.

(Ord. No. 17-331, § 1(Exh. A), 9-25-17)

### **Sec. 22-160. Auto wash.**

- (a) Auto wash facilities, provided the following conditions are met:
  - (1) Located completely within an enclosed building.

(Ord. No. 17-331, § 1(Exh. A), 9-25-17)

### **Sec. 22-161. Office and showrooms of plumbers, electricians, decorator, or similar trades.**

- (a) Office and showrooms of plumbers, electricians, decorator, or similar trades, provided the following conditions are met:
  - (1) Not more than 25 percent of the floor area of the building or part of the building occupied by such establishment is used for making, assembling, remodeling, repairing, altering, finishing or refinishing its products or merchandise, and provided that: the ground floor premises facing upon and visible from any abutting street shall be used only for entrances, offices or display. All storage of materials on any land shall be within the confines of the building or part thereof occupied by such establishment.

(Ord. No. 17-331, § 1(Exh. A), 9-25-17)

### **Sec. 22-162. Upper level residential units.**

- (a) Upper level residential units within an existing commercial building, provided the following conditions are met:
  - (1) Dwelling units shall not be located below the second floor.
  - (2) Dwelling units shall comply with all applicable requirements of the building, electrical, mechanical and fire codes of the city.

(Ord. No. 17-331, § 1(Exh. A), 9-25-17)



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**Sec. 22-163. Massage establishments.**

- (a) Establishments that employ licensed physicians and certified members of the American Massage and Therapy Association and Associated Bodywork and Massage Professionals while practicing within the scope of their license.
  - (1) Establishments characterized by their emphasis on matters depicting, describing or relating to specified sexual activities or specified anatomical areas, as defined below, including, but not limited to, adult book, novelty, retail or video stores, adult movie theaters, adult personal service businesses, adult cabarets, and nude modeling studios are not classified as massage establishments and are prohibited from this land use.

(Ord. No. 17-331, § 1(Exh. A), 9-25-17)

**Sec. 22-164. Outdoor seating/sidewalk cafes in C-2 business district.**

- (a) *Purpose.* The C-2, central business district (CBD) is a district that is designed to, among other things, promote convenient pedestrian shopping in the districts retail stores, shops, and restaurants. The intent of this section is to regulate the private use of public sidewalks and rights-of-way within the C-2, CBD so as to ensure the provision and maintenance of safe, ADA-compliant pedestrian "clear paths" of appropriate width, free of objects, obstructions, and other hazards. The city recognizes that certain types of privately owned and provided sidewalk amenities, such as, by way of example, benches, tables, chairs, desks, signs, and plants, can add convenience, charm, and character to the downtown area, and serve a public purpose that should be allowed and regulated.
- (b) *Requirements.*
  - (1) No person, firm, corporation or other entity shall place, cause, or allow the placement of any outdoor sale items, benches, tables, chairs, desks, signs, plants, artworks, waste receptacles or other amenities or items of any kind on any sidewalk, city right-of-way, or within the width of their business in front or in back of their business in a city parking lot within the C-2, central business district for or in connection with any commercial or noncommercial enterprise or activity, without first applying for and receiving a valid permit issued by the City of Morenci allowing such use, subject to any restrictions such permit might contain.
  - (2) No person, firm, corporation or other entity shall place, cause, or allow the placement of any outdoor sale items, benches, tables, chairs, desks, signs, plants, artworks, waste receptacles or other similar amenities may be placed or allowed on any portion of any sidewalk or right-of-way within the C-2, central business district that is within the "clear path" of a specially permitted.
  - (3) The "clear path" for each specially permitted use on a sidewalk or within any other part of the right-of-way shall:
    - a. Consist of a straight path that is as wide as possible but in no case less than three feet in width that traverses through all objects that are permitted for placement on the sidewalk or within the right-of-way;
    - b. Each end of the clear path shall align with the end of any permitted clear path located on adjoining property within the same block.
    - c. Tree grates may not be part of or included within any part of the clear path; and
    - d. No objects or obstructions of any kind may be placed in or allowed to remain within any clear path. (See Figure 1).

- (4) Any space remaining between the clear path and the building face on one side and between the clear path and the street on the other (the "amenity area") may be used for the placement of outdoor sale items, benches, tables, chairs, desks, signs, plants, artworks, waste receptacles or other similar amenities for use by and in connection with permitted commercial and noncommercial enterprises and activities; provided that none of such objects extend into or intrude upon any part of the clear path.

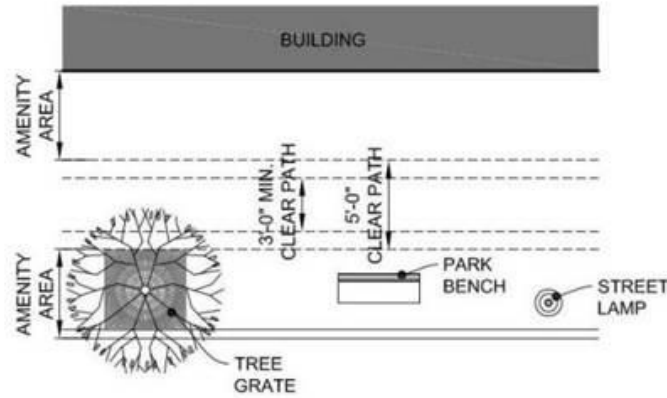


Figure 1

- (5) Items offered for sale within the permitted area of the public right-of-way shall be of merchandise that is also available inside and shall be called outdoor sale items. These items may not, either singly or in the aggregate:
- Obstruct over 50 percent of the "window shopping" viewing area unless the items are at a height that does not impede the ability to view merchandise within the business.
  - Except for food and drink at a permitted café or restaurant, a permit holder shall not conclude or undertake the conclusion of the sale of any outdoor sale items to members of the general public or otherwise, except within the interior of the permit holder's business or enterprise.
- (6) All outdoor sale items must be brought in at the close of business every day. Any such items as are left after closing will be considered abandoned and may be removed and disposed of by the city in such manner as it determines appropriate without notice to the affected permit holder. Amenities for outdoor dining/sidewalk cafe may sit outside at the close of business and shall be secured as to prevent the amenities from being stolen or taken at night. A permit is not required if items are only displayed for sale and brought in at the end of the night. Clear path shall be observed for items that are simply sat outside for display.
- (7) All frame or sandwich board signs shall comply with the provisions of Chapter 22 of the Morenci Municipal Code.
- (8) By applying through this section as outdoor dining / sidewalk cafe means that the applicant is not required to go through the special permitted use process for outdoor seating restaurant in the C-2 ordinance.
- (c) *Restrictions.*
- No item may be affixed to lampposts, signposts, sidewalk, hydrants, utility boxes or public amenity without the prior written permission of the city administrator/clerk. No item may be in such a location

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as to constitute a hazard or an obstruction to the general public or to the performance of public service by any city or other governmental agency having jurisdiction over the area.

- (2) Outdoor dining/sidewalk cafes may be operated only upon and pursuant to the issuance of an annual permit subject to the following restrictions and conditions:
- a. All previously noted restrictions and conditions.
  - b. Review and approval by planning commission of a site plan.
  - c. Outdoor dining/sidewalk cafe may be located on public sidewalks only adjacent to or abutting the indoor restaurant that operates the outdoor dining/sidewalk cafe.
  - d. No permit shall in any way excuse an applicant from complying with any applicable requirement imposed by the Liquor Control Commission of the State of Michigan on the sale and consumption of alcohol. Such sale and consumption of alcohol shall be allowed within the permitted area only in accordance with and subject to the provisions of any licenses and permits required and issued by the liquor control commission and any other applicable state statutes, state regulations or municipal ordinances.
  - e. Applicant may use the space within a parking lot to setup a temporary outdoor dining/sidewalk cafe, as long as the space does not take up a parking spot in a city parking lot and does not go beyond the width of the business. The space taken in the parking lot shall not interfere with traffic patterns. All activity must adhere to municipal noise ordinance regulations.

(d) *Application process.*

- (1) An application for a permit pursuant to this section must be submitted to the zoning administrator for approval and contain the following information:
- a. The name, address, and contact information of both the applicant and the business.
  - b. The name, address and contact information of the property owner if other than the applicant.
  - c. A site plan showing the proposed location of outdoor sale items, the proposed location and number of benches, tables, chairs, desks, signs, plants, artworks, waste receptacles or other similar amenities, and the location and number of all related equipment, such as, by way of example, outdoor electrical outlets, umbrellas, and railings.
  - d. The proposed area of occupancy including square feet and dimensions, and the location of existing grates, hydrants, trees, shrubs, and other public items.
  - e. The proposed clear path to accommodate pedestrian traffic and circulation through and within the use area by customers and members of the general public.
  - f. If the sale of alcohol is proposed, a copy of approval from the Michigan State Liquor Control Commission.
  - g. A signed agreement committing and requiring the applicant:
    1. To provide proof of public liability and property damage insurance with coverage that is satisfactory to city and limits of liability of not less than a single limit of \$1,000,000.00, with the city designated therein as a named insured, to be and remain in force for the duration of the permitted use of city's sidewalk and right-of-way, such proof to be provided at the time of execution of the agreement
    2. To agree that it will defend, indemnify, and hold the city harmless from all damages, claims, demands, causes of action, lawsuits, attorney fees and related expenses, as a result of actual or claimed personal injury, including death, property damage or other damage or

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loss of any kind or nature which is or is claimed to arise out of or because of the use of the city's sidewalk or right-of-way by the negligence, gross negligence, or intentional act of applicant or any of its agents, servants, employees, guests, vendors, invitees, and members of the public, and whether caused in part by negligence of the city, its employees, agents, servants, or representatives.

3. To agree to repair any damage caused to the sidewalk or right-of-way as a result of the placement of any permitted item or the operation of a permitted business or other activity on a sidewalk or within any other part of the right-of-way at the applicant's expense.
  4. To represent and covenant that it does not discriminate against any employee, applicant for employment, and shall not discriminate against any general public that will participate in the event it is staging under this agreement or any other member of the public because of race, color, religion, national origin, age, height, weight, marital status or other legally protected class.
- (2) The zoning administrator shall review the application for compliance with the ordinance for approval/disapproval. If determined to be in compliance, the zoning administrator or his designee shall seek planning commission approval on the permit; if determined to be in substantial but not complete compliance, approve the issuance of the permit subject to restrictions; or if determined to be substantially non-compliant, disapprove and deny the issuance of the permit, as the circumstance requires.
- (3) Permits must be applied for annually and all activities or other actions taken under them shall adhere to all specifications of the City of Morenci CBD Sidewalk Use Ordinance and the terms and restrictions contained within the permit. Failure to do so will result in the zoning administrator notifying the permit holder of a violation, either in writing or verbally. If the violation is designated as a safety hazard, it shall be corrected and rectified within the 24 hour period next following notification. All violations that are not designated as safety violations shall be corrected and rectified within the 72 hour period next following notification. If any violation is not corrected and rectified within the time specified, the permit in question shall automatically become void and of no further force or effect, and all items placed on the sidewalk and all business or other activities taken pursuant to it shall be immediately removed and terminated.
- (e) *Appeals.*
- (1) Appeals involving the interpretation or application of these rules, the imposition of restrictions and the denial of a permit may be taken to the zoning board of appeals under such provisions and process as prescribed in [Chapter] 22 of the Morenci Municipal Code.

(Ord. No. 19-341, § 1, 5-13-19)

**Secs. 22-165—22-173. Reserved.**

## ***ARTICLE VII. I-1, INDUSTRIAL ZONING DISTRICT<sup>53</sup>***

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<sup>53</sup>Editor's note(s)—Ord. No. 17-331, § 1, adopted September 25, 2017, repealed the former Art. VII., §§ 22-151—22-154, and enacted a new Art. VII as set out herein. The former Art. VII pertained to C-2, Central Business District and derived from Code 1963, §§ 5.39, 5.40, 5.42; Ord. of 4-14-80; Ord. No. 02-241, 11-12-01; Ord.

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No. 02-A257, 9-23-02; Ord. No. 14-309, § 6, 12-8-14. The user's attention is directed to Art. VI, § 22-126 et seq.

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(Supp. No. 25)

**Sec. 22-174. Intent.**

- (a) *I-1*: The I-1, industrial district is designed to provide suitable space for industrial uses which operate in a safe, non-objectable and efficient manner, and which are compatible in appearance with and require a minimum of buffering measures from adjoining nonindustrial zoning districts.

(Ord. No. 17-331, § 1(Exh. A), 9-25-17)

**Sec. 22-175. Use regulations.**

<b>I-1 Industrial Zoning District</b>		
<b>Permitted Land Uses (P), Special Land Uses (S), and Prohibited Land Uses (—)</b>		
	<b>I-1</b>	<b>Additional Requirements</b>
<b>Uses</b>		
Accessory uses and buildings customarily incidental to the permitted principal uses	P	
Large wind turbines	S	Section 22-275
Industrial establishments, such as: The assembly, fabrication, manufacture, packaging, or treatment of such products as food products (excluding butchering, animal slaughtering), candy, drugs, cosmetics, and toiletries, musical instruments, optical goods, toys, novelties, electrical instruments and appliances; radio and phonographs; pottery and figurines or other ceramic products using only previously pulverized clay. The assembly, fabrication, manufacture or treatment of such products from the following previously prepared materials: bone, canvas, cellophane, cloth, cork, felt, fiber, glass, horn, leather, paper, plastics, precious or semiprecious metals or stones, sheet metal (excluding large stampings such as automobile fenders or bodies), shell, textiles, wire, wood (excluding saw and planing mills) and yarns. Tool and die shops; metal working machine shops involving the use of grinding or cutting tools; manufacturing of tools, dies, jigs, and fixtures; publishing, printing, or forming of box, carton, and cardboard products. Laboratories, research or testing. Central dry cleaning plants and laundries. Automobile bump shops, machine shops, painting and sheet metal shops, undercoating and rustproofing shops and welding shops.	P	
Mobile food vending	P	Section 22-272A
Open storage yards of construction contractors' equipment and supplies, building materials, sand, gravel or lumber, with the following restrictions: Such uses shall be located at least 200 feet from any residential district. If it is deemed essential by the city council to prevent loose materials from blowing into adjacent properties, a fence, tarpaulin or obscuring wall of no less than six feet shall be required around the stored material. No required yard spaces shall be used for the storage of equipment or materials.	P	
Public utility uses. Electric transformer station and substation; electric transmission towers; municipal buildings and uses; gas regulator and	P	

municipal utility pumping stations, radio and television transmission towers.		
Small wind turbines	S	Section 22-276
The following retail and service establishments, such as: Eating and drinking establishments when food or beverage is consumed within a completely enclosed building. Establishments with a character of a drive-in or open front store are prohibited. Truck, tractor and trailer sales, rental and repair. Dog kennels. Automobile service stations in accordance with section 22-159. Greenhouses.	P	
Wholesale and warehousing. The sale at wholesale or warehousing of automotive equipment; dry goods and apparel; groceries and related products; raw farm products except livestock; electrical goods; hardware, plumbing, heating equipment and supplies, machinery and equipment, petroleum bulk stations and terminals; tobacco and tobacco products; beer, wine, and distilled alcoholic beverages; paper and paper products; furniture and home furnishings, and any commodity the manufacture of which is permitted in this district; truck terminals.	P	
<b>Prohibited Uses</b>		
<b>I-1:</b> Any use not expressly stated above is prohibited in specified zoning districts.		

(Ord. No. 17-331, § 1(Exh. A), 9-25-17)

**Sec. 22-176. Schedule of regulations.**

<b>I-1 Zoning District Schedule of Regulations</b>	
	<b>I-1</b>
<b>Maximum Height</b>	
Building height (feet)	45
Stories	3
<b>Lot Size (minimum unless otherwise noted)</b>	
Area (square feet)	—
Lot width (feet)	—
<b>Maximum Lot Coverage (includes all buildings in percent of lot area)</b>	
Buildings	—
<b>Setbacks (minimum unless otherwise noted)</b>	
Front (feet)	25 (a)
Side (least) (feet)	20
Side (total) (feet)	40
Rear (feet)	25 (b)
<b>Minimum Floor Area Per Dwelling Unit</b>	
Minimum floor area per dwelling unit (square feet)	—

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(Supp. No. 25)

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(a) The front setback can include parking spots, along with room for sidewalks, if sidewalks are not already constructed within the required front setback.

(b) The rear setback cannot contain anything other than green space.

(Ord. No. 17-331, § 1(Exh. A), 9-25-17)

**Sec. 22-177. Additional industrial performance standards for I-1 zoning district.**

(a) Any use established in the I-1, industrial district shall not be permitted to carry on any activity, operation, use of land, building or equipment that produces irritants to the sensory perceptions greater than the measures herein established which are hereby determined to be the maximum permissible hazard to humans or human activity.

(1) *Noise.* Shall be muffled so as not to become objectionable due to intermittence, beat frequency or shrillness. Noise as measured at the street or property line may not exceed 60 decibels with a center frequency of 125 cycles per second.

(2) *Odor.* The emission of noxious, odorous matter in such quantities as to be readily detectable at a point along any property line, when diluted in the ratio of one volume of odorous air to four or more volumes of clean air, so as to produce a public nuisance or hazard beyond lot lines is prohibited.

(3) *Gases, smoke, dust, dirt, and fly ash.* The emission of gases, smoke, dust, dirt, and fly ash shall in no manner be unclean, destructive, unhealthful, hazardous or deleterious to the general welfare. Such emission shall be in strict conformance with all applicable state and county health laws as pertaining to air pollution and smoke abatement.

(4) *Glare and heat.* Arc welding, acetylene torch cutting, or similar processes causing glare and heat shall be performed behind solid walls or frosted glass not less than 15 feet high as measured from the ground level adjacent to the structure concerned.

(5) *Fire and safety hazards.* The storage and handling of flammable liquids, liquefied petroleum gases, and explosives shall comply with all state rules and regulations, and as established by the Fire Prevention Act, Act No. 207 of the Public Acts of Michigan of 1941 (MCL 29.1 et seq.), as amended. Further, all storage tanks of liquid materials aboveground shall be located not less than 150 feet from all property lines, and shall be completely surrounded by earth embankments, dikes, or other types of retaining walls which will contain the total capacity of all tanks so enclosed.

(6) *Vibration.* Machines or operations, which cause vibration, shall be permitted, but no operation shall cause a displacement exceeding .003 of one inch as measured at the property line with a frequency of ten cycles per second.

(Ord. No. 17-331, § 1(Exh. A), 9-25-17)

**ARTICLE VII-A. I-2, SKYLINE INDUSTRIAL ZONING DISTRICT**

**Sec. 22-178. Intent.**

(a) *I-2:* The I-2, skyline industrial district is designed as part of a planned industrial park or complex specifically located for industrial purposes and designed for manufacturing, assembling, and fabrication activities including large scale or specialized industrial operation, with external physical effects that may be felt to some degree by surrounding districts. The I-2 district is so structured as to permit the manufacturing,



processing, and compounding of semifinished or finished products from raw materials as well as from previously prepared material.

(Ord. No. 17-331, § 1(Exh. A), 9-25-17)

**Sec. 22-179. Use regulations.**

<b>I-2 Industrial Zoning District Permitted Land Uses (P), Special Land Uses (S), Not Permitted (NP), and Prohibited Land Uses(—)</b>		
	<b>I-2</b>	<b>Additional Requirements</b>
<b>Uses</b>		
Accessory uses and buildings customarily incidental to the permitted principal uses	P	
All public utilities, including buildings, necessary structures and other related uses.	P	
Large wind turbines	S	Section 22-275
Manufacture or assembly of electrical appliances and/or electronic instruments and devices.	P	
Manufacture of molded and/or extruded metal, plastic or rubber products.	P	
Manufacture of sheet metal products, including heating and ventilating equipment, cornices, eaves and the like.	P	
Marijuana grower	P	Section 3-24
Marijuana processor	P	Section 3-24
Marijuana secure transporter	P	Section 3-24
Marijuana safety compliance facility	P	Section 3-24
Mobile food vending	P	Section 22-272A
Municipal uses such as water treatment plants, and reservoirs, sewage treatment plants, and all other municipal buildings and uses.	P	
Other uses of a similar and no more intensive use and character to the permitted uses	P	
Small wind turbines	S	Section 22-276
The manufacture, assembly, compounding, processing, packaging, or treatment of articles or merchandise whether from raw or previously prepared materials.	P	
Notwithstanding the above, uses specifically prohibited in this district are as follow: Residential construction. Commercial, office, retail, and wholesale or research purposes. However, this provision shall not preclude in-house research and development substantially related and incidental to the manufacturing and industrial operation permitted on the property. Warehousing not used in conjunction with manufacturing and industrial operations, and trucking facilities. Blast furnaces, steel furnaces, looming or rolling mills. Manufacture of corrosive acid or alkali, cement, lime gypsum or plaster of Paris. Smelting of copper, iron or zinc ore.	NP	

Junk yards and places so called for the dismantling, wrecking and disposing of the junk and/or refuse material of agricultural and automotive vehicles. Stock yards or slaughtering of animals for the reduction or recovering of products from dead animals or animals offal or garbage. Petroleum refining or other similar factories or uses. Central mixing plant for asphalt or concrete. Any other use causing obnoxious fumes, smoke, noise and/or unsightly appearance within the district.		
<b>Prohibited Uses</b>		
<b>I-2: Any use not expressly stated above is prohibited in specified zoning districts.</b>		

(Ord. No. 17-331, § 1(Exh. A), 9-25-17; Ord. No. 17-333, § 3, 10-23-17)

**Sec. 22-180. Schedule of regulations.**

<b>I-2 Zoning District Schedule of Regulations</b>	
	<b>I-2</b>
<b>Maximum Height</b>	
Building height (feet)	45
Stories	4
<b>Lot Size (minimum unless otherwise noted)</b>	
Area (square feet)	—
Lot width (feet)	—
<b>Maximum Lot Coverage (includes all buildings in percent of lot area)</b>	
Buildings	50
<b>Setbacks (minimum unless otherwise noted)</b>	
Front (feet)	50
Side (least) (feet)	(a)
Side (total) (feet)	(a)
Rear (feet)	50
<b>Minimum Floor Area Per Dwelling Unit</b>	
Minimum floor area per dwelling unit (square feet)	—

- (a) No building or any part therefrom in the I-2 skyline industrial district, shall be erected nearer than 20 feet from any side boundary line on the building site on which the building is erected. A 50 foot setback is required if the site abuts any nonindustrial district. In the I-2, skyline industrial district, all provisions for the loading, maneuvering, and unloading of motor vehicles incidental to the operations of the business shall be placed on the lot; on-street motor vehicle loading and unloading shall not be permitted. Off-street loading areas shall be located on those sides of a building that do not front on a street. On corner lots where it is necessary for a loading area to be located on the side of a building fronting a street, the building must be set back from the property line at least 50 feet on that side.

(Ord. No. 17-331, § 1(Exh. A), 9-25-17)

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## **Sec. 22-181. Additional industrial performance standards for I-2 zoning district.**

- (a) *Setback.* No building or any part therefrom shall be erected nearer than 50 feet from any front or rear boundary line, nor nearer than 20 feet from any side boundary line on the building site on which the building is erected. A 60-foot setback is required if the site abuts any non-industrial district.
- (b) *Building height.* Maximum building height in the skyline industrial district will be 45 feet.
- (c) *Lot coverage.* Not more than 50 percent of any building site shall be covered by buildings.
- (d) *Parking.* Each owner must provide adequate off-street parking facilities so as to eliminate any necessity for the parking of vehicles upon the public streets within the industrial park or complex. Parking shall not be permitted in set back areas, except that parking may be provided in front set backs but not closer than 20 feet from the front property line. All driveways, and parking areas shall be paved with portland concrete, bituminous concrete or bituminous aggregate surfacing to provide a dust free all-weather surface. Sidewalks and walkways will be constructed of concrete. In all other respects the provisions of section 22-156 governing offstreet parking shall apply.
- (e) *Loading space.* All provisions for the loading, maneuvering, and unloading of motor vehicles incidental to the operations of the business shall be placed on the lot; on-street motor vehicle loading and unloading shall not be permitted. Off-street loading areas shall be located on those sides of a building that do not front on a street. On corner lots where it is necessary for a loading area to be located on the side of a building fronting on a street, the building must be set back from the property line at least 50 feet on that side. Building owners are encouraged to screen loading areas from street visibility through the use of trees, shrubbery, fences, etc. Loading area shall be paved with concrete, asphalt or other hard surface material.
- (f) *Outdoor storage.* Outdoor storage of equipment, raw materials, semifinished or finished products may be permitted only when such outdoor storage is necessary and incidental to the operations being carried on in the building located upon the site. Rubbish containers (dumpsters) shall be hidden from public streets and adjoining properties. No storage shall be permitted between a frontage street and the building line. On any lot in the skyline industrial district, the owner or tenant, whether or not for hire or for business, shall locate and store such materials within a completely enclosed building or within an area surrounded by a solid, unpierced fence or wall at least seven feet in height and not less in height than the materials located or stored therein, and not closer to the lot lines than the minimum yard requirements for buildings permitted in such districts.
- (g) *Waste material.* No waste material, rubbish or discarded matter of any kind shall be permitted to be stored in open areas except in containers, and beyond a time reasonably required to arrange for removal.
- (h) *Utilities and mechanical equipment.* All electrical, telephone, cable TV, data transmission, gas and utility service lines to individual buildings shall be installed underground. No antenna, tower, dish or other radio, television, transmission or communication device shall be erected on any property, lot or building for any purpose. Any mechanical equipment installed on a roof shall be architecturally screened to harmoniously conform to the general architecture of the building.
- (i) *Surface water.* Each property owner shall make provisions for adequate drainage of surface water so as to carry same to public storm sewers and designated drainage areas in the district.
- (j) *Building construction.* After the effective date of this section, no wood-frame construction—must be structural steel, block or masonry (with color added in the block). All buildings shall have exterior facing of architectural approved materials such as: face brick, concrete block, architectural concrete, steel or aluminum factory finished panels, and glass. All sides of any building facing upon a public street or a public highway must be treated with finished materials. In the event of a dispute as to whether or not a particular material qualifies as "finished material" the decision of the zoning board of appeals will be final. All exposed

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concrete block or metal must be painted or varnished within 60 days from the date of occupancy except those materials not normally painted or those materials that have been prefinished. No used material shall be incorporated within any building without a variance granted by the zoning board of appeals. All buildings shall be constructed in accordance with applicable codes and ordinances of local, county, state and federal governmental bodies but shall in addition be constructed with high quality materials and in a manner so as to have the ability to withstand the normal causes of deterioration with normal maintenance procedures. No structure, covering, garage or other outbuildings of a temporary nature shall be situated, erected or maintained on any parcel.

- (k) *Landscaping.* All yard areas, with the exception of paved driveways, parking and loading spaces, outdoor storage areas, and walkways, shall be used exclusively for landscaping, including, trees, shrubs, lawns, and ornamental features. Such landscaping is to be completed within 24 months after the start of construction or six months after occupancy of the principal building, whichever comes first. The owner shall maintain the landscaped areas at his or her own expense. Undeveloped areas for future expansion may be left unlandscaped upon grant of a variance from the zoning board of appeals.
- (l) *Railroad.* No railroad tracks shall be constructed or used within or on any lot without the grant of a variance from the zoning board of appeals.
- (m) *Signs.* All signs shall conform to the provisions of article XI-B.
- (n) *Fences in I-2 zoning district:*
  - (1) *Location.*
    - a. Except as otherwise permitted in this section for industrial facilities, fences shall be permitted in the rear or side yards of nonresidential districts, provided that no fence shall extend closer toward the front of the lot than any portion of the principal structure.
    - b. A fence may also be installed in the front yard of a lot located in the I-2 zoning district for the purpose of providing security for goods, supplies and vehicles stored on the industrial lot.
    - c. Fences located along the side lot line abutting a street on a corner lot shall be located no closer than one foot to the edge of the sidewalk or on the lot line if there is no sidewalk adjacent to the lot line.
    - d. Fences on corner lots shall provide adequate clearance for traffic as determined by the zoning administrator.
  - (2) *Height.* fences in commercial and industrial districts shall be between eight feet and ten feet in height.
  - (3) *Signs attached to fences.* Signs advertising the availability of services or products shall not be attached to any fence. Signs attached to a fence can only contain the company name and the address. Signs cannot be more than 12 square feet.
  - (4) *Barbed wire.* If barbed wire is attached to the top of a fence in an industrial or commercial district, the barbed wire shall be at least a minimum of eight feet above the ground and the total fence height including the barbed wire may not exceed ten feet.
- (o) *Glare and exterior lighting.* Glare from any process (such as or similar to arc welding or acetylene torch cutting) which emits harmful ultraviolet rays shall be performed in such a manner as not to be seen from any point beyond the property line, and as not to create a public nuisance or hazard along lot lines. Exterior lighting shall be located and maintained to prevent the reflection and glare of light in a manner that creates a nuisance or safety hazard to operators of motor vehicles, pedestrians, and neighboring land uses. Exterior lighting from any use shall be so directed and/or shielded to prevent glare or spillover onto neighboring residentially zoned or used property. Exterior lighting to shine down not toward sky. This provision is not intended to apply to public street lighting. Exterior doors shall be located, operated, and maintained so as to

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prevent any glare and light from creating a nuisance or safety hazard to operators of motor vehicles, pedestrians, and neighboring land uses.

- (p) Noise shall be muffled so as not to become objectionable due to intermittence, beat frequency or shrillness. Noise as measured at the boundary of the I-2 zoning district may not exceed 60 decibels with a center frequency of 125 cycles per second.
- (q) Except as modified herein, industrial performance standards in I-1, industrial district, as provided in section 22-166 shall apply.
- (r) Except as modified herein, area, height, bulk and placement requirements in I-1, industrial district, as provided in article X, schedule of regulations, shall apply.

(Ord. No. 17-331, § 1(Exh. A), 9-25-17; Ord. No. 21-353, § 1, 4-19-21)

### **Sec. 22-182. Site plan review for I-2 zoning district.**

- (a) Prior to the commencement of construction on any site in the skyline industrial district, the owner and/or developer thereof shall submit four identical copies of a site plan for review and approval to the city zoning administrator. A site plan shall be required for original construction as well as for any subsequent construction. The site plan shall contain following information in detail either as a part of the site plan or an attachment thereto: building location, fill and grading required, ingress and egress to the site, interior traffic pattern, parking and loading areas, drainage plan, fencing, outside storage areas, landscaping, location of signs, architectural drawings to proposed buildings and a description of the building construction and materials. (Refer to city zoning ordinance section 22-261 for site plan review and approval.)
- (b) The city zoning administrator shall within 30 days of the submission of the site plan, determine if the site plan meets the requirements contained herein and in such event shall approve the site plan. If the site plan does not meet the requirements contained herein, the city zoning administrator shall disapprove the site plan and shall notify the owner and/or developer of the reasons for disapproval in writing.
- (c) The city zoning administrator or city planning commission may request such additional information as he or she deems necessary in making a determination. Approval of the site plan by the city zoning administrator shall not relieve the owner and/or developer from obtaining any other approval required by law. In addition, all site plans must be approved by the city planning commission (within 30 days) to conform to the city zoning ordinances and all building permits shall be issued in conformance with the city building codes by the city building inspector.

(Ord. No. 17-331, § 1(Exh. A), 9-25-17)

### **Sec. 22-183. Medical marihuana facilities overlay district (MMFIO).**

The State of Michigan has adopted legislation to permit five different types of medical marihuana facilities. The medical marihuana facilities industrial overlay district (MMFIO) is established as a special district to permit the establishment of such facilities in the city.

(Ord. No. 18-338, § 2, 7-23-18)

### **Sec. 22-184. Intent.**

The MMFIO overlay district is intended to overlay certain designated and/or named properties in the I-2 industrial zoning district.

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(Ord. No. 18-338, § 2, 7-23-18)

**Sec. 22-185. Lands to be designated.**

All parcels and portions of parcels located within the boundaries of the MMFIO district, as shown on the official zoning map for the MMFIO district (as depicted in attached map).

(Ord. No. 18-338, § 2, 7-23-18)

Editor's note(s)—The user's attention is directed to § 22-133.

**Sec. 22-186. Permitted uses.**

The following types of medical marijuana facilities, as authorized by the Medical Marijuana Facilities Licensing Act, MCL 333.27101 et seq. and the City of Morenci Regulation of Medical Marijuana Facilities Ordinance, are permitted uses in the MMFIO district:

- a. Marijuana grower.
- b. Marijuana processor.
- c. Marijuana safety compliance center.
- d. Marijuana secure transporters.

All of the above uses are subject to the development standards set forth provisions of article XI, section 22-276A and article VII-A, section 22-181 and section 22-182.

(Ord. No. 18-338, § 2, 7-23-18)

**Sec. 22-187. Permitted [recreational] uses.**

The following types of recreational marijuana facilities, as authorized by the Michigan Regulation and Taxation of Marijuana Act (Initiated Law 1 of 2018) and the City of Morenci Regulation of Medical Marijuana Facilities Ordinance, are permitted uses in the MMFIO district:

- a. Marijuana grower.
- b. Marijuana processor.
- c. Marijuana safety compliance center.
- d. Marijuana secure transporters.

All of the above uses are subject to the development standards set forth provisions of article XI, section 22-276A and article VII-A, section 22-181 and section 22-182.

(Ord. No. 19-344, § 1, 10-28-19)

**Secs. 22-188—22-192. Reserved.**

## **ARTICLE VIII. WH, WAREHOUSE DISTRICT<sup>54</sup>**

### **Sec. 22-193. Intent.**

- (a) *WH*: The WH, warehouse district is designed to accommodate storage operations carried on as a principal use and enterprise independent from storage merely incidental to a principal use.

(Ord. No. 17-331, § 1(Exh. A), 9-25-17)

### **Sec. 22-194. Use regulations.**

<b>Warehouse Zoning District Permitted Land Uses (P), Special Land Uses (S), and Prohibited Land Uses (—)</b>		
	<b>WH</b>	<b>Additional Requirements</b>
<b>Uses</b>		
Business office buildings accessory to any of the permitted uses, when adjacent to or within 1,500 feet of such use, with such use as an office to be clearly incidental to such permitted use. Provided, however, that the area to be used for the office building shall be less than 25 percent of the square footage used for such permitted use.	S	
Essential services and structures, including maintenance depots or warehouses	P	
Independent industrial storage subject to the following conditions: All storage of goods and materials shall be in a wholly enclosed building. There shall be no open storage of motor vehicles of any type. There shall be no storage of hazardous or toxic materials as identified by state or federal statute.	P	
Independent commercial storage subject to the following conditions: All storage of goods and materials shall be in a wholly enclosed building. There shall be no open storage of motor vehicles of any type. There shall be no storage of hazardous or toxic materials as identified by state or federal statute.		
Large wind turbines	S	Section 22-275
Municipal buildings and uses	P	
Self-service storage facilities	P	
Small wind turbines	S	Section 22-276
Storage facilities for building materials, sand, gravel, stone, lumber, storage of contractor's equipment and supplies, provided such is	S	

<sup>54</sup>Editor's note(s)—Ord. No. 17-331, § 1, adopted September 25, 2017, repealed the former Art. VIII., §§ 22-176—22-179, and enacted a new Art. VIII as set out herein. The former Art. VIII pertained to C-3, General Commercial Districts and derived from Code 1963, §§ 5.45—5.48; Ord. of 4-14-80; Ord. No. 14-309, § 7, 12-8-14; Ord. No. 14-310, § 3, 12-8-14. The user's attention is directed to Art. VI, § 22-126 et seq.

<p>enclosed within a building or within an obscuring wall or fence on those sides abutting all residential or commercial districts, and on any yard abutting a public street or road. The extent of such fence or wall may be determined by the planning commission on the basis of usage. Such fence or wall shall not be less than five feet in height, and may, depending on land usage, be required to be eight feet in height. A chain-link type fence, with heavy evergreen shrubbery inside said fence, shall be considered to be an obscuring fence. Such uses shall be located at least 200 feet from any residential district and no required yard spaces shall be used for the storage of equipment or materials.</p>		
<p><b>Prohibited Uses</b></p>		
<p><b>WH:</b> Any use not expressly stated above is prohibited in specified zoning districts.</p>		

(Ord. No. 17-331, § 1(Exh. A), 9-25-17)

**Sec. 22-195. Schedule of regulations.**

Area, height, bulk and placement requirements applicable to the WH, warehouse district, unless otherwise specified, shall be as provided for the I-1, industrial district, as set out in section 22-164.

(Ord. No. 17-331, § 1(Exh. A), 9-25-17)

**Secs. 22-196—22-205. Reserved.**

**ARTICLE IX. MX-1, MIXED-USE DISTRICT<sup>55</sup>**

**Sec. 22-206. Intent.**

- (a) *MX-1:* The MX-1, mixed-use district is designed to provide suitable space for mixed-uses which operate in a safe, non-objectionable and efficient manner, and which are compatible in appearance with and require a minimum of buffering measures from adjoining nonindustrial zoning districts.

(Ord. No. 17-331, § 1(Exh. A), 9-25-17)

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<sup>55</sup>Editor's note(s)—Ord. No. 17-331, § 1(Exh. A), adopted September 25, 2017, repealed the former Art. IX, §§ 22-201—22-204, and enacted a new Art. IX as set out herein. The former Art. IX pertained to I-1, Industrial District and derived from Code 1963, §§ 5.51—5.54; Ord. of 4-14-80; Ord. No. 14-309, §§ 8, 9, 12-8-14. The user's attention is directed to Art. VII, § 22-174 et seq.  
Section 1 of said ordinance also repealed Art. IX-A, §§ 22-205—22-208, which pertained to I-2, Skyline Industrial District and derived from Ord. No. 99-238, 8-23-99; Ord. No. 14-309, §§ 10, 11, 12-8-14; Ord. No. 14-310, § 4, 12-8-14. The user's attention is directed to Art. VII-A, § 22-178 et seq.  
Section 1 of said ordinance also repealed Art. IX-B, §§ 22-209—22-212, which pertained to WH, Warehouse District and derived from Ord. No. 02-253, 8-12-02; Ord. No. 02-254, 8-12-02; Ord. No. 14-309, § 12, 12-8-14. The user's attention is directed to Art. VIII, § 22-193 et seq.



**Sec. 22-207. Use regulations.**

<b>MX-1 Zoning District Permitted Land Uses (P), Special Land Uses (S), and Prohibited Land Uses (—)</b>		
	<b>MX-1</b>	<b>Additional Requirements</b>
<b>Commercial &amp; Industrial Uses</b>		
Accessory uses and buildings customarily incidental to the permitted principal uses	P	
Large wind turbines	S	Section 22-275
Industrial establishments, such as: The assembly, manufacture, packaging, or treatment of such products as food products (excluding butchering, animal slaughtering), candy, drugs, cosmetics, and toiletries, musical instruments, optical goods, toys, novelties, electrical instruments and appliances; electronics; pottery and figurines or other ceramic products using only previously pulverized clay. The assembly, manufacture or treatment of such products from the following previously prepared materials: bone, canvas, cellophane, cloth, cork, felt, fiber, glass, horn, leather, paper, plastics, precious or semiprecious metals or stones, sheet metal (excluding large stampings such as automobile fenders or bodies), shell, textiles, wire, wood (excluding sawmills) and yarns. Automobile repair shops, machine shops, painting and sheet metal shops, undercoating and rustproofing shops and welding shops.	P	Section 22-209
Open storage yards of construction contractors' equipment and supplies, building materials, sand, gravel or lumber, with the following restrictions: To prevent loose materials from blowing into adjacent properties, a fence, tarpaulin or obscuring wall of no less than six feet shall be required around the stored material. No required yard spaces shall be used for the storage of equipment or materials.	S	Section 22-209
Small wind turbines	S	Section 22-276
The following retail and service establishments, such as: Greenhouses.	P	
Wholesale and warehousing. The sale at wholesale or warehousing of automotive equipment; dry goods and apparel; groceries and related products; raw farm products except livestock and manures; electrical goods; hardware, plumbing, heating equipment and supplies, machinery and equipment; paper and paper products; furniture and home furnishings, and any commodity the manufacture of which is permitted in this district.	S	Section 22-167
<b>Residential Uses</b>		
Adult foster care homes	S	Section 22-90
Accessory uses and building customarily incidental to the permitted principal uses.	P	
All permitted uses in the R-1 and R-2 districts subject to the terms and conditions provided therein.	P	
Bed and breakfast	S	Section 22-273

Convalescent homes	S	Section 22-91
Colleges, universities and other such institutions of higher learning, public and private, offering courses in general, technical or religious education and not operated for profit	S	Section 22-92
Funeral homes	S	Section 22-93
Hospitals	S	Section 22-94
Housing for the elderly	S	Section 22-95
Multiple-family dwelling units including townhouses (single-family attached dwellings), apartments and row or terrace dwellings.	P	
Planned residential developments	S	Section 22-269
Orphanages	S	Section 22-96
Small wind turbines	S	Section 22-276
State licensed residential facilities.	P	
Tea rooms	S	
<b>Prohibited Uses</b>		
<b>MX-1:</b> Any use not expressly stated above is prohibited in specified zoning districts.		

(Ord. No. 17-331, § 1(Exh. A), 9-25-17)

**Sec. 22-208. Schedule of regulations.**

<b>MX-1 Zoning District</b>	
<b>Schedule of Regulations</b>	
	<b>MX-1</b>
Maximum Height (applies to all development in the MX-1 zoning district)	
Building height (feet)	45
Stories	3
Lot Size (minimum unless otherwise noted) (applies only to residential development)	
Area (square feet)	(a)
Lot width (feet)	(a)
Maximum Lot Coverage (includes all buildings in percent of lot area)	
Buildings	—
Setbacks (minimum unless otherwise noted) (applies to all development in the MX - 1 zoning district)	
Front (feet)	25 (c)
Side (least) (feet)	20
Side (total) (feet)	40
Rear (feet)	25 (d)
Minimum Floor Area Per Dwelling Unit (applies only to residential development)	
Minimum floor area per dwelling unit(square feet)	(b)

(a) Minimum land area required for each dwelling unit in the RM district shall be:

Dwelling Unit Size	Area in Square Feet	
	<i>Apartment</i>	<i>Condominium</i>
Efficiency or one-bedroom unit	3,000	4,200
Two-bedroom unit	4,200	5,400
Three-bedroom unit	5,400	7,200
Four or more bedroom unit	7,200	7,200

(b) Required minimum floor area for each dwelling unit shall be:

Dwelling Unit Size	Area in Square Feet	
	<i>Apartment</i>	<i>Condominium</i>
Efficiency or one-bedroom unit	400	—
Two-bedroom unit	600	600
Three-bedroom unit	750	800
Four or more bedroom unit	900	1,000

- (c) The front setback can include parking spots, along with room for sidewalks, if sidewalks are not already constructed within the required front setback.
- (d) The rear setback cannot contain anything other than green space.

**Sec. 22-209. Additional performance standards for MX-1 zoning district.**

- (a) Any use established in the MX-1, mixed-use district shall not be permitted to carry on any activity, operation, use of land, building or equipment that produces irritants to the sensory perceptions greater than the measures herein established which are hereby determined to be the maximum permissible hazard to humans or human activity.
- (1) *Noise.* Shall be muffled so as not to become objectionable due to intermittence, beat frequency or shrillness. Noise as measured at the street or property line may not exceed 60 decibels with a center frequency of 125 cycles per second.
  - (2) *Odor.* The emission of noxious, odorous matter in such quantities as to be readily detectable at a point along any property line, when diluted in the ratio of one volume of odorous air to four or more volumes of clean air, so as to produce a public nuisance or hazard beyond lot lines is prohibited.
  - (3) *Gases, smoke, dust, dirt, and fly ash.* The emission of gases, smoke, dust, dirt, and fly ash shall in no manner be unclean, destructive, unhealthful, hazardous or deleterious to the general welfare. Such emission shall be in strict conformance with all applicable state and county health laws as pertaining to air pollution and smoke abatement.
  - (4) *Glare and heat.* Arc welding, acetylene torch cutting, or similar processes causing glare and heat shall be performed behind solid walls or frosted glass not less than 15 feet high as measured from the ground level adjacent to the structure concerned.
  - (5) *Fire and safety hazards.* The storage and handling of flammable liquids, liquefied petroleum gases, and explosives shall comply with all state rules and regulations, and as established by the Fire Prevention Act, Act No. 207 of the Public Acts of Michigan of 1941 (MCL 29.1 et seq.), as amended. Further, all storage tanks of liquid materials aboveground shall be located not less than 150 feet from all property lines, and shall be completely surrounded by earth embankments, dikes, or other types of retaining walls which will contain the total capacity of all tanks so enclosed.

- (6) *Vibration.* Machines or operations, which cause vibration, shall be permitted, but no operation shall cause a displacement exceeding .003 of one inch as measured at the property line with a frequency of ten cycles per second.

(Ord. No. 17-331, § 1(Exh. A), 9-25-17)

**Secs. 22-210—22-225. Reserved.**

**ARTICLE X. SCHEDULE OF REGULATIONS AREA, HEIGHT, BULK AND PLACEMENT REGULATIONS**

**Sec. 22-226. Schedule.**

Zoning [District]	Minimum Lot Size Per Dwelling Unit		Maximum Building Height		Maximum Coverage of Lot by All Buildings in Percent of Lot Area	Minimum Yard Setback in Feet <sup>a, b, c</sup>				Minimum Floor Area Per Dwelling Unit <sup>d</sup>
	Area in Sq. Ft.	Width in Feet	In Stories	In Feet		Front	Least One	Total Two	Rear	
AG, Agricultural	43,560	150		80	20	50	20	35	35	960
R-1, One-family residential	7,500	60	3	35	30	30 <sup>i</sup>	5	15	20	960
R-2, One-family residential	7,500	60	3	35	30	30 <sup>i</sup>	5	15	20	720
RM, Multiple-family residential	<sup>e</sup>	-	3	35	30	50	25	50	50	<sup>f</sup>
C-1, Local commercial	-	-	3	35	-	30	<sup>g</sup>	<sup>g</sup>	<sup>h</sup>	-
C-2, Central business	-	-	3	35	-	-	<sup>g</sup>	<sup>g</sup>	<sup>h</sup>	-
C-3, General commercial	-	-	3	35	-	30	<sup>g</sup>	<sup>g</sup>	<sup>h</sup>	-
I-1, Industrial	-	-	3	35	-	50	20	40	50	-
I-2, Skyline Industrial	-	-	4	45	50	50	<sup>j</sup>	<sup>j</sup>	50	-

(Ord. No. 98-229, 9-28-98; Ord. No. 99-236, 3-22-99; Ord. No. 99-239, 11-22-99; Ord. No. 19-340, § 1, 1-14-19)

**Sec. 22-227. Footnotes to schedule of regulations.**

- (a) In all residential and industrial districts, the required front yard setback shall not be used for off-street parking, loading, or unloading, and shall remain as open space unoccupied and unobstructed from the ground upward except for landscaping plant materials or vehicle access drives. All yards abutting upon a public street shall be considered as front yards for setback purposes. In all commercial districts, the same

requirements shall apply except that only the first 15 feet of required front yard setback may not be utilized for parking and loading purposes.

- (b) In determining required yard spaces for all land uses in zoning districts, the determination of such yard spaces shall be the distance from the building or structure on the lot and the nearest lot line.
- (c) In all residential subdivisions, the width of side yards, which abut upon a street or road on the same side or on the opposite side of the same block, upon which other residential lots front, shall not be less than the required front yard setback for such homes which front upon such side street. If no other residential lots front on the same side or on the opposite side of the same block, the width of side yard may be reduced to ten feet.
- (d) Required minimum floor area for each dwelling unit shall not include area of basements, utility rooms, breezeways, porches or attached garages.
- (e) Minimum land area required for each dwelling unit in the RM district shall be:

Dwelling Unit Size	Area in Square Feet	
	Apartment	Condominium
Efficiency or one-bedroom unit	3,000	4,200
Two-bedroom unit	4,200	5,400
Three-bedroom unit	5,400	7,200
Four or more bedroom unit	7,200	7,200

- (f) Required minimum floor area for each dwelling unit shall be:

Dwelling Unit Size	Area in Square Feet	
	Apartment	Condominium
Efficiency unit	400	—
One-bedroom unit	600	600
Two-bedroom unit	750	800
Three-bedroom unit	900	1,000

- (g) In any commercial district, sideyards are not required except where a commercial district borders on a side street and a residential district exists in the same block there shall be provided a setback of 20 feet for all buildings, parking, and loading areas. Where a residential district exists adjacent to a business district and on the same side of the street, there shall be provided setback of 20 feet for all buildings, parking, and loading areas.
- (h) Loading space shall be provided in the rear yard in the ratio of at least ten square feet per front foot of building and shall be computed separately from the off street parking requirements. Where an alley exists or is provided at the rear of buildings, the rear building setback and loading requirements may be computed from the center of such alley.
- (i) Where a front yard of greater or less depth than 30 feet exists in front of a dwelling or dwellings in existence on April 14, 1980, on one side of a street in any block, the depth of the front yard of any building subsequently erected on that side of the street on that block shall not be less and need not be greater than the average depth of the front yard of such existing dwelling, but this shall not be deemed to require a greater depth than 40 feet or permit a less depth than 20 feet in any case.
- (j) No building or any part therefrom in the I-2 skyline industrial district, shall be erected nearer than 20 feet from any side boundary line on the building site on which the building is erected. A 50 foot setback is required if the site abuts any nonindustrial district. In the I-2, skyline industrial district, all provisions for the

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loading, maneuvering, and unloading of motor vehicles incidental to the operations of the business shall be placed on the lot; on-street motor vehicle loading and unloading shall not be permitted. Off-street loading areas shall be located on those sides of a building that do not front on a street. On corner lots where it is necessary for a loading area to be located on the side of a building fronting a street, the building must be set back from the property line at least 50 feet on that side.

(Code 1963, § 5.58; Ord. of 4-14-80; Ord. No. 99-239, 11-22-99)

**Secs. 22-228—22-250. Reserved.**

## **ARTICLE XI-A. SUPPLEMENTAL REGULATIONS**

### **Sec. 22-251. Conflicting regulations.**

Wherever any provision of this chapter imposes more stringent requirements, regulations, restrictions or limitations than are imposed or required by the provisions of any other law or ordinance, the provisions of this chapter shall govern.

(Code 1963, § 5.61; Ord. of 4-14-80)

### **Sec. 22-252. Scope.**

No building or structure, or part thereof, shall hereinafter be erected, constructed, reconstructed or altered and maintained, and no new use or change shall be made or maintained of any building, structure or land, or part thereof, except in conformity with the provisions of this chapter.

- (1) **Permitted area and placement.** *No building shall be erected, converted, enlarged, reconstructed, or structurally altered, except in conformity with the area and placement regulations of the district in which the building is located.*
- (2) **Permitted height.** No building shall be erected, converted, enlarged, reconstructed or structurally altered to exceed the height limit hereinafter established for the district in which the building is located, except that penthouses or roof structures for the housing of elevators, stairways, tanks, ventilating fans or similar equipment required to operate and maintain the building, and fire or parapet walls, skylights, towers, steeples, stage lofts and screens, flagpoles, chimneys, smokestacks, water tanks or similar structures may be erected above the height limits herein prescribed. No such structure may be erected to exceed by more than 15 feet the height limits of the district in which it is located; nor shall such structure have a total area greater than ten percent of the roof area of the building; nor shall such structure be used for any residential purpose or any commercial or industrial purpose other than a use incidental to the main use of the building. Public utility structures shall be exempt from the regulations.
- (3) **Lot limitations.** In one-family zoning districts, only one principal building shall be placed on a lot of record with the exception of parcels of record described and designated as "out lots," which may be so arranged or subdivided as to provide for one or more principal buildings when the land area allocated to each building is equal to or greater than the lot area required for the district and the building and land complies with all other requirements on land subdivided according to the plat act.
- (4) **Lots, yards and open spaces.** No space which for the purpose of a building has been counted or calculated as part of a side yard, rear yard, front yard, or other open space, including required lot area per dwelling unit, required by this chapter, may, by reason of change in ownership or otherwise, be

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counted or calculated to satisfy or comply with a yard or other open space or lot area requirements for any other building.

- (5) *Porches, patios and terraces.* An open, unenclosed porch, paved patio, or terrace may project into a required front or rear yard for a distance not to exceed ten feet.
- (6) *Projections into yards.* Architectural features, as defined not including vertical projections, may extend or project into a required side yard not more than two inches for one foot of width of such side yard and may extend or project into a required front yard or rear yard not more than three feet.
- (7) *Required street frontage.* Any parcel of land which is to be occupied by a use or building, other than an accessory use or building, shall have frontage on and direct access to a public street or private easement which meets the following conditions:
  - a. A public street maintained by the city; or
  - b. A permanent and unobstructed private easement of record having a width of at least 30 feet.
- (8) *Appearance.* Any case where a building or accessory building in an I-1, industrial district is erected or placed within 200 feet of the front lot line of any parcel of land fronting upon any public street, the front walls of such distance of 200 feet shall not be constructed of tarred paper, tin, unpainted corrugated metal or any form of pressed board or felt or similar material with the limits herein specified.
- (9) *Dwellings in nonresidential districts.* No dwelling shall be erected in the C-1, C-3, or I-1 zoning districts. However, the sleeping quarters of a watchman or a caretaker may be permitted in such districts in conformance with the specified requirements of the particular district.

(Code 1963, § 5.62; Ord. of 4-14-80)

## **Sec. 22-253. Nonconforming lots, nonconforming uses of land, nonconforming structures and nonconforming uses of structures and premises.**

- (a) *Intent.* It is the intent of this chapter to permit legal nonconforming lots, structures, or uses to continue until they are removed but not to encourage their survival.

It is recognized that there exist within the districts established by this chapter and subsequent amendments, lots, structures, and uses of land and structures which were lawful before this chapter was passed and amended which would be prohibited, regulated, or restricted under the terms of this chapter or future amendments.

Such uses are declared by this chapter to be incompatible with permitted uses in the district involved. It is further the intent of this chapter that nonconformities shall not be enlarged upon, expanded, or extended, except as provided in subsection (f) of this section, nor shall nonconformities be used as grounds for adding other structures or uses prohibited elsewhere in the same district.

A nonconforming use of a structure, a nonconforming use of land, or a nonconforming use of a structure and land shall not be extended or enlarged after passage of this chapter by attachment of a building or premises or additional signs intended to be seen from off the premises, or by addition of other uses of a nature which would not be permitted generally in the district involved.

To avoid undue hardship, nothing within this chapter shall be deemed to require a change in the plans, construction or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this chapter and upon which actual building construction has been diligently carried on. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner; except that where demolition or removal of an existing

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building has been subsequently begun preparatory to rebuilding, such demolition or removal shall be deemed to be actual construction, provided that work shall be diligently carried on until completion of the building involved.

- (b) *Nonconforming lots of record (substandard lots).* In any district in which one-family dwellings are permitted, notwithstanding limitations imposed by other provisions of this chapter, a one-family dwelling and customary accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of this chapter. This provision shall apply even though such lot fails to meet the requirements for area or width, or both, that are generally applicable in the district; provided that yard dimensions and other requirements not involving area or width or both, of the lot shall conform to the regulations for the district in which such lot is located. Yard requirement variances may be obtained through approval of the board of appeals.
- (c) *Nonconforming structures.* Where a lawful structure exists at the effective date of adoption or amendment of this chapter that could not be built under the terms of this chapter by reason of restrictions on area, lot coverage, height, yards, its location on the lot, or other requirements concerning the structure, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:
- (1) No such nonconforming structure may be enlarged or altered in a way which increases its nonconformity.
  - (2) Should such structure be moved for any reason whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.
- (d) *Nonconforming uses of land.* Where at the effective date of adoption or amendment of this chapter lawful use of land exists which would not be permitted by the regulations imposed by this chapter, the use may be continued so long as it remains otherwise lawful, provided:
- (1) No such nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this chapter;
  - (2) No such nonconforming use shall be moved in whole or in part to any portion of the lot or parcel other than that occupied by such use at the effective date of adoption of this chapter;
  - (3) If any such nonconforming use of land ceases for any reason for a period of more than six consecutive months any subsequent use of land shall conform to the regulations specified by this chapter for the district in which such land is located.
- (e) *Nonconforming uses of structures.* If lawful use involving individual structures or of structure and premises in combination exists at the effective date of adoption or amendments of this chapter, that would not be allowed in the district under the terms of this chapter, the lawful use may be continued so long as it remains otherwise lawful, subject to the following conditions:
- (1) No existing structure devoted to a use not permitted by this chapter in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located.
  - (2) Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of adoption or amendment of this chapter, but no such use shall be extended to occupy any land outside such building.
  - (3) If no structural alterations are made, any nonconforming use of a structure, or structure and premises, may be changed to another nonconforming use, provided that approval is secured from the board of appeals and that the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use. Whenever a nonconforming use has been changed to a conforming use, or to a use permitted in a district of greater restriction, it shall not thereafter be changed to a nonconforming use.



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- (4) When a nonconforming use of a structure, or structure and premises in combination, is discontinued or abandoned for six consecutive months or for 18 months during any three-year period, the structure, or structure and premises in combination, shall not thereafter be used except in conformity with the regulations of the district in which it is located. Structures occupied by seasonal uses shall be excepted from this provision.
- (5) Where nonconforming use status applies to a structure and premises in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land. Destruction for the purpose of this section is defined as damaged to an extent of more than 100 percent of assessed value at time of destruction.
- (f) *Repairs and maintenance.* On any nonconforming structure or portion of a structure containing a nonconforming use, work may be done on ordinary repairs, or on repair or replacement of nonbearing walls, fixtures, wiring, or plumbing, to an extent not exceeding 100 percent of the current assessed valuation of the nonconforming structure or nonconforming portion of the structure as the case may be, provided that the cubic content existing when it became nonconforming shall not be increased.
- Nothing in this chapter shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by the building inspector upon order of such official.
- (g) *Nonconforming use; building damaged by fire, etc.* Any nonconforming use or nonconforming building which has been destroyed or damaged by fire, explosion, act of God, or by public enemy to the extent of 100 percent of its assessed valuation, exclusive of the foundation at the time such damage occurred, shall thereafter be made to conform with the provisions of this chapter. Where such destruction or damage has occurred, the nonconforming use status of the land on which such building is located shall be removed. If such damage is less than 100 percent of its assessed valuation before such damage occurred, exclusive of the foundation, then such structure may be restored to the same nonconforming use or nonconforming building as existed before such damage, provided that such restoration shall be subject to the approval of the board of appeals. Such restoration shall be commenced within one year of the date of such partial destruction and shall be diligently carried on to completion.
- (h) *Change of tenancy or ownership.* There may be a change in tenancy, ownership or management of an existing nonconforming use, provided there is no change in the nature or character of such nonconforming use.
- (i) *Nonconformities regarding medical marijuana facilities.*
- (1) No marijuana facility operating or purporting to operate prior to December 15, 2017, shall be deemed to have been a legally existing use nor shall the operation of such marijuana facility be deemed a legal nonconforming use under this zoning ordinance.
  - (2) A property owner shall not have vested rights or nonconforming use rights that would serve as a basis for failing to comply with this zoning ordinance or any amendment thereto.
  - (3) Discontinuation of a state medical marijuana facility license shall constitute prima facie evidence that a nonconformity has been discontinued.

(Code 1963, § 5.63; Ord. of 4-14-80; Ord. No. 17-333, § 4, 10-23-17)

## **Sec. 22-254. Accessory building.**

- (a) Accessory buildings, in R1 and R2 zoning districts, except as otherwise permitted in this chapter, shall be subject to the following regulations:
- (1) Detached accessory buildings shall not be erected in any yard except a rear yard.

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- (2) No detached accessory building shall be located closer than ten feet to any main building nor shall it be located closer than three feet to any side or rear lot line.
  - (3) No building permit is required if the dimension of the building is less than 200 square feet. However if electrical service is provided to such structure, an electrical permit shall be required.
  - (4) The building cannot be put on a permanent foundation, a four-inch concrete slab is not classified as a permanent foundation.
  - (5) The building maximum height is to be 12 feet to the highest point of the roof.
  - (6) No more than one accessory building is permitted per lot.
  - (7) While a building less than 200 square feet does not require a building permit, any building exceeding 120 square feet shall require a zoning compliance permit.
  - (8) A carport is classified as an accessory building when detached from main building.
  - (9) An accessory building made out of fabric and/or canvas material shall not be allowed except as follows:
    - a. Patio, porch, and/or deck canopies that are made out of fabric are allowed as long as the patio, porch, and/or deck exist and as long as the canopy is covers the patio, porch, and/or deck as a sun-shielding device.
    - b. An accessory building made out of fabric or canvas may be used for a maximum of a three day period during a calendar month in coordination with a special event. No permit is required for the use of a fabric or canvas accessory building that is being used in conjunction with a special event.
- (b) Garage buildings, in R1 and R2 zoning districts:
- (1) Are those buildings erected on a stationary foundation.
  - (2) Shall be constructed harmoniously with the area and shall have roofing and siding compatible with the main building.
  - (3) Shall have a minimum 4 in 12 pitch, and shall neither exceed 16 feet from finished grade to the highest point of the roof, nor exceed the highest point of the roof the house.
  - (4) The maximum permitted area under the roof of the garage shall not exceed any of the following:
    - a. 30 percent lot coverage. Lot coverage shall include the area of all structures under the roof, decks whose height is above 24 inches, and all swimming pools.
    - b. 1,216 square feet.
    - c. Area under the roof of the dwelling.
  - (5) Shall have a maximum garage door height of ten feet.
  - (6) Reserved.
  - (7) No more than one detached garage building is permitted per lot.
  - (8) A garage within ten feet of the main building must be attached to the main building.

(Code 1963, § 5.64; Ord. of 4-14-80; Ord. No. 98-225, 4-27-98; Ord. No. 04-270, 3-22-04; Ord. No. 16-322, § 1, 3-28-16)

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## Sec. 22-255. Off-street parking requirements.

In all zoning districts, off-street parking facilities for the storage and parking of self-propelled motor vehicles for the use of occupants, employees and patrons of the buildings hereafter erected, altered, or extended after the effective date of this chapter, shall be provided as herein prescribed. Such space shall be maintained and shall not be encroached upon so long as such main building or structure remains, unless an equivalent number of such spaces are provided elsewhere in conformance with this chapter.

- (1) *Area for parking space.* For the purpose of this section, 300 square feet of lot area shall be deemed a parking space for one vehicle, including access aisles, except that 180 square feet of lot area which has a direct means of ingress and egress from an alley or street may also be deemed a parking space.
- (2) *Fractional requirements.* When units or measurements determining number of required parking spaces result in requirement of a fractional space, that fraction shall require one parking space.
- (3) *Location of parking space for one- and two-family dwellings.* The off-street parking facilities required for one- and two-family dwellings shall be located on the same lot or plot of ground as the building they are intended to serve, and shall consist of a parking strip, parking apron and/or garage.
- (4) *Location of parking space for other land uses.* The off-street parking facilities required for all other uses shall be located on the lot or within 300 feet of the permitted uses requiring such off-street parking, such distance to be measured along lines of public access to the property between the nearest point of the parking facility to the building to be served. In industrial districts the front setback area shall remain as open space unoccupied and unobstructed from the ground upward except for landscaping, plant materials, or vehicle access drives. In multiple-family districts parking shall be permitted within the front setback area, provided that a 20-foot planting strip be located separating the parking area from the multiple-family residential structure.
- (5) Parking of motor vehicles in residential districts shall be limited to passenger vehicles, and not more than one commercial vehicle, not to exceed 24,000 GVW, shall be permitted per dwelling unit and shall be parked in conformity with section 22-262(3) of the City Code. In no event, with the exception as provided below, shall any semi-tractor and/or semi-tractor trailer be parked in any residential district except temporarily in the normal course of making deliveries.

Vehicles, including semi-tractors and/or semi-tractor trailers, exceeding 24,000 GVW may be parked in a residential district only in connection with a use being lawfully operated on the premises as a nonconforming use or as the result of a previously granted special approval use or variance. These vehicles shall not be parked in any front yard area or any area extending toward the front of the lot nearer than the front face of the dwelling or principal structure located thereon. After the date of the adoption of this chapter amendment, the number or type of such vehicles shall not be enlarged, increased or extended. This exception shall not be continued and shall not apply if the use of the property has been discontinued for a period of more than six consecutive months.

- (6) *Similar uses and requirements.* In the case of a use not specifically mentioned, the requirements of off-street parking facilities for a use which is so mentioned, and which such use is similar, shall apply.
- (7) *Protective screening.* Whenever off-street parking facilities abut a residential district, a wall, fence, or barrier designed to prevent the accidental passage of a motor vehicle shall be provided. An obscuring wall or planting hedge shall also be provided to prevent vehicle lights from shining into the residential district. Such wall or hedge shall be of an attractive design, and maintained in a presentable fashion.
- (8) *Existing off-street parking at effective date of chapter.* Off-street parking existing at the effective date of this chapter which serves an existing building or use, shall not be reduced in size less than that required under the terms of this chapter.

- (9) *Collective provisions.* Nothing in this section shall be construed to prevent collective provisions of off-street parking facilities for two or more buildings or uses, provided such facilities collectively shall not be less than the sum of the requirements for the various individual uses computed separately in accordance with the table under section 22-256.
- (10) *General use conditions.* Except when land is used as storage space in connection with the business of a repair or service garage or in long-term parking facilities, a 24-hour time limit for parking in off-street parking areas shall prevail, it being the purpose and intention of the foregoing that the requirements of maintaining vehicle storage or parking space is to provide for the public safety in keeping parked cars off the streets, but such requirement is not designed to or intended to provide, and it shall be unlawful to permit the storage or parking on such open land of wrecked or junked cars, or for creating a junkyard or a nuisance in such area.
- (11) *Joint use.* Parking spaces already provided to meet off-street parking requirements for theater, stadiums, auditoriums and other places of public assembly, stores, office buildings, and industrial establishments, lying within 500 feet of a church as measured along lines of public access, and that are not normally used between the hours of 6:00 a.m. and 6:00 p.m. on Sundays and that are made available for other parking, may be used to meet not more than 50 percent of the off-street parking requirements of a church.
- (12) *Exception.* The requirements of section 22-256 shall not apply to the erection, alteration or extension of any building or structure located in the C-2, central business district.

(Code 1963, § 5.65; Ord. of 4-14-80; Ord. No. 99-235, 2-22-99)

**Sec. 22-256. Table of off-street parking requirements.**

The amount of off-street parking space required for new uses or buildings, additions thereto, and additions to existing buildings as specified in 22-256 shall be determined in accordance with the following table, and the space so required shall be stated in the application for a zoning permit and shall be irrevocably reserved for use/or shall comply with the initial part of this section.

Use	Number of Minimum Parking Spaces Per Unit of Measure
<i>Residential:</i>	
Residential, one-family and two-family	Two for each dwelling unit, plus one for every two dwelling units.
Residential, multiple-family	Two for each dwelling unit, plus one for every two dwelling units.
Housing for the elderly	One for each two units, and one for each employee. Should units revert to general occupancy, then two spaces per unit shall be provided.
Mobile home park	Two for each mobile home site and one for each employee of the mobile home court. Plus one for every four sites.
<i>Institutional:</i>	
Day care center nursery and preschool	One space per each 250 square feet of gross floor area. One and one-half spaces per employee (according to state code requirements on number of employees).
Nursing/convalescent home	One and one-half spaces per employee (according to state code requirements on number of employees).
Church or place of worship	One for each 40 square feet of gross seating area of the sanctuary, auditorium, or main place of worship, whichever has the greater area.
Club or lodge	One for each three persons allowed within the maximum occupancy load as established by local, county or state fire, building or health codes.

Elementary schools	One for each one teacher and administrator, in addition to the requirements of the auditorium.
High school/middle school	One for each one teacher administrator, and one for each ten students, in addition to the requirements for the auditorium.
Hospital	One space per every four beds.
Library, museum, or art gallery	Ten plus one for each 300 square feet of gross floor area in excess of 2,000 square feet.
<i>Business and commercial:</i>	
Amusement arcade	One for each 250 square feet of gross floor area.
Auditorium, stadium, theater, conference center or large place of assembly	One for each 30 square feet of gross floor area of the auditorium or assembly space.
Automobile car wash, automatic, self-service	One for each one employee. In addition, adequate waiting space for autos shall be provided on the premises to accommodate 25 percent of the hourly rate of capacity.
Automotive repair	Two per bay.
Automobile sales	According to state code requirements.
Bank or financial institution	One for every 250 gross square feet of floor area.
Drive-in banks	Waiting space equivalent to three spaces for each drive-in window.
Bowling alley	Five per alley or lane.
Funeral home	One for every 150 square feet of gross floor area.
Furniture store	Two plus one for every 300 square feet of gross floor area over 1,000 square feet.
General office	One for each 300 square feet of gross floor area.
Golf course	Six for each hole.
Driving range	One per station.
Hotel or motel	One per guest room and one per employee.
Medical or dental office or clinic	One for each 200 square feet of gross floor area.
Meeting or reception hall	One for each two persons allowed within the maximum occupancy load as established by local, county or state fire, building and health codes.
Outdoor recreation	One for each 500 square feet of use area.
Self-service storage facility	Four plus one space per employee.
Retail	One for each 300 square feet of gross floor area.
Restaurant or tavern	One for each 75 square feet of gross floor area.
Carry-out restaurant	One for each 150 square feet of gross floor area.
Any other type of commercial use	One for each 300 square feet of gross floor area.
Beauty parlor or barber shop	Three spaces for each of the first two beauty or barber chairs, and one and one-half spaces for each additional chair.
Laundromat	One for each two washing machines.
<i>Industrial uses:</i>	
Industrial	Five plus one for every one and one-half employees in the largest working shift.

(Code 1963, § 5.66; Ord. of 4-14-80; Ord. No. 06-283, 1-9-06)

**Sec. 22-257. Off-street parking layout, standards, construction and maintenance.**

Wherever the off-street parking requirements in sections 22-255 and 22-256 require the building of an off-street parking lot, it shall be laid out, constructed and maintained in accordance with the following standards and regulations:

- (1) No parking lot shall be constructed unless and until a permit therefore is issued by the zoning administrator. Applications for a permit shall be submitted to the zoning administrator and shall be accompanied with two sets of plans for the development and construction of the parking lot showing that the provisions of this section will be fully complied with.
- (2) Plans for the layout of off-street parking facilities shall be in accord with the following minimum requirements:

Parking Pattern	Maneuvering Lane Width	Parking Space Width	Parking Space Width
0 degrees (parallel parking)	15 ft.	8 ft.	23 ft.
30 degrees to 53 degrees	15 ft.	9 ft.	20 ft.
54 degrees to 74 degrees	18 ft.	9 ft.	20 ft.
75 degrees to 90 degrees	24 ft.	9 ft.	20 ft.

Parking Pattern	Total Width of One Tier of Spaces Plus Maneuvering Lane	Total Width of Two Tiers of Spaces Plus Maneuvering Lane
0 degrees (parallel parking)	23 ft.	31 ft.
30 degrees to 53 degrees	35 ft.	55 ft.
54 degrees to 74 degrees	39 ft.	58 ft.
75 degrees to 90 degrees	44 ft.	65 ft.

- (3) All spaces shall be provided adequate access by means of maneuvering lanes. Backing directly onto a street shall be prohibited except in the case of one- and two-family residences.
- (4) Adequate ingress and egress to the parking lot by means of clearly limited and defined drives shall be provided for all vehicles.
- (5) The entire parking area including parking spaces and maneuvering lanes required under this section shall be provided with portland concrete, bituminous concrete or bituminous aggregate surfacing within one year of the date of occupancy of the building and parking area is intended to serve.
- (6) Off-street parking areas shall be drained in a manner so as to dispose of all surface water accumulated in the parking area in such a way as to preclude drainage of water onto adjacent property, toward buildings, or across public walkways.
- (7) All lighting used to illuminate any off-street parking area shall be so installed as to be confined within and directed onto the parking area only.
- (8) Wheel chocks shall be provided and so located as to prevent any vehicle from projecting over the lot line.

(Code 1963, § 5.67; Ord. of 4-14-80)

**Sec. 22-258. Parking at shopping centers.**

- (a) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:
  - (1) *Parking area* shall mean an area used by the public as a means of access to and egress from, and for the free parking of motor vehicles by patrons of a shopping center, business, factory, hospital, institution or similar buildings or location.
  - (2) *Shopping center* shall mean a minimum area of three acres of land on which there is located one or more stores or business establishments, and where there is provided a parking area.
- (b) *Off-street parking.* The owners of off-street parking areas shall provide parking spaces in accordance with the following table and identified by signs as being reserved for physically handicapped persons. Signs shall be located approximately six feet above grade. Each reserved parking space shall be not less than 12 feet wide. Where a curb exists between a parking lot surface and a sidewalk surface, an inclined approach or a curb cut with a gradient of not more than one foot in 12 feet and a width of not less than four feet shall be provided for wheelchair access. Parking spaces for physically handicapped shall be located as close as possible to walkways and entrances. Signs shall be provided when necessary, indicating the direction of travel to an accessible entrance.

Total Parking Lot	Required Number of Accessible Spaces for Physically Handicapped
Up to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
501 to 1,000	2% of total
Over 1,000	20 plus 1 for each 100 over 1,000

- (c) *On-street parking.* The city may designate on-street parking spaces within the central business district identified by signs as being reserved for physically handicapped persons. The city may designate up to one space for every 25 on-street parking spaces within the central business district. Signs shall be located approximately six feet above grade. Each reserved parking space shall be not less than 12 feet wide. For the purposes of this section, the central business district shall be described as that portion of West Main Street and North Street which is located south of Locust Street, west of North Summit Street and east of Salisbury Street.
- (d) *Violation.* A person who violates subsection (b) of this section is responsible for a civil infraction. Violations of such subsection shall be processed in the same manner as civil infractions under Act No. 300 of the Public Acts of Michigan of 1949 (MCL 257.1 et seq.), as amended.

(Code 1963, § 5.67(a)—(d); Ord. of 4-14-80; Ord. No. 161, 1-12-87)

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**Sec. 22-259. Off-street loading and unloading requirements.**

- (a) On the same premises with every building structure, or part thereof, involving the receipt or distribution of vehicles, material, or merchandise, there shall be provided and maintained on the lot adequate space for standing, loading and unloading in order to avoid undue interference with public use of the streets, alleys or any required access for off-street parking areas.
- (b) Such loading and unloading space, unless adequately provided for within a building, shall be an area ten feet by 50 feet, with 14-foot height clearance, and shall be provided according to the following schedule:

Gross Floor Area in Square Feet	Loading and Unloading Spaces Required in Terms of Square Feet of Gross Floor Area
0—2,000	None
2,001—20,000	One space
20,001—100,000	One space plus one space for each 20,000 square feet in excess of 20,000 square feet
100,000 and over	Five spaces

(Code 1963, § 5.68; Ord. of 4-14-80)

**Sec. 22-260. Permitted uses after special approval.**

The formulation and enactment of this chapter is based upon the division of the city into districts in each of which are permitted specified uses which are mutually compatible. In addition to such permitted compatible uses, however, there are certain other uses which may be necessary or desirable to allow in certain locations in certain districts, but because of their actual or potential impact on neighboring uses or public facilities, need to be carefully regulated with respect to their location for the protection of the city. Such uses, on account of their peculiar locational need or the nature of the service offered, may have to be established in a district in which they cannot be reasonably allowed as a permitted use.

- (1) *Authority to grant permits.* The planning commission, as hereinafter provided, shall have the authority to grant permits for special approval uses, subject to such conditions of design, operation, and safeguards as the planning commission may determine for all special approval uses specified in the various district provisions of this chapter.
- (2) *Application and fee.* Application for any special approval use permit permissible under the provisions of this chapter shall be made to the planning commission through the clerk by filing an official special approval use permit application form; submitting a site plan in accordance with section 22-261 and depositing the required fee as established by resolution of the city council, except that no fee shall be required of any governmental body or agency. No part of such fee shall be returnable to the applicant.
- (3) *Application and site plan requirements.* An application for a special approval use permit shall include the applicant's name and address in full, a statement that the applicant is the owner involved or is acting on the owner's behalf, the address of the property involved, and a site plan as specified in, and in conformance with, section 22-261.
- (4) *Public hearing.* The planning commission shall hold a public hearing upon any application for a special approval use permit, notice of which shall be given by one publication in a newspaper of general circulation in the city within 15 days but not less than five days preceding the date of such hearing. Service by mail to all property owners within 300 feet of the site shall be had.



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- (5) *Required standards and findings for making determinations.* The planning commission shall review the site plan submitted in accordance with section 22-261 for proposed special approval uses in terms of the following standards and required findings, and shall find and record adequate data, information, and evidence showing that such a use on the proposed site, lot, or parcel meets or does not meet these standards:
- a. Development standards applying to all proposed special approval uses:
    1. The proposed special approval use shall be harmonious with and in accordance with the general objectives, intent, and purposes of this chapter.
    2. The proposed special approval use shall be designed, constructed, operated, maintained and managed so as to be harmonious and appropriate in appearance with existing or intended character of the general vicinity.
    3. The proposed special approval use shall be served adequately by essential public facilities and services, such as: highways, streets, police and fire protection, drainage structures, refuse disposal, or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such service.
    4. The proposed special approval use shall not be hazardous or disturbing to existing or future neighboring uses.
    5. The proposed special approval use shall not create excessive additional requirements at public costs for public facilities and services.
  - b. Development standards applying to specific proposed special approval uses. A special approval use permit shall not be issued for the uses specified in this subsection unless complying with the site development requirement as herein specified. The planning commission may impose additional conditions and safeguards when deemed necessary by that body in accordance with this section.
- (6) *Approval of special approval use permit.* Upon review of the application and site plan in accordance with the standards established in subsection (5) of this section, holding of public hearing in accordance with subsection (4) of this section, and review of the requirements of other provisions of this chapter as they apply to the proposed special approval use, the planning commission shall approve, approve subject to conditions in accordance with subsection (7) of this section, or deny the special approval use permit within 30 days following the public hearing. For the purposes of this section, the approval of the site plan shall constitute the approval of the special approval use permit. A request for approval of special approval use permit which is in compliance with standards stated in this chapter, the conditions imposed pursuant to subsection (7) of this section, other applicable ordinances, and state and federal statutes, shall be approved. Upon approval of the special approval use permit, a copy of the approved site plan shall be forwarded to the applicant, clerk, zoning inspector and planning commission along with full documentation regarding the findings of the review and approval or denial. The zoning inspector shall not issue a zoning compliance permit until he has received a copy of the approved site plan.
- (7) *Imposition of conditions.* Upon review of the application and site plan in accordance with the standards established in subsection (5) of this section and the requirements of other provisions of this chapter, the planning commission may require reasonable conditions necessary to insure that public services and facilities affected by the proposed land use or activity shall be capable of accommodating increased services and facility loads generated by the land use or activity; to protect the natural environment and conserve natural resources and energy; to insure compatibility with adjacent uses of land; and to promote the use of land in a socially and economically desirable manner. Conditions imposed with respect to the approval of a land use or activity shall be recorded in the record of the

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approval action, and shall remain unchanged except upon mutual consent of the planning commission and the landowner.

(Code 1963, § 5.69; Ord. of 4-14-80)

### **Sec. 22-261. Site plan review and approval.**

It is recognized by this chapter that there is a value to the public in establishing safe and convenient traffic movement to higher density sites, both within the site and in relation to access streets; that there is value in encouraging a harmonious relationship of buildings and uses both within a site and in relation to adjacent uses; further that there are benefits to the public in conserving natural resources. Toward this end, this chapter requires site plan review by the planning commission for certain buildings and structures that can be expected to have significant impact on natural resources, traffic patterns and on adjacent land usage.

- (1) *Buildings, structures and uses requiring site plan.* The zoning inspector shall not issue a zoning compliance permit for the construction of new buildings and structures identified in this section unless a site plan has been reviewed and approved by the planning commission and such approval is in effect.
  - a. Any conditional use.
  - b. A multiple-family building containing six or more dwelling units.
  - c. More than one multiple-family building on a lot, parcel or tract of land, or on a combination of lots under one ownership.
  - d. A mobile home park.
  - e. Any building or structure intended for commercial or industrial use.
  - f. Planned residential developments (see section 22-269).
  - g. In addition, a site plan can be required for any use when deemed necessary by the zoning administrator, planning commission or city council.
  - h. There shall be two (2) types of site plan review. A full site plan review requiring the information in subsection (4) and a limited site plan review specified by the requirements in subsection (5). The zoning administrator shall determine which site plan review is required based on information presented to him regarding the project. The zoning administrator shall document the reasoning for why such a review was chosen.
- (2) *Application and fee.* Any person may file a request for a site plan review by the planning commission by filing with the zoning administrator, planning commission or city council. As an integral part of such application the applicant shall file at least four copies of a site plan. The city council shall set the fee for full and limited site plan reviews.
- (3) *Planning commission review of site plan.* Upon receipt of such application from the clerk, the planning commission shall within 30 days approve or disapprove such site plan, advising the applicant in writing of the recommendation, including any changes or modifications needed to achieve conformity to the standards specified in this chapter.
- (4) *Full site plan review.* If the activities specified in subsection (1) (a—h) result in the construction of new buildings and structures that increase the lot coverage of an existing lot by more than ten percent, then a full site plan review shall be required. A full site plan review shall be submitted to the planning commission in accordance with the following requirements.

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- a. The site plan shall be of a scale of not less than one inch equals 50 feet if the subject property is less than three acres and one inch equals 100 feet if three acres or more and of such accuracy that the same can be readily interpreted.
  - b. The property shall be identified by lot lines and location, including dimensions, angles and size, and correlated with the legal description of such property. Such plan shall further include the name and address of the property owner, developer and designer.
  - c. The site plan shall show the scale; north point, boundary dimensions; topography (at least two-foot contour intervals); and natural features, such as, woodlots, streams, rivers, lakes, drains and similar features.
  - d. The site plan shall show existing manmade features, such as buildings; structures; high tension towers; pipe lines; and existing utilities, such as, water and sewer lines, excavations, bridges, culverts, drains and easements, and shall identify adjacent properties and their existing uses.
  - e. The site plan shall show the location, proposed finished floor and grade line elevations, size of proposed principal and accessory buildings, their relation one to another and to any existing structure on the site, the height of all buildings and square footage of floor space. Site plans for residential development shall include a density schedule showing the number of dwelling units per net acre, including a dwelling schedule showing the unit type and number of each unit type.
  - f. The site plan shall show the proposed streets, driveways, sidewalks, and other vehicular and pedestrian circulation features within and adjacent to the site; also, the location, size and number of parking spaces in the off-street parking area, and the identification of service lanes and service parking.
  - g. The site plan shall show the proposed location, use and size of open spaces; and the location of any landscaping, fences or walls on the site. Any proposed alterations to the topography and other natural features shall be indicated. The site plan shall further show any proposed location of connections to existing utilities and proposed extensions thereof.
  - h. A vicinity map shall be submitted showing the location of the site in relation to the surrounding street system.
- (5) *Limited site plan review.* If the activities specified in subsection (1) (a—h) result in the construction of new buildings and structures that do not increase the lot coverage of an existing lot by more than ten percent, then a limited site plan review may be required if the zoning administrator feels it is appropriate. The zoning administrator is required to document the reason that a limited site plan review was allowed. The planning commission has the power to revise this decision and require a full site plan review if it disagrees with the zoning administrator's decision. A limited site plan review shall be submitted to the planning commission in accordance with the following requirements.
- a. The property shall be identified by lot lines and location, including dimensions, angles and size, and correlated with the legal description of such property. Such plan shall further include the name and address of the property owner, developer and designer.
  - b. The limited site plan can be a sketch that shows the scale; north point, boundary dimensions; and natural features, such as, woodlots, streams, rivers, lakes, drains and similar features. In addition, all buildings and structures shall be denoted on the sketch.
  - c. The limited site plan and/or site plan sketch shall show streets, driveways, sidewalks, and other vehicular and pedestrian circulation features within and adjacent to the site; also, the location, size and number of parking spaces in the off-street parking area, and the identification of service lanes and service parking.

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- d. The limited site plan shall show the proposed location, use and size of open spaces, the location and size of proposed principal and accessory buildings, their relation to each other, the height of all buildings and square footage of floor space for all buildings and proposed buildings.
  - e. A vicinity map shall be submitted showing the location of the site in relation to the surrounding street system.
- (6) *Standards for site plan review.* In reviewing the site plan, the planning commission shall ascertain whether the proposed site plan is consistent with all regulations of this chapter and state and federal statutes. Further, in consideration of each site plan, the planning commission shall find that provisions of subsections (3) and (4) of this section as well as the provisions of the zoning district in which such buildings, structures and uses as indicated in the proposed site plan have been satisfactorily met by the applicant. Decisions rejecting, approving or conditionally approving a site plan shall be based upon requirements and standards contained in this chapter. A site plan shall be approved if it contains the information required in subsection (4) of this section and is in compliance with this chapter, the conditions imposed pursuant to this chapter, other applicable ordinances, and state and federal statutes. In addition, each of the following standards shall apply.
- a. The use shall be designed, constructed, operated and maintained in a manner harmonious with the character of adjacent property and the surrounding area.
  - b. The use shall not inappropriately change the essential character of the surrounding area.
  - c. The use shall not interfere with the general enjoyment of adjacent property.
  - d. The use shall represent an improvement to the use of character of the property under consideration and the surrounding area in general, yet also be in keeping with the natural environment of the site.
  - e. The use shall not be hazardous to adjacent property, or involve uses, activities, materials or equipment which will be detrimental to the health, safety or welfare of persons or property through the excessive production of traffic, noise, smoke, odor, fumes, glare or dust.
  - f. The use shall be adequately served by essential public facilities and services, or it shall be demonstrated that the person responsible for the proposed use shall be able to continually provide adequately for the services and facilities deemed essential to the use under consideration.
  - g. The use shall not place demands on public services and facilities in excess of current capacity.
  - h. The use shall be consistent with the intent and purpose of this chapter.
- (7) *Approval of site plan.* After the site plan is reviewed and approved by the planning commission, one copy shall be retained on permanent file with the planning commission and two copies shall be filed with the zoning administrator along with written notification of such approval. If the site plan is disapproved by the planning commission, written notification of such denial shall be given to the applicant within ten days after such action. The applicant may thereafter file an amended site plan which shall be reviewed in the same manner as hereinafter set forth. The zoning administrator shall not issue a zoning compliance permit and building permit until he has received a certified approved site plan.
- (8) *Expiration of site plan certificate.* The site plan certificate shall expire, and be of no effect, 365 days after the date of issuance thereof, unless within such time the zoning administrator has issued a zoning compliance permit for any proposed work authorized under a site plan certificate.
- (9) *Amendment, revision of site plan.* A site plan and site plan certificate issued thereon, may be amended by the planning commission upon the request of the applicant. Such amendment shall be made upon

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application and in accordance with the procedure provided in this section. Any fees paid in connection with such application may be waived or refunded at the discretion of the planning commission.

(Code 1963, § 5.70; Ord. of 4-14-80; Ord. No. 10-292, § 1, 7-12-10; Ord. No. 17-330, § 1, 8-28-17)

### **Sec. 22-262. Storage of materials.**

The location or storage of abandoned, discarded, unused, unusable or inoperative vehicles, appliances, furniture, equipment or material shall be regulated as follows:

- (1) On any lot in any agricultural district, residential district or commercial district, the owner or tenant, but not for hire or for business, shall locate and store such materials within a completely enclosed building.
- (2) On any lot in any industrial district, the owner or tenant, whether or not for hire or for business, shall locate and store such materials within a completely enclosed building or within an area surrounded by a solid, unpierced fence or wall at least seven feet in height and not less in height than the materials located or stored therein, and not closer to the lot lines than the minimum yard requirements for buildings permitted in such districts.
- (3) Nothing in this chapter shall permit the storage or parking of any vehicle or nonpermanent structure within the required front yard of any lot within a residential district, except that the parking of a passenger vehicle on a driveway located on private property shall not be prohibited.

(Code 1963, § 5.71; Ord. of 4-14-80)

### **Sec. 22-263. Visibility at intersections.**

On any corner lot in any zoning district requiring front and side yards, no fence, wall, hedge, screen, sign, structure, vegetation or planting shall be allowed to impede vision between a height of three feet and eight feet above the centerline grades within the triangular area formed by the intersecting street right-of-way lines and a straight line joining the two street lines at points which are 30 feet distant from the point of intersection, measured along the street right-of-way line.

(Code 1963, § 5.72; Ord. of 4-14-80)

### **Sec. 22-264. Home occupation.**

A home occupation shall be clearly incidental and secondary to the use of the dwelling unit for residential purposes. The following additional conditions shall be observed:

- (1) Such home occupation shall be carried on within the dwelling or within a building accessory thereto and entirely by the inhabitants thereof.
- (2) No article shall be sold or offered for sale on the premises except such as is produced within the dwelling or accessory building or is provided incidental to the service or profession conducted within the dwelling or accessory building.
- (3) There shall be no exterior storage of materials or equipment.
- (4) Adequate off-street parking shall be provided in accordance with sections 22-255 and 22-256 and as specified by the zoning board of appeals.

(Code 1963, § 5.73; Ord. of 4-14-80)

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## Sec. 22-265. Fences, walls, other protective barriers.

(a) *Definitions.*

- (1) *Construction site barrier:* A temporary fence erected to protect a construction site from vandalism and unauthorized entry. Construction site barriers do not require a permit unless the barrier will be in place for more than six months.
- (2) *Fences:* This shall mean any fence of wood, metal, masonry, plastic, or other synthetic materials, designed, used and erected and affixed to the real estate for the propose of enclosing or separating any portion of the real estate from adjoining land whether or not such fence is located on the boundary line of the property to which it appertains.
- (3) *Hedges:* A fence or boundary formed of shrubs, plantings, vegetation, and/or small trees.
- (4) *Landscaping fence:* Any fencing material 24 inches or less in height used as a decorative display and/or boundary for shrubs, trees or vegetation but not as a barrier or boundary of the property to which it appertains.
- (5) *Temporary snow fence:* Erected to protect the property owner from drifting snow from November 15th through March 15th. Temporary snow fences do not need a permit. Accumulation of snow on adjacent property, due to placement of snow fence is not permitted.

(b) *Permit required.* It shall be unlawful for any person, firm, or corporation to install, erect, construct, relocate or alter a fence or hedge, except for a landscaping fence, upon any property within the city without first having obtaining a zoning compliance permit from the city zoning administrator. No zoning compliance permit shall be issued if the city zoning administrator determines that the proposed fence or hedge does not meet the requirements of this section.

- (1) *Application.* The application for a zoning compliance permit shall be made with the city clerk and shall include the name and address of the owner, a sketch or design of the proposed fence or hedge including a description of the materials to be used and specifications of height shall be submitted with the application for permit.
- (2) *Permit fee.* The fee for the permit required under this section shall be established from time to time by resolution of the city council.

(c) *Design and construction.* All fences shall be designed, constructed, and maintained in accordance with the following standards. Fences which are not specifically required under the regulations for the individual zoning districts shall conform to the following requirements:

- (1) No fence shall hereafter be erected along the line dividing lots or parcel of land or located within any required side or rear yard in excess of six feet (72 inches) or less than three feet (36 inches) in height above the grade of the surrounding land. Any fence between a house and a street cannot exceed three feet (36 inches) in height from grade. Fences are permitted to be placed along a property line but shall not extend beyond the property line or into any right-of-way area. If a fence is to be built on a property line, a professional survey completed by a surveyor indicating correct property lines must be presented to the zoning administrator for approval. Any such construction/maintenance easement shall be approved by the city attorney and recorded with the county register of deeds prior to commencement of construction of the boundary fence or establishment of the boundary hedge.
- (2) All fences hereafter shall be of an ornamental nature. Barb wire, spike nails, or any other sharp point or instrument of any kind on top or on the sides of any fence, or electric current or charge in such fences are prohibited, except in the industrial districts. In commercial zoning districts non-ornamental utility fences, such as chain link or board fences, not exceeding eight feet in height, are allowed but shall be

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set back at least 20 feet from the front yard area and shall otherwise be subject to the general aesthetic and maintenance requirements of this section 22-265. Barbed wire cradles may be placed on top of fences enclosing public utility buildings or wherever deemed necessary in the interests of public safety. No sharp points on fences shall be allowed.

- (3) Boundary fences shall be located so that the smooth or finished surface of the fence shall face adjoining properties. Unless designed as an integral aesthetic feature of the fence, structural supports or members, anchoring posts or mechanisms, etc., shall not be positioned in a manner as to be the primary view of the fence from adjacent properties.
  - (4) No partition fence or hedge shall extend towards the street beyond two feet (24 inches) from the established inside front lot line or two feet (24 inches) behind the inside edge of the established sidewalk line.
  - (5) No fence, wall, structure, or hedge shall be erected, established, or maintained which obscures clear view of traffic at corners, intersections, alleyways, or driveways. Any fence in the front yard or side corner yard shall be 25 percent open to prevent obstruction to vision. Provision for corner lots must comply with section 22-263 with visibility at intersections.
  - (6) Fences for swimming pools shall comply with section 22-267, pertaining to swimming pools.
- (d) *Maintenance.* All fences and hedges shall be maintained subject to the following requirements and failure to do so shall constitute a nuisance per se:
- (1) All fences shall be maintained in good structural condition and the fence shall be vertical plum.
  - (2) Wooden elements or other elements of a fence subject to deterioration from weathering or other causes shall be maintained with chemicals, paint, or sealers to preserve the elements and to prevent rust, corrosion, or deterioration.
  - (3) All hedges shall be kept reasonably trimmed and shall not become overgrown.
  - (4) It is the responsibility of the property owner to maintain weeds and grass adjacent to or under any fence or hedge from becoming overgrown.

(Code 1963, § 5.74; Ord. of 4-14-80; Ord. No. 02-244, 1-28-02; Ord. No. 05-278, 8-8-05; Ord. No. 06-284, 1-23-06; Ord. No. 10-293, § 1, 7-12-10; Ord. No. 14-306, § 1, 3-24-14)

### **Sec. 22-266. Essential services.**

Essential services shall be permitted as authorized under any franchise or that which may be regulated by any law of the state or any ordinance of the city, it being the intention hereof to exempt such essential services from the application of this chapter.

(Code 1963, § 5.75; Ord. of 4-14-80)

### **Sec. 22-267. Swimming pools.**

All swimming pools erected in the city shall comply with the following requirements:

- (1) *Application.* The application for a building permit to erect a swimming pool shall include the name of the owner, the manner of supervision of the pool, a plot plan and location of adjacent buildings, fencing, gates, and other detailed information affecting construction and safety measures deemed necessary by the zoning administrator.

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- (2) *Pool location.* Minimum side yard setback shall comply with the schedule of regulations of this chapter. Furthermore, the pool fence must not be built within the required front yard or required corner lot side yard. Rear yard setback shall not be less than four feet between the outside wall of the pool and the rear property line or less than the established easement width at the rear property line or less than four feet between the pool wall and any building on the lot.
  - (3) *Fence.* For the protection of the general public, all swimming pools shall be completely enclosed by a fence not less than four feet high. All openings in any such fence shall be equipped with a gate which shall be securely locked with a tamperproof lock when the pool is not in use.

(Code 1963, § 5.76; Ord. of 4-14-80)

### **Sec. 22-268. Floodplains.**

- (a) Notwithstanding any other provisions of this chapter, land subject to periodic flooding shall be used only for agriculture and recreation uses, provided no structures used for dwelling purposes are located within the area subject to flooding.
- (b) The location and boundaries of land subject to periodic flooding shall be determined by reference to the U.S. Soil Conservation Service, the U.S. Army Corps of Engineers, the U.S. Department of Housing and Urban Development Flood Insurance Program, or other official authority.

(Code 1963, § 5.77; Ord. of 4-14-80)

### **Sec. 22-269. Planned residential developments.**

All planned residential developments (PRD) shall be regulated as set forth in this section, the approved plan, any special conditions imposed by the city council and other applicable provisions of this chapter.

- (1) For purposes of computing and controlling population density, the following standards shall apply:
  - a. The entire gross area of the planning residential development, including street right-of-way, parks, schools, and other public or private open space shall be included in the computation of area. Subaqueous or submerged bottom land of lakes or streams shall be excluded in computing the area of a parcel except that when land abutting such lakes or streams is substantially developed in park or open space for the use of residents of the PRD, the surface area of such lakes or streams may be used to compute density.
  - b. Maximum density permitted shall be 15 bedrooms per acre in PRD's, subject to the following:
    1. Not less than 33⅓ percent of the total number of bedrooms shall be in single-family dwellings.
    2. Single-family detached dwellings shall be assumed to have three bedrooms for each dwelling, no more and no less.
    3. For purposes of computing density, a den, library or other extra room shall not count as a bedroom unless a closet opens directly to such room.
- (2) In order to provide an orderly transition of density, where the project being proposed for use as a PRD immediately abuts a R-1 or R-2 district, the city council may require that the area immediately abutting and within 300 feet of such R-1 or R-2 district shall be developed in single-family lots, or shall be developed as open or recreational space.



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- (3) Single-family dwellings shall be subject to the requirements of article X, schedule of regulations applicable to the R-1 or R-2 districts, except as otherwise modified in the approved plan.
  - (4) Multiple dwellings shall be subject to the requirements of article X, schedule of regulations, except as otherwise modified in the approved plan.
  - (5) Submittal of proposed PRD plan. An application shall be made to the city clerk for review and recommendation by the planning commission of the following:
    - a. A boundary survey of the exact acreage being requested done by a registered land surveyor or civil engineer (scale: not smaller than one inch equals 200 feet).
    - b. Topographic map of the entire area at a two-foot contour interval. This map shall indicate all major stands of trees, bodies of water and unbuildable areas (scale: not smaller than one inch equals 200 feet).
    - c. A recent aerial photograph of the area shall be provided (scale: not smaller than one inch equals 200 feet).
    - d. A preliminary plat for the entire area carried out in such detail as to indicate the functional uses and dwelling unit types being requested; the proposed population densities; a traffic circulation plan; sites being reserved for schools, service activities, playgrounds, recreation areas, parking areas, and other open spaces and areas to be used for the public or by residents of the planned residential development (scale: not smaller than one inch equals 200 feet).
    - e. An indication of the contemplated storm and sanitary sewer plan, and a preliminary topographic map indicating how the land area is proposed to be shaped.
    - f. A written statement explaining in detail the full intent of the sponsor, indicating the type of dwelling units contemplated, resultant population and providing supporting documentation such as: soil survey, studies supporting land use requests, and the intended scheduling of the development.
  - (6) Review of proposed PRD plan. Upon receipt of an application as a preliminary submittal, the city clerk shall refer such request to the planning commission for its report and recommendation. Prior to making such report and recommendation, the planning commission shall hold a public hearing on the application. Following such public hearing and receipt of the planning commission's report and recommendation, the city council may approve such application and accompanying plan only upon finding that:
    - a. All applicable provisions of this section and this chapter have been met. Insofar as any provision of this section shall be in conflict with the provisions of any other section of this chapter, the provisions of this section shall apply to the land embraced within a planned residential development area.
    - b. Adequate areas have been provided for all utilities, schools, walkways, playgrounds, recreation areas, parking areas and other open spaces and areas to be used by the public or by residents of the community.
    - c. Open space may include parks and recreation areas, wooded lots, schools, golf courses, water areas, and any use of a similar nature approved by the city council; provided, however, that at least one acre for each 200 bedrooms shall be preserved as a park, recreation or open space rather than as a golf course, water area, road right-of-way, school or similar limited use area.
    - d. There is or will be at the time of development an adequate means of disposing of sanitary sewage and of supplying the development with water and that the road system and stormwater drainage system is adequate.

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- e. The plan provides for an efficient, aesthetic and desirable use of the open areas and the plan is in keeping with the physical character of the city and the area surrounding the development.
  - f. The applicant has made provision, satisfactory to the city council, to assure that those areas shown on the plan for use by the public or occupants of the development will be or have been committed for that purpose. The city council may require that conveyances or other documents be placed in escrow to accomplish this.
  - g. Provisions, satisfactory to the city council have been made to provide for the future financing of any improvements shown on the plan for open space areas, and common use areas which are to be included within the development and that maintenance of such improvements is assured by a means satisfactory to the city council.
  - h. The cost of installing all streets and the necessary utilities has been assured by a means satisfactory to the city council.
- (7) Approval of planned residential development by city council.
- a. If the city council shall determine to grant the application and approve the plan, a permit shall be issued setting forth the conditions upon which the approval is based.
  - b. Once an area has been included within a plan for planned residential development and such plan has been approved by the city council, no development may take place in such area nor may any use thereof be made except in accordance with such plan or in accordance with a city council approved amendment thereto, unless the plan is terminated as provided in subsection (7) of this section.
  - c. An approved plan may be terminated by the applicant or its successors or assigns, prior to any development within the area involved, by filing with the city and recording in the county records an affidavit so stating. The approval of the plan shall terminate upon such recording.
  - d. No approved plan shall be terminated after development commences except with the approval of the city council and of all parties in interest in the land.
  - e. Within a period of two years following approval by the city council, final plats and/or site plans for an area embraced with the planned residential development must be submitted as provided in subsection (8) of this section. If such plats and/or plans have not been submitted and approved within the two-year period, the right to develop under the approved plan may be terminated by the city.
- (8) Before any zoning compliance permit shall be issued for buildings and structures within the area of planned residential development, final plats and/or site plans for a project area shall be submitted to the zoning administrator for review and recommendation by the planning commission of the following:
- a. Such site plans and plats shall be fully dimensioned and shall show a fully scaled plan view of all buildings (except detached single-family dwellings), all public rights-of-way and private streets, areas within each project area and the proposed ultimate density thereof, parking areas, utilities, churches, schools and areas to be set aside for the use of the public or by residents within the development (scale: one inch equals 50 feet).
  - b. The proposed topography two-foot contour interval shall be superimposed on all plats and plans (scale: one inch equals 50 feet).
  - c. Floor plans typical of all residential buildings except detached single-family, shall be submitted and the site plan shall indicate which floor plan is applicable to each such building.

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- d. Each final plat and/or site plan submitted within the planned residential development shall, either individually or in combination with previously approved project areas, meet the standards of this chapter as to density.
- (9) Review and approval of plats shall comply with Act No. 288 of the Public Acts of Michigan of 1967 (MCL 560.101 et seq.), as amended, and the subdivision regulations chapter of this Code of the city in addition to the requirements of this section.
- (10) Before approving any final plat and plan, the city council shall determine:
- a. That all portions of the project area shown upon the approved plan for the planned residential development for use by the public or the residents of lands within the planned residential development have been committed to such uses in accordance with the planned residential development contract.
  - b. That the final plats and/or site plans are in substantial conformity with the approved plan for the PRD.
  - c. That provisions have been made in accordance with the PRD contract to provide for the financing of any improvements shown on the project area plan for open spaces and common areas which are to be provided by the applicant and that maintenance of such improvements is assured in accordance with the PRD contract.
  - d. That a dedication of public roads shall have been made so as to cause continuity of public access between the adjacent major thoroughfare and ingress and egress to all private development within the project area plan.
- (11) During construction of the planned residential development, building permits for residential structures shall be issued in such a manner as to assure that on a cumulative basis not less than 33½ percent of the total number of bedrooms (for which permits are or have been issued) shall be in single-family dwellings. Occupancy permits shall not be issued for other than single-family dwellings until occupancy permits have been issued for not less than 50 percent of the single-family dwellings which are necessary to maintain the above 33½ percentage of bedrooms. The planning commission may waive these requirements to the extent that a minimum number of model units could be displayed by the developer.
- (12) In order to assure the development of open space in conjunction with a PRD, the city council shall include in the contract recorded with the register of deeds, a schedule for the completion of portions of the open space so that it coincides with completion of dwelling units. The developer may suggest a schedule for review by the city council.
- (13) If development of approved final plats and/or site plans is not substantially completed in three years after approval, further final submittals under the part in question is completed or cause can be shown for not completing same.
- (14) Any changes or amendments requested shall terminate approval of the overall plan until such changes or amendments have been reviewed and approved as in the first instance. In instances where modifications are necessary to the plan, the zoning administrator may request that the plan be again submitted for review if, in his judgment, a substantial change is being made in the plan.

(Code 1963, § 5.78; Ord. of 4-14-80)

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## Sec. 22-270. Mobile home parks.

- (a) All mobile home parks shall comply with the Mobile Home Commission Act, Act No. 96 of the Public Acts of Michigan of 1987 (MCL 125.2302 et seq.), as amended.
- (b) Every mobile home park shall be served by a central water supply system and a central sanitary sewerage system.
- (c) The land area of a mobile home park shall not be less than ten acres.
- (d) Mobile home sites shall be at least 4,000 square feet in area.
- (e) Each mobile home within such park shall contain a flush toilet, sleeping accommodations, a tub or shower bath, kitchen facilities, and plumbing and electrical connections designed for attachments to appropriate external systems.
- (f) Each mobile home site shall have side yards with each such yard having a width of not less than ten feet and the aggregate width of both side yards not less than 25 feet.
- (g) Each mobile home site shall have front and rear yards with each such yard not less than eight feet in width and the aggregate width of both yards not less than 20 feet.
- (h) For the purposes of this subsection, yard width shall be determined by measurement from the mobile home face (side) to its mobile home site boundary which at every point shall not be less than the minimum width herein provided. Open patios, carports and individual storage facilities shall be disregarded in determining yard widths. The front yard is that yard which runs from the hitch end of the mobile home to the nearest site line, the rear yard is at the opposite end. The side yards are at right angles to the ends.
- (i) From all stands, the following minimum distance shall be maintained:
  - (1) Ten feet to the buffer strip.
  - (2) Thirty feet to the boundary of such park which is not a public street.
  - (3) Fifty feet to the right-of-way of any public street or highway.
  - (4) Thirty feet to any collector street of such park (parking bay or central parking drive not a collector street).
  - (5) Fifteen feet to any parking area designed for general parking in such park (general parking defines parking bays for other than park residents).
  - (6) Fifty feet to any service building in such park.
- (j) A mobile home shall not be permitted to occupy single or multiple sites if either its length or width would cause it to occupy any minimum yard area or minimum distance prescribed herein.
- (k) Each mobile home site shall be provided with a minimum stand consisting of a solid concrete four-inch apron not less than 60 feet long nor less than 12 feet wide. This apron shall be so constructed, graded, and placed to be durable and adequate for the support of the maximum anticipated load during all seasons.
- (l) Each mobile home shall be supported on uniform jacks or blocks and anchored with tiedown assemblies every ten feet or at manufacturer's designated locations. Such jacks, blocks, and tiedown assemblies shall be provided by the mobile home park management.
- (m) An all-weather, hard-surfaced, outdoor patio area of not less than 120 square feet shall be provided at each mobile home site, conveniently located to the entrance of the mobile home and appropriately related to open areas of the lot and other facilities, for the purpose of providing suitable outdoor living space to supplement the limited interior spaces of mobile homes.

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- (n) Each mobile home park shall include similarly designed enclosed storage structures suitable for storage of goods and the usual effects of the inhabitants of such park; such storage space should be not less than 120 cubic feet for each mobile home. Such storage structures may be located on the mobile home site or in a common structure with individual lockers.
  - (o) Storage of goods and articles underneath any mobile home or out-of-doors at any mobile home site shall be prohibited.
  - (p) Onsite outdoor laundry space of adequate area and suitable location shall be provided if park is not furnished with indoor dryers or if use of indoor dryers is not customarily acceptable to prospective occupants. Where outdoor drying space is required or desired, individual clothes drying facilities on each lot of the collapsible umbrella type of hanging apparatus shall be allowed, with park management providing a concrete imbedded socket at each site.
  - (q) All mobile homes within such parks shall be suitable connected to sewer and water services provided at each mobile home site, and shall meet the requirements and be approved by the county health department.
    - (1) All sanitary sewage facilities, including plumbing connections to each mobile home site, shall be constructed so that all facilities and lines are protected from freezing, from bumping or from creating any type of nuisance or health hazard. Running water from a state-tested and approved supply, designed adequately from a minimum flow shall be piped to each trailer. Sewer connections shall not exceed ten feet in length aboveground.
    - (2) Storm drainage facilities shall be so constructed as to protect those that will reside in the mobile home park, as well as the property owner adjacent to the park.
  - (r) Disposal of garbage and trash in mobile home parks shall be as follows:
    - (1) Any method used shall be approved by the state and inspected periodically by the county health department.
    - (2) Adequate incinerators, if provided, shall be conveniently located so as not to create a nuisance and be designed so that combustible materials will be reduced to an odorless gas and inorganic ash under any weather conditions.
    - (3) Trash not burned should be stored in a conveniently located similarly designed enclosed structure. The removal of noncombustible trash shall take place not less than once a week.
  - (s) All electric, telephone and other lines from supply poles, or other sources to each mobile home site, shall be underground. The electrical system shall be of such voltage and of such capacity to adequately serve all users in the park at peak periods. When separate meters are installed, each shall be located in a uniform manner.
  - (t) Any fuel oil and gas storage shall be centrally located in underground tanks, at a distance away from any mobile home site as it is found to be safe. All fuel lines leading to mobile home sites shall be underground and so designed as to conform with any state code that is found to be applicable. When separate meters are installed, each shall be located in a uniform manner.
  - (u) A buffer of trees and shrubs not less than 20 feet in depth shall be located and maintained along all boundaries of such park except at established entrances and exits serving such park. When necessary for health, safety, and welfare, a fence shall be required. No fence shall be more than three feet in height, to separate park from an adjacent property.
  - (v) A recreation space of at least 300 square feet per mobile home site in the park shall be developed and maintained by the management. This area shall not be less than 100 feet in its smallest dimension and its boundary no further than 500 feet from any mobile home site served. Streets, parking areas and laundry rooms are not to be included as recreation space in computing the necessary area.

- (w) All driveways, motor vehicle parking spaces and walkways within such parks shall be hard-surfaced and adequately drained and lighted for safety and ease of movement.
- (x) Minimum widths of roadways within mobile home parks shall be as follows:

Motor Vehicle Parking	Traffic Use	Minimum Pavement Width
Parking prohibited	2-way road	22 feet
Parallel parking, 1 side only	1-way road	21 feet
Parallel parking, 1 side only	2-way road	32 feet
Parallel parking, 2 sides	1-way road	31 feet
Parallel parking, 2 sides	2-way road	42 feet

- (y) Walkways shall be installed and shall be not less than four feet in width, excepting that walkways designed for common use of not more than three mobile home sites shall be not less than three feet in width.
- (z) When exterior television antenna installation is necessary, a master antenna shall be installed and extended to individual stands by underground lines. Such master antenna shall be so placed as not to be a nuisance to park residents or surrounding areas.
- (aa) Two automobile parking spaces shall be provided within 150 feet of each mobile home site. The mobile home park shall provide one additional automobile parking space for every two mobile home stands.
- (bb) No trailer designed for temporary or seasonal living shall be occupied in a mobile home park.

(Code 1963, § 5.79; Ord. of 4-14-80)

### **Sec. 22-271. Satellite dish.**

- (a) Satellite dishes in excess of one meter (39.37 inches) in diameter are prohibited unless they are placed in the rear yard on the ground only. Total height of such dishes shall not exceed 15 feet from the ground, may not be located nearer than six feet from the side or rear lot line and may not be located or placed on an easement.
- (b) Satellite dishes less than one meter (39.37 inches) in diameter are subject to the conditions that follow:
- (1) Such dishes may be placed on any building and, for the purpose of public safety, shall be installed in accordance with any applicable provisions of the fire, building and electrical codes.
  - (2) Freestanding satellite dishes shall be installed in the rear yard unless certified by the installer at the time of installation that such placement would:
    - a. Unreasonably delay or prevent installation, maintenance or use;
    - b. Unreasonably increase the cost of installation, maintenance or use; or
    - c. Preclude reception of an acceptable quality signal.
  - (3) Such satellite dishes may not encroach across property lot lines and shall be setback a sufficient distance as to allow maintenance without trespass on adjoining lots.
  - (4) Freestanding satellite dishes placed in other than the rear yard shall not be placed on a post, column, mast or other elevation device. Notwithstanding, a post, column, mast or other elevation device, of a minimum height necessary, may be utilized if certified by the installer at the time of installation that lack of such elevation would:

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- a. Unreasonably delay or prevent installation, maintenance or use;
  - b. Unreasonably increase the cost of installation, maintenance or use; or
  - c. Preclude reception of an acceptable quality signal.
- (5) Any such satellite dishes installed prior to the date of adoption of this section shall be deemed a nonconforming use or structure and may be maintained subject to section 22-253 of the City Code).

(Code 1963, § 5.80; Ord. of 4-14-80; Ord. No. 160, 10-14-85; Ord. No. 04-276, 11-22-04)

### **Sec. 22-272. Temporary or seasonal use.**

Transient or seasonal enterprises or individuals, operating no more than six months in any 12-month period, conducting outdoor sales of horticultural or agricultural goods, wares, or merchandise, such as flowers, Christmas trees, etc., may be permitted in any commercial district with the written approval of the zoning administrator, or duly appointed official, based upon the findings that the location of such activity will not adversely affect parking or traffic patterns; will not adversely affect adjoining properties; and will not otherwise adversely affect public health, safety, morals, and the general welfare. Written approval shall be issued in the form of a license.

Licenses shall be issued by the city upon forms provided by the clerk, upon compliance with the state and local health and safety codes. Licenses shall expire on December 31st of each year. Fees for such licenses shall be established by resolution of the city council.

Any license issued by the city may be revoked or suspended if it is unlawful, fraudulent in nature, or contrary to health, safety, and morals. Denials or revocations may be appealed to the board of appeals.

Anyone violating this section of the ordinance shall upon conviction thereof be subject to a fine of not more than \$500.00 dollars and the costs of prosecution thereof, by imprisonment in the county jail for a period not to exceed 90 days or both.

(Ord. No. 02-246, 3-25-02)

### **Sec. 22-272A. Food trucks/mobile food vending units.**

- (a) *Intent.* To encourage mobile food vendors who add to the vibrancy and desirability of the City of Morenci, while providing a framework under which such businesses operate.
- (b) *Definitions.* As used in this section, the following terms shall have the meanings indicated:

*Catering.* Providing food or beverages to a non-general public gathering.

*Food truck.* A self-contained, motorized vehicle, identified generically as a "mobile food vending unit," which is used for the preparation and distribution or sale of food.

*Mobile food vending.* Vending, serving, or offering for sale food and/or beverages from a mobile food vending unit which meets the definition of a "food service establishment" under Public Act 92 of 2000, and which may include the ancillary sales of branded items consistent with the food or vendor, such as a tee shirt that bears the name of the company, restaurant or organization engaged in mobile food vending.

*Mobile food vending unit.* Any motorized or nonmotorized vehicle, trailer, food truck, or other device designed to be portable and not permanently attached to the ground from which food is vended, served, or offered for sale.

*Operate.* All activities associated with the conduct of business, including setup and takedown and/or hours of operation and locations where the mobile food vending units are allowed to be open for business.

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*Vendor.* Any individual, company, restaurant or organization engaged in the business of mobile food vending; if more than one individual is operating a single cart, food truck, or other means of conveyance, then "vendor" shall mean all individuals operating such means of conveying food.

(c) *Mobile food vending permit required.*

- (1) No vendor shall engage in mobile food vending without a mobile food vending permit issued by the zoning administrator authorizing such vending. The Morenci City Council shall prescribe the form of such permits and the application for such permits.
- (2) All food trailer permits shall be prominently displayed on the mobile food vending unit. A mobile food vending permit for vending shall not be issued by the zoning administrator unless the vending unit meets the definitions of "mobile food vending" and "mobile food vending unit" and operates in the locations or areas defined by this section.
- (3) A vendor who has applied for and received a mobile food vending permit to operate a food truck or mobile food vending unit under this section does not have to also apply for and receive a mobile food vending permit to operate under the City of Morenci's Hawkers, Peddlers and Transient Merchants Ordinance (Chapter 16 of the Morenci Code).

(d) *Duration of mobile food vending permit; nontransferability.* Permits issued by the zoning administrator shall be valid only for the calendar year in which they are issued and for the mobile food vending unit identified on the permit. Any permit issued under this section is nontransferable from vendor to vendor or from food truck/mobile food vending unit to food truck/mobile food vending unit.

(e) *Application for mobile food vending permit.*

- (1) Any vendor desiring to operate a food truck or engage in mobile food vending in the City of Morenci shall submit a completed application to the City of Morenci City Administrator/Clerk's office and receive a mobile food vending permit issued by the zoning administrator.
- (2) The applicant shall truthfully state, in full, all information requested on the application for permit issued by the City of Morenci City Administrator/Clerk's office. The application for a permit shall be accompanied by a fee as defined in this section.
- (3) Vendor shall submit copies of licenses or permits issued by the Lenawee County Health Department, and a copy of its Michigan Sales Tax License.
- (4) Vendor shall submit a copy of its general comprehensive liability policy with at least a minimum of \$500,000.00 single limit coverage issued by an insurer licensed to do business in the state and which names the City of Morenci as an additional insured.
- (5) Vendor shall provide a copy of its automobile insurance issued by an insurer licensed to do business in the state if the vendor is operating a motorized vehicle.
- (6) City shall have seven business days to respond to an application for a mobile food vending permit. Application fee is waived if city fails to respond within seven business days.

(f) *Single-event permits.* If a mobile food vendor is operating during a city-sponsored or city-endorsed special event being held on either public or private property, the vendor must obtain a single-event application from the event organizer. The event organizer shall be responsible for establishing any charge for the permit and shall be entitled to retain all fees collected. The completed application and payment shall be submitted to the event organizer and upon verification that all documents and fees have been received by the event organizer, the city shall issue the single event permit at no further charge.

(g) *Exceptions for when a food vending permit are not required.*



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- (1) No mobile food vending permit is required if the motorized or nonmotorized vehicle, trailer, food truck, or other device is catering to a private dwelling unit or private business. The motorized or nonmotorized vehicle, trailer, food truck, or other device to cater shall be solely contained on the property of the dwelling unit or private business. The caterer shall not be open to the general public during such caterer detail.
  - (2) During the weekend recognized by the Morenci City Council of city-wide garage sales, a mobile food vending permit is not required; however, a single-event permit is required. Mobile food vending is allowed in all zoning districts during the recognized weekend, as long as mobile food vending does not occur on streets, sidewalks, or creates traffic obstructions. Application shall be made to the zoning administrator, who shall in coordination with the police chief, approve or deny the application based upon the placement of the mobile food vending unit to ensure it is not placed on streets, sidewalks, or creates traffic obstructions. The city council shall establish the relevant fee for mobile food vending for such weekend.
  - (3) During auctions and/or estate sales, a mobile food vending permit is not required; however, a single-event permit is required. Mobile food vending is allowed at the auction and/or estate sale on the property of the auction and/or estate sale, as long as mobile food vending does not occur on streets, sidewalks, or creates traffic obstructions. Application shall be made to the zoning administrator, who shall in coordination with the police chief, approve or deny the application based upon the placement of the mobile food vending unit to ensure it is not placed on streets, sidewalks, or creates traffic obstructions. The city council shall establish the relevant fee for mobile food vending for such sales.
- (h) *Fees.* An application for a mobile food vending permit shall be accompanied by a fee in the amount established by resolution by the Morenci City Council. Mobile food vending permit shall only be for the calendar year in which the permit is issued. There shall be no proration of fees. Fees are nonrefundable once a permit has been issued by the zoning administrator's office.
- (i) *Requirements.* Any vendor engaging in mobile food vending shall comply with the following requirements.
- (1) Food trucks/mobile food vending units shall only operate in districts zoned PO, C-2, C-3, I-1, and I-2. Ice cream trucks shall be allowed to operate with application throughout all zoning districts.
  - (2) Vendors shall not operate without first obtaining a mobile food vending permit to do so.
  - (3) Vendors shall not operate on city-owned property or on public streets without prior authorization and approval of the Morenci City Council. A separate form seeking such authorization is available. Application to operate on city-owned property or on a public street shall be accompanied by a mobile food vending permit or application. No food service shall be allowed on the driving lane side of the mobile food vending unit. If operating on a private street, the customer service area for mobile food vending units shall be on the curb lawn or sidewalk when parked.
  - (4) No food shall be sold, prepared or displayed outside of the food truck or mobile food vending unit while on the location noted on the permit.
  - (5) Vendors shall provide appropriate waste receptacles at the site of the unit and remove all litter, debris and other wastes attributable to the vendor and/or customers on a daily basis.
  - (6) Vendors shall not use any flashing, blinking or strobe lights or similar effects to draw attention to the food truck or mobile food vending unit; all exterior lights over 60 watts shall contain opaque hood shields to direct the illumination downward.
  - (7) Vendors shall not use loud music, amplification devices or any other audible methods to gain attention. This prohibition shall not apply to ice cream trucks as long as the music is played at a volume that does not disturb the peace.

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- (8) There shall be no signage used by vendors except for what is allowed on the vehicle, food truck or mobile food vending unit itself.
- (9) Mobile food vending units shall not be parked and operating from 7:00 a.m. to 5:00 p.m. in the following areas:
- a. M-156 (North Street and East Main Street to Summit Street)
  - b. East Main Street from Mill Street to North Street
- These times may be varied by the Morenci City Council in the event that of a single-event in these areas.
- (10) Vendors are prohibited from locating, placing, or putting personal property outside of the food truck, including but not limited to dining furniture, fixtures, and equipment.
- (11) No vendor shall 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 street or sidewalk except in a safe manner. If unit is not self-contained and requires electric service, a permit issued by the City of Morenci Building Department is required.
- (12) Vendors shall comply with all applicable city laws, regulations, and ordinances, including those regulating noise, signage, and loitering.
- (13) Vendors shall not represent the granting of a permit under this section as an endorsement of the city.
- (14) Hours of operation for vendors shall be 9:00 a.m. to 9:00 p.m. Hours shall be different if the vendor has obtained a single-event permit for a city-sponsored or city-endorsed event.
- (15) Any vendor operating on private property shall submit a written letter from the property owner granting them permission to use the property at time of application.
- (16) All gray water/untreated waste shall be disposed of in accordance with federal, state, county, and local regulations, and under no circumstances shall untreated waste be disposed of into the public storm system.
- (j) *Other permits.* A permit obtained under this section shall not relieve any vendor of the responsibility for obtaining any other permit or authorization required by any other resolution, ordinance, statute, or administrative rule.
- (k) *Complaints; appeals; revocation of permit.*
- (1) If a written complaint is filed with the City of Morenci Zoning Administrator alleging a food vendor has violated the provisions of this section, the zoning administrator shall promptly send a copy of the written complaint to the vendor together with a notice that an investigation will be made by the zoning administrator, with the assistance of other city departments, as required, to determine the truth of the complaint. The vendor shall be invited to respond to the complaint and present evidence and respond to evidence produced by the investigation. If the zoning administrator, after reviewing all relevant material, finds the complaint to be supported by a preponderance of the evidence, the complaint shall be certified.
  - (2) The City of Morenci Zoning Administrator shall revoke the permit of any vendor engaged in mobile food vending who ceases to meet any requirement of this section; violates any other federal, state or local law, ordinance or regulation; makes a false statement on his/her application; is determined to have a certified complaint; or conducts activity in a manner that endangers the public health, safety or welfare.
  - (3) If a permit is denied or revoked by the zoning administrator or if a written complaint is certified pursuant to this section, the applicant or holder of the permit may appeal to the Morenci Zoning Board

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of Appeals. Such appeal shall be in writing. The Morenci Zoning Board of Appeals shall make a written determination, after reviewing evidence related to the appeal, as to whether the denial, revocation, or complaint is valid. If the Morenci Zoning Board of Appeals determines that the denial, revocation, or complaint is valid as supported by a preponderance of the evidence, the action of the zoning administrator shall be sustained. The applicant may appeal the decision of the Morenci Zoning of Appeals to a court of competent jurisdiction.

- (4) Immediately upon such revocation, the zoning administrator shall provide written notice to the permit holder by certified mail to the address indicated on the application. The permit to operate shall become immediately null and void upon revocation.
- (l) *Appearance tickets.* The Morenci Police Department, zoning administrator, or such other officials as designated by the Morenci City Council are authorized to issue and serve appearance tickets with respect to a violation of this section pursuant to Michigan law.
- (m) *Civil infraction.* A violation of this section is designated as a civil infraction subject to fines as set out in section 1-13 of the Morenci Code, plus the costs for a mobile food vending permit as established by the Morenci City Council.

(Ord. No. 17-332, § 1, 9-25-17)

### **Sec. 22-273. Bed and breakfast facility.**

Prior to issuance of a special approval use permit for a bed and breakfast facility, an applicant shall demonstrate that all following requirements have been met:

- (1) It is required that the bed and breakfast establishments be located in R-1, R-2, or RM zoning districts and shall be the residence of the owner of the establishment. The owner shall reside in the bed and breakfast establishment. Each bed and breakfast establishment will be allowed up to eight rental rooms.
- (2) It is required in all bed and breakfast establishments that all sleeping rooms as well as all hallways leading to and connecting the sleeping room shall contain smoke detectors. Also, each bed and breakfast establishment shall be equipped with emergency lighting. In addition, all bed and breakfast establishments shall have two entrances (exits) to and from the outside location on separate walls. The design and placement of smoke detectors and emergency lighting shall be approved by the fire chief of the city fire department.
- (3) Rooms utilized as sleeping rooms shall have a minimum of 100 square feet for two occupants and an additional 30 square feet per each additional occupant. There shall be no more than four occupants per sleeping room. There shall be a minimum of one bathroom per four sleeping rooms excluding the bathroom used by the owner.
- (4) A current and permanent record of all guests at a bed and breakfast establishment shall be maintained and said records shall at all times be available to any state and city official including, but not limited to, the zoning administrator, state and county health officers, building inspectors and city police, upon verbal request of the official.
- (5) No person shall remain as a tenant/guest of any bed and breakfast for a period of time in excess of 30 days.
- (6) Signs in residential districts are permitted in accordance with section 16.5-4 (Signs allowed on private property).

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- (7) No lighting shall be permitted which flashes, rotates or directs light onto any adjacent property or public right-of-way.
  - (8) Off-street parking shall be required on site (unless a variance is granted). Two parking spaces for the owner and one parking space for each rental room.
  - (9) Prior to an occupancy permit being issued by the building inspector for a bed and breakfast, the zoning administrator shall inspect the bed and breakfast establishment to ensure that all zoning requirements and conditions for approval have been met.
  - (10) In the event the county or state health department receive a complaint regarding a bed and breakfast establishment located within the city, the owner shall cooperate with said officials and shall immediately open the establishment to inspection by the appropriate official(s).
  - (11) All applications for bed and breakfast establishments shall be made to the zoning administrator on a zoning compliance permit form, which will include a site plan showing proposed parking, lighting, signs (including location and size) as well as a floor plan of proposed bed and breakfast establishment showing the location and size of the rental rooms, bathrooms, common rooms, owner's living quarters and outside door(s) (entrance/exit) locations.
  - (12) There shall be no separate cooking facilities provided for the bed and breakfast occupants. Breakfast may be provided by the owner as long as state and county health department regulations are followed.
  - (13) Every sleeping unit shall have at least one operable window approved for emergency egress or rescue, except where the sleeping unit is provided with a door to a corridor having access to two remote exits in opposite directions.

(Ord. No. 02-248, 5-22-02)

Editor's note(s)—Ord. No. 02-248, adopted May 22, 2002, added a new section 22-272. In order to avoid the duplication of sections, the provisions of said ordinance have been included herein as section 22-273 at the discretion of the editor.

### **Sec. 22-274. Open space preservation/cluster development.**

Notwithstanding the generally applicable minimum lot frontage/lot width and minimum lot area per dwelling unit requirements of this section, land zoned for residential development may be developed, at the option of the landowner, with the same number of dwelling units that could otherwise be developed on the land under existing ordinances, laws, and rules, on not more than 80 percent of the land, if all of the following apply:

- (1) Requirements:
  - a. The land is zoned at a density equivalent to two or fewer dwelling units per acre; or, if the land is served by a public sewer system, three or fewer dwelling units per acre.
  - b. Not less than 20 percent of the land area will remain perpetually in an undeveloped state by means of a conservation easement, plat dedication, restrictive covenant, or other legal means that runs with the land.
  - c. The development does not depend upon the extension of a public sewer or public water supply system, unless development of the land without the exercise of the development option provided by this provision would also depend upon such an extension.
  - d. The development option provided pursuant to this section has not previously been exercised with respect to the subject property.

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- (2) The development of land under this section is subject to all other applicable ordinances, laws, and rules, including but not limited to:
    - a. The provisions of the zoning ordinance and subdivision control ordinance that are not in conflict with and preempted by section 4f of the City-Village Zoning Act as added by 2001 Public Act 179 (MCL 125.284f).
    - b. The Land Division Act (formerly the Subdivision Control Act, MCL 560.101, et seq.).
    - c. Any ordinance regulating the division of land, the platting of land into subdivisions, or the creation of a site condominium.
    - d. Rules relating to suitability of groundwater for on-site water supply for land not served by public water.
    - e. Rules relating to suitability of soils for on-site sewage disposal for land not served by public sewers.
  - (3) As used in this section, the term "undeveloped state" means a natural state preserving natural resources, natural features, or scenic or wooded conditions; agricultural use; open space; or a similar use or condition. This term does not include a golf course, but may include a recreational trail, picnic area, children's play area, greenway, or linear park.

(Ord. No. 02-259, 12-9-02)

Editor's note(s)—Ord. No. 02-259, adopted Dec. 9, 2002, amended the Code with the addition of section 22-272. In order to avoid duplication of sections, the provisions of said ordinance have been included herein as section 22-274 at the discretion of the editor.

### **Sec. 22-275. Large wind turbines.**

- (1) *Specific requirements.*
  - (a) *Minimum lot size:* With the exception of the I-2 skyline industrial zoning district, in all zoning districts where large wind turbines are permitted as a special use after approval the minimum lot size shall be five acres.
  - (b) *Height:* The total height of the tower shall not exceed 200 feet. The minimum distance between the ground and any protruding blades shall be 75 feet as measured at the lowest point of the arc of the blades.
  - (c) *Fall zone:* The wind turbine shall be setback a distance of at least 100 percent of height of the total structure from any property line, building, or right-of-way.
  - (d) *Set-back:* No part of the wind turbine structure, including guy wire anchors, shall extend closer than ten feet to the property line. The setback between a wind turbine and another wind turbine shall be at 110 percent of the height of the tallest wind turbine.
  - (e) *Lighting:* The maximum lighting used on the structure is a low intensity red light regulated by the Federal Aviation Administration.
  - (f) *Noise:* Noise coming from the wind turbine shall not exceed 45 dBA to the nearest property line.
  - (g) *Fencing:* The supporting tower shall be enclosed with a six-foot high fence.
  - (h) *Base:* All tower support bases shall comply with City of Morenci Building Department regulations and construction plans shall be prepared by a professional engineer.
  - (i) *Transmission lines:* All wind turbine transmission line shall be underground.

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- (2) *Application requirements.* Prior to commencing construction or implementation of use an application for a special land use must be filed, reviewed and approved for a large wind turbine by the City of Morenci Planning Commission. Information required for review shall include the following in addition to the information requirements and standards for special land use and site plan review.
- (a) *Electromagnetic/Structural interference.* A report shall be produced that contains impacts to existing television, telephone, microwave, navigational, or radio reception within one mile of the wind turbine.
  - (b) *Audible sound.* The application shall provide a report on the potential audible conditions created by the wind turbine. The review must be produced and certified by a registered engineer licensed in the State of Michigan.
  - (c) *Fire prevention and emergency response plan and requirements.* The following information is required to be provided to allow for adequate response to emergency situations.
    - i. Describe the potential fire and emergency scenarios that may require a response from fire, emergency medical services, police or other emergency responders.
    - ii. Designate the specific agencies that would respond to potential fire or other emergencies.
    - iii. Describe all emergency response training and equipment needed to respond to a fire or other emergency including an assessment of the training and equipment available to the designated agencies.
  - (d) *Shadow flicker.* A wind turbine shall not be allowed to cast a shadow upon an adjacent or nearby non-participating parcel's principal structure for a period of time in excess of 30 hours per year unless said affected property owner provides written permission.
  - (e) *Safety.*
    - i. The wind turbine structure shall not be climbable on the exterior of the structure.
    - ii. All access doors and interior access points shall be lockable and accessible only to those either constructing or maintaining the wind turbine.
    - iii. Appropriate warning signs shall be placed at the base of the wind turbine upon any associated electrical equipment and at every wind turbine entrance.
    - iv. Any access drive remaining on the site shall be required to have an entrance gate no closer than 50 feet from the road right-of-way.
    - v. The blade's tips or other rotating mechanism on any wind turbine shall not be less than 75 feet from the ground when measured from the blade's rotational lowest position.
    - vi. Each wind turbine shall be equipped with both a manual and automatic braking device capable of stopping the operation in high winds and adverse weather conditions.
    - vii. The applicant must submit the name and contact information for the person or organization related to the general maintenance of the structure.
    - viii. All wind turbines must have lightning protection.
    - ix. The city or any emergency service provider who services the city has the authority to order any wind turbine company to cease its operation if they determine in good faith that there is an emergency situation involving the wind turbine that may result in danger to life or property. The owner and/or operator shall, at all times, provide the city and emergency service providers access to the braking device identified in subsection vi. above. The owner/operator shall be notified but not required to be present in such emergency situation.
  - (f) *Decommissioning and removal procedures.*

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- i. The applicant shall submit a decommissioning plan and site plan to describe the anticipated life of the project, estimated decommissioning costs, net of salvage value in current dollars, methods of ensuring that funds will be available for decommissioning and any restoration efforts including a method of reclamation for each of the sites.
  - ii. Any wind turbine that is not operated for a continuous period of 12 months shall be considered abandoned. The owner/owners of such structure shall be required to either provide to the city a written explanation regarding why the tower is inoperable and a timeline of no longer than 60 days to bring the machine back into compliance or apply for the necessary demolition permits for removal within 90 days of receipt of written notice from the city.
  - iii. When a wind turbine is decommissioned, all items must be removed from the subject property, including buildings, electrical components, any roads, structure foundation, or other associated components to a depth no less than five feet below grade. Reclamation of the site includes the planting of grasses or cover crops.
  - iv. A \$1,000,000.00 surety bond is required at the time of application for the removal of the wind turbine in the event that it is decommissioned and left abandoned.
- (g) *Technical documentation.* The following information is to be assembled and submitted for review of a large wind turbine.
- i. Wind energy facility technical specification including manufacturer and model, rotor diameter, tower height/type, foundation type/dimensions.
  - ii. Tower foundation blueprints or drawings signed by a professional engineer licensed to practice in the State of Michigan.
  - iii. Tower blueprints or drawings signed by a professional engineer licensed to practice in the State of Michigan.
  - iv. Electrical schematic illustrating the proposed support infrastructure wires location, depth and directional flow of power from the wind turbine to the utility's connection lines.

(Ord. No. 14-309, § 13, 12-8-14)

### **Sec. 22-276. Small wind turbines.**

- (1) *Specific requirements.*
  - (a) *Minimum lot size:* In all zoning districts where small wind turbines are permitted as a special use after approval the minimum lot size shall be two acres. Structure cannot exceed 75 feet in height.
  - (b) *Setback:* All small wind turbines shall be setback from any property line a minimum of 100 percent of the height of the structure.

(Ord. No. 14-309, § 14, 12-8-14)

### **Sec. 22-276-A. Marijuana grower, marijuana processor, marijuana provisioning center, marijuana secure transporter, and marijuana safety compliance facility.**

- (a) A marijuana grower, marijuana processor, marijuana provisioning center, marijuana secure transporter, and marijuana safety compliance facility, in accordance with the provisions of state law, shall be subject to the following standards:

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- (1) Any uses or activities found by the State of Michigan or a court with jurisdiction to be unconstitutional or otherwise not permitted by state law may not be permitted by the city. In the event that a court with jurisdiction declares some or all of this article invalid, then the city may suspend the acceptance of applications for conditional use permits pending the resolution of the legal issue in question.
  - (2) At the time of application for a use permit the marijuana facility must be licensed by the State of Michigan and then must be at all times in compliance with the laws of the State of Michigan including but not limited to the Michigan Medical Marihuana Act, MCL 333.26421 et seq.; the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq.; and the Marihuana Tracking Act, MCL 333.27901 et seq.; and all other applicable rules promulgated by the State of Michigan.
  - (3) At the time of application for a use permit the marijuana facility must be permitted by the city pursuant to the city's medical marijuana facilities ordinance, or have the city permit concurrently in process with the conditional use permit and site plan approval, and then must be at all times in compliance with the city's medical marijuana facilities ordinance.
  - (4) The use or facility must be at all times in compliance with all other applicable laws and ordinances of the city.
  - (5) The city may suspend or revoke a conditional use permit based on a finding that the provisions of the conditional use standards in this section, all other applicable provisions of this zoning ordinance, the city's medical marijuana facilities ordinance, or the terms of the conditional use permit and approved site plan are not met.
  - (6) A marijuana facility, or activities associated with the licensed growing, processing, testing, transporting, or sales of marijuana, may not be permitted as a home business or accessory use nor may they include accessory uses except as otherwise provided in this section.
  - (7) Reserved.
  - (8) Signage requirements for marijuana facilities, unless otherwise specified, are as provided in this chapter, article XI-B of the city zoning ordinance.
- (b) Marijuana growers and marijuana processors shall be subject to the following standards:
- (1) *Minimum lot size.* The minimum lot size standard shall be one acre.
  - (2) *Minimum yard depth/distance from lot lines.* The minimum front and rear setbacks for any structure used for marijuana production shall be 50 feet. Side setbacks shall be 20 feet.
  - (3) *Indoor production and processing.* Marijuana production shall be located entirely within one or more completely enclosed buildings. No outdoor production or processing is permitted.
  - (4) Facilities shall be industrial-grade, and be compatible with other structures/buildings within the Skyline Industrial Park.
- (c) Provisioning centers shall be subject to the following standards:
- (1) *Nonconforming uses.* A provisioning center may not locate in a building in which a nonconforming retail use has been established in any district.
  - (2) *Physical appearance.* The exterior appearance of the structure shall remain compatible with the exterior appearance of structures already constructed or under construction within the immediate area, and shall be maintained so as to prevent blight or deterioration or substantial diminishment or impairment of property values within the immediate area.
  - (3) *Reserved.*
- (d) Marijuana safety compliance facility shall be subject to the following standards:



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- (1) A marijuana safety compliance facility shall be subject to the special regulations and standards applicable to medical laboratories and medical testing facilities in the ordinance.
  - (2) All activities of a marijuana safety compliance facility, including all transfers of marijuana, shall be conducted within the structure and out of public view.
- (e) Marijuana secure transporter shall be subject to the regulations and standards applicable to transportation and warehousing uses in the zoning ordinance and any buildings or structures used for the containment of stored materials shall be located no closer than 50 feet from any property line.
- (f) The same provisions of this section shall be applied to recreational marihuana facilities.
- (Ord. No. 17-333, § 4, 10-23-17; Ord. No. 18-338, § 4, 7-23-18; Ord. No. 19-344, §§ 1, 2, 10-28-19)

Cross reference(s)—Allowance of recreational marihuana facilities, § 3-29.1; number of licenses for recreational marihuana facilities, § 3-29.2.

## **ARTICLE XI-B. SIGNS<sup>56</sup>**

### **Sec. 22-277. General.**

A sign may be erected, placed, established, painted, created, or maintained in the city only in conformance with the standards, procedures, exemptions, and other requirements of this chapter.

(Ord. No. 14-310, § 6, 12-8-14)

### **Sec. 22-278. Definitions.**

In addition to the definitions contained in section 22-27, the following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this article, except where the context clearly indicates a different meaning:

(a) *Animated sign.* Any sign that uses movement or change of lighting to depict action or create a special effect or scene.

(b) *Banner.* Any sign of lightweight fabric or similar material that is permanently mounted to a pole or building by a permanent frame at one or more edges. National flags, state or municipal flags, or the official flag of any institution or business shall not be considered banners.

(c) *Building marker.* Any sign indicating the name of a building and date and incidental information about its construction, which sign is cut into a masonry surface or made of bronze or other permanent material.

(d) *Building sign.* Any sign attached to any part of a building, as contrasted to a freestanding sign.

(e) *Canopy sign.* Any sign that is a part of or attached to an awning, canopy, or other fabric, plastic, or structural protective cover over a door, entrance, window, or outdoor service area. A marquee is not a canopy.

(f) *Changeable copy sign.* A sign or portion thereof with characters, letters, or illustrations that can be changed or rearranged without altering the face or the surface of the sign.

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(g) *Commercial message*. Any sign wording, logo, or other representation that, directly or indirectly, names, advertises, or calls attention to a business, product, service or other commercial activity.

(h) *Flag*. Any fabric, banner, or bunting containing distinctive colors, patterns, or symbols, used as a symbol of government, political subdivision, or other entity.

(i) *Freestanding sign*. Any sign supported by structures or supports that are placed on, or anchored in, the ground and that are independent from any building or other structure.

(j) *Incidental sign*. A sign, generally informational, that has a purpose secondary to the use of the zone lot on which it is located, such as "no parking," "entrance," "loading only," "telephone," and other similar directives. No sign with a commercial message legible from a position off the zone lot on which the sign is located shall be considered incidental.

(k) *Marquee*. Any permanent roof-like structure projecting beyond a building or extending along and projecting beyond the wall of the building, generally designed and constructed to provide protection from the weather.

(l) *Marquee sign*. Any sign attached to, in any manner, or made a part of a marquee.

(m) *Nonconforming sign*. Any sign that does not conform to the requirements of this chapter.

(n) *Pennant*. Any lightweight plastic, fabric, or other material whether or not containing a message of any kind, suspended from a rope, wire, or string, usually in series, designed to move in the wind.

(o) *Portable sign*. Any sign not permanently attached to the ground or other permanent structure, or sign designed to be transported, including, but not limited to, signs designed to be transported by means of wheels. Signs converted to A or T frames; menu and sandwich board signs; balloons used as signs; umbrellas used for advertising; and signs attached to or painted on vehicles parked and visible from the public right-of-way, unless said vehicle is used in the normal day-to-day operations of the business.

(p) *Projecting sign*. Any sign affixed to a building or wall in such a manner that its leading edge extends more than six inches beyond the surface of such building or wall.

(q) *Residential sign*. Any sign located in a district zoned for residential uses that contains no commercial message except advertising for goods or services legally offered on the premises where the sign is located, if offering such service at such location conforms with all requirements of the zoning ordinance.

(r) *Roof sign*. Any sign erected and constructed wholly on and over the roof of a building, supported by the roof structure, and extending vertically above the highest portion of the roof.

(s) *Roof sign, integral*. Any sign erected or constructed as an integral or essentially integral part of a normal roof structure of any design, such that no part of the sign extends vertically above the highest portion of the roof and such that no part of the sign is separated from the rest of the roof by a space of more than six inches.

(t) *Sign*. Any device, fixture, placard, or structure that uses any color, form, graphic, illumination, symbol, or writing to advertise, announce the purpose of, or identify the purpose of a person or entity, or to communicate information of any kind to the public.

(u) *Suspended sign*. A sign that is suspended from the underside of a horizontal plane surface and is supported by such surface.

(v) *Temporary sign*. Any sign that is used only temporarily and is not permanently mounted.

(w) *Wall sign*. Any sign attached parallel to, but within six inches of, a wall, painted on the wall surface of, or erected and confined within the limits of an outside wall of any building or structure, which is supported by such wall or building, and which displays only one sign surface.

(x) *Window sign.* Any sign, pictures, symbol, or combination thereof, designed to communicate information about an business, commodity, sale, or service, that is placed inside a window or upon the window panes or glass and is visible from the exterior of the window.

(Ord. No. 14-310, § 6, 12-8-14)

**Sec. 22-279. Computation of height.**

The height of a sign shall be computed as the distance from the base of the sign at normal grade to the top of the highest attached component of the sign. Normal grade shall be construed to be the lower of:

- (1) Existing grade prior to construction; or
- (2) The newly established grade after construction, exclusive of any filling, berming, mounding, or excavating solely for the purpose of locating the sign.

In cases in which the normal grade cannot reasonably be determined, sign height shall be computed on the assumption that the elevation of the nearest point of the crown of a public street or the grade of the land at the principal entrance to the principal structure on the zone lot.

(Ord. No. 14-310, § 6, 12-8-14)

**Sec. 22-280. Signs allowed on private property with and without permits.**

Signs shall be allowed on private property in the city in accordance with, and only in accordance with, table 22-280A. If the letter "P" appears for a sign type in a column, such sign is allowed without prior permit approval in the zoning districts represented by that column. If the letter "S" appears for a sign type in a column, such sign is allowed only with prior permit approval in the zoning districts represented by that column. Special conditions may apply in some cases. If no letter appears for a sign type in a column, such a sign is not allowed in the zoning districts represented by that column under any circumstances.

Although permitted by table 22-280A, a sign shall be allowed only if the size, location, and number of signs on the lot conform with the requirements of tables 22-280B which establish permitted sign dimensions by sign type, and with any additional limitations listed in table 22-280A.

Table 22-280A.

Sign type	R1	R2	RM	INS <sup>†</sup>	C1	C2	C3	I1	I2
<b>Freestanding</b>									
Residential	P	P	P						
Incidental			P	P	P	P	P	P	P
<b>Building</b>									
Banner	P	P	P	P	S	S	S	S	S
Building marker	P	P	P	P	P	P	P	P	P
Canopy					S	S	S	S	S
Identification	P	P	P	P	P	P	P	P	P
Incidental			P	P	P	P	P	P	P
Marquee					S	S	S		
Projecting					S	S	S	S	S
Residential	P	P	P						
Roof					S	S	S		
Roof, integral					S	S	S		

Suspended				P	P	P	P		
Temporary	P	P	P	P	P	P	P	P	P
Wall				P	S	S	S	S	S
Window					S	S	S		
Miscellaneous									
Banner	P	P	P	P	P	P	P	P	P
Flag <sup>††</sup>	P	P	P	P	P	P	P	P	P

P = Allowed without sign permit S = Allowed only with sign permit

<sup>†</sup>The column does not represent a zoning district. It applies to institutional uses permitted under the zoning ordinance in residential zoning district. Such uses may include, but are not necessarily limited to, churches, schools, funeral homes, and cemeteries.

<sup>††</sup>Flags of the United States, Michigan, Morenci, foreign nations having diplomatic relations with the United States, and any other flag adopted or sanctioned by an elected legislative body of competent jurisdiction, provided that such a flag shall not exceed 60 square feet in area and shall not be flown from a pole the top of which is more than 40 feet in height. These flags must be flown in accordance with protocol established by the Congress of the United States for the Stars and Stripes. Any flag not meeting any one or more of these conditions shall be considered a banner sign and shall be subject to regulation as such. Banners in R1, R2 and RM shall not exceed 30 square feet in area and banners in INS shall not exceed 40 square feet in area.

Table 22-280B. Number, dimensions, and location of individual signs by zoning district.

Sign type	R1	R2	RM	INS <sup>1</sup>	C1	C2	C3	I1/I2
Area (sq. ft.)	6	6	12	40	40	40	80	80
Height (feet)	5	5	5	12	12	12	12	12
Setback (feet) <sup>2</sup>	2	1	2	5	5	2	10	10
Number permitted								
Per zone lot	1	1		1	Note <sup>3</sup>			
Per feet of street frontage			1 per 200			1 per 100	1 per 200 <sup>4</sup>	1 per 800
Building								
Area (max, sq. ft.)	2	2	10					
Wall area (percent)				10%	10%	10%	10%	10%

**Notes:**

<sup>1</sup> See explanation on table 22-280A.

<sup>2</sup> Setbacks based on distance after establishing right-of-way.

<sup>3</sup> In a planned shopping area one sign shall be permitted for each business located within the planned shopping area and all such signs shall be affixed to the face of the building and shall be a uniform design throughout. Further, one group pole sign advertising the name of the shopping center and/or individual business within the shopping center is permitted.

<sup>4</sup> For automobile service stations there may be no more than one freestanding sign per street frontage, each face not exceeding 150 square feet in area, which shall display only the name of the user or occupant of the premises in site plan review in accordance with section 22-261.

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<sup>5</sup> In addition to the setback requirements on this table, signs shall be located such that there is at every street intersection a clear view between heights of three feet and ten feet in a triangle formed by the corner and points on the curb 30 feet from the intersection or entranceway.

<sup>6</sup> In no case shall the actual sign height exceed the actual sign setback from any adjacent lot that is zoned and used for residential purposes.

(Ord. No. 14-310, § 6, 12-8-14)

### **Sec. 22-281. Permits required.**

If a sign requiring a permit under the provision of this chapter, (see table 22-280A), is to be placed, constructed, erected, or modified on a zone lot, the owner of the lot shall secure a sign permit prior to the construction, placement, erection, or modification of such a sign from the zoning administrator.

The application for a permit shall include plans and specifications showing the dimensions, materials, and details of construction, including loads, stresses, and anchorage, and the location of each particular sign. It shall also be accompanied by the written consent of the owner or lessee of the premises upon which the sign is located and proof of liability insurance policy as required by subsection 22-282(d).

No sign permit of any kind shall be issued for an existing or proposed sign unless such sign is consistent with the requirements of this chapter in every respect.

(Ord. No. 14-310, § 6, 12-8-14)

### **Sec. 22-282. Design, construction, and maintenance.**

All signs shall be designed, constructed, and maintained in accordance with the following standards:

- (a) All signs shall comply with applicable provisions of the Michigan State Construction Code and the Michigan Electrical Code at all times. (See chapter 6, buildings and building regulations.)
- (b) Except for banners, flags, temporary signs, and window signs conforming in all respects with the requirements of this chapter, all signs shall be constructed of permanent materials and shall be permanently attached to the ground, a building, or another structure by direct attachment to a rigid wall, frame, or structure.
- (c) All signs shall be maintained in good structural condition, in compliance with all building and electrical codes, and in conformance with this code, at all times.
- (d) No person shall erect or maintain any marquee, canopy, awning, clock or other structure or object so it projects over or upon the limits of any street or alley without first obtaining a permit and filing a liability insurance policy. Every liability insurance policy required by this section shall contain a clause obligating the insurer to give the city clerk, by registered or certified mail, at least ten days written notice before the cancellation, expiration, lapse or other termination of such insurance, and such liability policy shall name the city as an additional named insured. No such permit shall be granted unless the proposed plans for the marquee or other structure shall be in conformity with the building code.

(Ord. No. 14-310, § 6, 12-8-14)

### **Sec. 22-283. Temporary signs on private property.**

- (a) Temporary signs on private property shall be allowed for a 30-day period.

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(Supp. No. 25)

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(b) Traffic safety must be considered in placement of any temporary sign.

(Ord. No. 14-310, § 6, 12-8-14)

**Sec. 22-284. Temporary signs in the public right-of-way.**

Temporary signs in the public right-of-way shall be placed in accordance with the following conditions:

- (a) Temporary non-political signs, such as for "garage sale", "for sale" and other similar signs shall be permitted for a term of 30 days within a 365-day period.
- (b) Any political sign pertaining to a specific election including signs for candidates or proposals shall be removed from the public right-of-way within five days after the election.
- (c) Traffic safety must be considered in placement of any temporary sign.

(Ord. No. 14-310, § 6, 12-8-14)

**Sec. 22-285. Nonconforming sign.**

Nonconforming signs that were in existence prior to the adoption of this chapter or when the property was annexed to the city will be treated as any other nonconforming structure as set forth in section 22-253 of this code.

(Ord. No. 14-310, § 6, 12-8-14)

**Sec. 22-286. Sign removal required.**

If any sign found to be unsafe or is not maintained in a sightly condition, or if the liability insurance policy covering such sign as required is not maintained, such sign shall be deemed a street encroachment. The city superintendent shall notify the permittee to remove or repair such sign within ten days or to reinstate such insurance forthwith and, upon failure of the permittee to comply with such notice, such encroachment shall be removed as provided in this chapter. No marquees, canopy sign, projecting sign or suspended sign shall be erected or maintained so as to be less than eight feet above the surface of the sidewalk.

Any sign that was constructed, painted, installed, or maintained in conformance with a permit under this chapter, but for which the permit has lapsed or not been renewed or for which the time allowed for the continuance of a nonconforming sign has expired, shall be forthwith removed without notice or action from the city.

(Ord. No. 14-310, § 6, 12-8-14)

**Sec. 22-287. Violations.**

It is a violation to install, create, erect, or maintain any sign that requires a permit without such permit, or that is inconsistent with this chapter or permit issued for such sign.

Any violation of this chapter or failure to remove any sign that is in violation or to continue any such violation shall be subject to the enforcement remedies and penalties provided by this chapter, by the zoning ordinance, and by state law.

Each sign installed, created, erected, or maintained in violation of this chapter shall be considered a separate violation when applying the penalty portions of this chapter.

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(Ord. No. 14-310, § 6, 12-8-14)

**Sec. 22-288. Enforcement and remedies.**

In addition to the penalties set forth in section 22-414, any violation or attempted violation of this article or of any condition or requirement adopted pursuant hereto may be restrained, corrected, or abated, as the case may be, by injunction or other appropriate proceedings pursuant to state law. A violation of this chapter shall be considered a violation of the zoning ordinance. The remedies of the city shall include the following:

- (1) Issuing a stop-work order for any and all work on any signs on the same zone lot.
- (2) Seeking an injunction or other order of restraint or abatement that requires the removal of the sign(s) or the correction of the nonconformity.
- (3) Imposing any penalties that can be imposed directly by the city under the zoning ordinance.
- (4) Seeking in court the imposition of any penalties that can be imposed by such court under the zoning ordinance.
- (5) In the case of a sign that poses an immediate danger to the public health or safety, taking such measures as are available to the city under the applicable provisions of the zoning ordinance and building code for such circumstances.

The city shall have such other remedies as are and as may from time to time be provided for or allowed by state law for the violation of the zoning ordinance.

Any such remedies provided herein shall be cumulative. The extent that state law may limit the availability of a particular remedy set forth herein for a certain violation or a part thereof, such remedy shall remain available for other violations or other parts of the same violation.

(Ord. No. 14-310, § 6, 12-8-14)

**Sec. 22-289. Fee schedule.**

All fee schedules imposed may be set and changed by resolution of the city council from time to time.

(Ord. No. 14-310, § 6, 12-8-14)

**Sec. 22-290. Reserved.**

***ARTICLE XII. ADMINISTRATION AND ENFORCEMENT***

**Sec. 22-291. Zoning administrator generally.**

The zoning administrator shall be appointed by and serve at the pleasure of the city council. Duties, compensation, and responsibilities of the zoning administrator in addition to those specified in this section or elsewhere in this chapter may be established by resolution of the city council.

(Code 1963, § 5.83; Ord. of 4-14-80)

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### **Sec. 22-292. Duties of zoning administrator.**

- (a) The zoning administrator shall have the power to grant zoning compliance and occupancy permits, to make inspections of buildings or premises necessary to carry out his duties in the enforcement of this chapter. It shall be unlawful for the zoning administrator to approve any plans or issue any permits or certificates of occupancy for any excavation or construction until he has inspected such plans in detail and found them to conform with this chapter.
- (b) The zoning administrator shall record all nonconforming uses existing at the effective date of this chapter for the purpose of carrying out the provisions of section 22-253.
- (c) Under no circumstances is the zoning administrator permitted to make changes to this chapter nor to vary the terms of this chapter in carrying out his duties as zoning administrator.
- (d) The zoning administrator shall not refuse to issue a permit when conditions imposed by this chapter are complied with by the applicant despite violations of contracts, such as covenants or private agreements which may occur upon granting of such permit.

(Code 1963, § 5.84; Ord. of 4-14-80)

### **Sec. 22-293. Enforcement.**

The provisions of this chapter shall be administered and enforced by the zoning administrator or by such deputies of his department as the zoning administrator may delegate to enforce the provisions of this chapter.

(Code 1963, § 5.85; Ord. of 4-14-80)

### **Sec. 22-294. Plot plan.**

- (a) The zoning administrator shall require that all applications for zoning compliance permits shall be accompanied by plans and specifications including a plot plan (a plot plan shall not be required where existing setbacks are not altered or the work is of an internal nature) in duplicate, drawn to scale, showing the following:
  - (1) The actual shape, location and dimensions of the lot.
  - (2) The shape, size and location of all buildings or other structures to be erected, altered or moved and of any building or other structures already on the lot.
  - (3) The existing and intended use of the lot and of all such structures upon it, including, in residential areas, the number of dwelling units the building is intended to accommodate.
  - (4) Such other information concerning the lot or adjoining lots as may be essential for determining whether the provisions of this chapter are being observed.
- (b) Plot plans shall be kept on file until the project is completed and a certificate of occupancy is issued.

(Code 1963, § 5.86; Ord. of 4-14-80)

### **Sec. 22-295. Permits.**

The following shall apply in the issuance of any permit:



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- (1) *Permits required.* No building or structure, or part thereof, shall be hereafter erected, altered, moved or repaired unless a zoning compliance permit shall have been first issued for such work. The terms "altered" and "repaired" shall include any changes in structural parts, stairways, type of construction, type, class or kind of occupancy, light or ventilation, means of egress and ingress, or other changes affecting or regulated by the city building code, housing law, or this chapter, except for minor repairs or changes not involving any of the aforesaid features.
  - (2) *Permits not to be issued.* No zoning compliance permit shall be issued for the erection, alteration or use of any building or structure or part thereof, or for the use of any land, which is not in accordance with all provisions of this chapter.
  - (3) *Permits for new use of land.* No land heretofore vacant shall hereafter be used or an existing use of land be hereafter changed to a use of a different class or type unless a certificate of occupancy is first obtained for the new or different use.
  - (4) *Permits for new use of building.* No building or structure, or part thereof, shall be changed to or occupied by a use of a different class or type unless a certificate of occupancy is first obtained for the new or different use.

(Code 1963, § 5.87; Ord. of 4-14-80)

### **Sec. 22-296. Certificates.**

No land, building or part thereof, shall be occupied by or for any use unless and until a certificate of occupancy shall have been issued for such use. The following shall apply in the issuance of any certificate:

- (1) *Certificates not to be issued.* No certificates of occupancy shall be issued for any building, structure or part thereof, or for the use of land, which is not in accordance with all the provisions of this chapter.
- (2) *Certificates required.* No building or structure or parts thereof, which is hereafter erected, or altered, shall be occupied or used or the same caused to be done, unless and until a certificate of occupancy shall have been issued for such building or structure.
- (3) *Certificates including zoning.* Certificates of occupancy as required by the city building code for new buildings or structures, or parts thereof, or for alterations to or changes of use of existing buildings or structures, shall also constitute certificates of occupancy as required by this chapter.
- (4) *Record of certificates.* A record of all certificates issued shall be kept on file in the office of the zoning administrator and copies shall be furnished upon request to any person having a proprietary or tenancy interest in the property involved.
- (5) *Certificates for dwelling accessory buildings.* Buildings or structures accessory to dwellings shall not require separate certificates of occupancy but may be included in the certificate of occupancy for the dwelling when shown on the plot plan and when completed at the same time as such dwellings.

(Code 1963, § 5.88; Ord. of 4-14-80)

### **Sec. 22-297. Fees.**

The city council may from time to time establish, by resolution, fees that shall cover the cost of review, recommendation, inspection and supervision resulting from the enforcement of this chapter. Such fee may be collected for the following:

- (1) Rezoning requests.

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- (2) Special approval uses.
  - (3) Site plan review requests.
  - (4) Planned residential developments.
  - (5) Zoning board of appeals.
  - (6) Issuance of zoning compliance permits and certificates of occupancy.

(Code 1963, § 5.89; Ord. of 4-14-80)

**Secs. 22-298—22-320. Reserved.**

***ARTICLE XIII. ZONING BOARD OF APPEALS<sup>57</sup>***

**Sec. 22-321. Board established.**

There is hereby established a zoning board of appeals, which shall perform its duties and exercise its powers as provided by Act 110 of Public Acts of 2006, as amended, in such a way that the objectives of this chapter shall be observed, public safety, morals, and general welfare assured, and substantial justice done.

(Ord. No. 15-315, § 1, 4-27-15)

**Sec. 22-322. Membership and terms.**

- (a) The zoning board of appeals shall consist of the following five members:
  - (1) The first member shall be a member of the city planning commission.
  - (2) The second member shall be a member of the city council appointed by the city council and shall not serve as chairman of the zoning board of appeals.
  - (3) The remaining members of the zoning board of appeals shall be selected and appointed by the city council from among the electors of the city. The members selected shall be representative of the population distribution of the various interest present in the city. An elected official of the city shall not serve as chairman of the zoning board of appeals.
- (b) The city council may appoint not more than two alternate members for the same term as regular members to the zoning board of appeals. An alternate member may be called to serve as a regular member of the zoning board of appeals in the absence of a regular member if the regular member is absent from or will be unable to attend two or more consecutive meetings of the zoning board of appeals or is absent or will be unable to attend meetings for a period of more than 30 consecutive days. An alternate member may also be called to serve as a regular member for the purpose of reaching a decision on a case in which the regular member has abstained, for reasons of conflict of interest. If appointed, an alternate member shall serve in the case until a final decision is made. Alternate members shall have the same voting rights as regular members of the zoning board of appeals when called during their term of appointment. If there are two

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<sup>57</sup>Editor's note(s)—Ord. No. 15-315, § 1, adopted April 27, 2015, amended Art. XIII in its entirety to read as herein set out. Former Art. XIII, §§ 22-321—22-327, pertained to similar subject matter, and derived from Code 1963, §§ 5.92—5.98; Ord. of 4-14-80; and Ord. No. 97-222, 10-27-97.

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alternate members appointed by the city council then they may be called by the chairman as needed based on availability. Alternate members shall possess the qualifications required for board membership.

- (c) Terms shall be for three years, except for members serving because of their membership on the planning commission or city council, whose terms shall be limited to the time they are members of the planning commission or city council, respectively, and the period stated in the resolution appointing them. When members are first appointed, the appointments may be for less than three years to provide for staggered terms. A successor shall be appointed not more than one month after the term of the preceding member has expired. All vacancies for unexpired terms shall be filled for the remainder of the term. The zoning board of appeals shall not conduct business unless a majority of the members of the board are present.
- (d) Members of the zoning board of appeals shall be removable by the city council for nonperformance of duty or misconduct in office upon written charges and after public hearing. A member shall disqualify himself or herself from a vote in which the member has a conflict of interest. Failure of a member to disqualify himself or herself from a vote in which the member has a conflict of interest shall constitute misconduct in office.

(Ord. No. 15-315, § 1, 4-27-15)

### **Sec. 22-323. General regulations.**

Zoning board of appeals membership shall be subject to the following:

- (a) *Rules and officers.* The zoning board of appeals may adopt rules and regulations to govern its procedures. The zoning board of appeals shall elect annually a chair, vice-chair, and secretary from its membership. An elected officer of the city shall not serve as chair of the zoning board of appeals.
  - (1) The chair shall preside at and conduct zoning board of appeals meetings; and shall have the power to subpoena and require the attendance of witnesses, administer oaths, compel testimony and the production of books, papers, files and other evidence pertinent to the matters before the zoning board of appeals.
  - (2) In the absence of the chair, the vice-chair shall exercise all powers and authority of the chair.
  - (3) The secretary shall be responsible for ensuring that complete and accurate written records are kept of all zoning board of appeals proceedings.
- (b) *Votes and quorum.* A concurring vote of a majority of the members of the zoning board of appeals shall be necessary for any decision. The zoning board of appeals shall not conduct business unless a majority of its members is present.
- (c) *Representation.* Any person may appear and testify on his or her own behalf at a hearing or may be represented by an agent or an attorney authorized to appear on his or her behalf.
- (d) *Hearings.* The zoning board of appeals shall hold a public hearing on each question submitted to it for decision. The chair shall fix a reasonable time and date for the hearing, which shall be held within 90 calendar days after receipt of a complete and accurate application. Notice shall be given and the hearing shall be held in accordance with section 22-329. All hearings shall be open to the public.
- (e) *Time limit for decision.* The zoning board of appeals shall decide upon all matters within 180 calendar days after receipt of a complete and accurate application. The decision of the zoning board of appeals shall be in the form of a resolution containing a full record of its findings and determinations in each case. The time limit may be extended by written agreement between the applicant or appellant and the zoning board of appeals.
- (f) *Meetings.* Meetings of the zoning board of appeals shall be held at the call of the chair and at such other times as the zoning board of appeals in its rules might specify.

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- (1) Minutes shall be kept of each meeting and the board shall record into the minutes all findings of fact, conditions of approval, facts, and other relevant factors, and all its official actions.
  - (2) The vote of each member upon a question, or absence or abstention, shall be recorded into the minutes of the meeting.
  - (3) All meetings and records shall be open to the public. All minutes shall be filed in the offices of the city clerk.

(Ord. No. 15-315, § 1, 4-27-15)

### **Sec. 22-324. Appeal.**

An appeal may be taken to the zoning board of appeals by any person, or by any officer, department, board or bureau, affected by a decision of the zoning administrator. Such appeal shall be taken within such time as shall be prescribed by the zoning board of appeals by general rule, by filing with the city clerk and with the zoning board of appeals a notice of appeal, specifying the grounds thereof. The zoning administrator shall forthwith transmit to the board all of the papers constituting the record upon which the action appealed from was taken. An appeal shall stay all proceedings in furtherance of the action appealed from unless the zoning administrator certifies to the zoning board of appeals, after notice of appeal has been filed with him, that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property, in which case the proceedings shall not be stayed, otherwise than by a restraining order, which may be granted by a court of record.

(Ord. No. 15-315, § 1, 4-27-15)

### **Sec. 22-325. Jurisdiction.**

The zoning board of appeals shall not have the power to alter or change the zoning district classification of any property, nor to make any change in the terms of this chapter, but does have the power to act on those matters where this chapter provides for an administrative review, interpretation, special approval permit and to authorize a variance as defined in this section and laws of the state. Such powers include:

- (a) *Administrative review.* To hear and decide appeals where it is alleged by the appellant that there is an error in any order, requirement, permit, decision or refusal made by the zoning administrator or any other administrative official in carrying out or enforcing any provisions of this chapter.
- (b) *Dimensional variance; conditions governing application procedures.* To authorize a dimensional variance from the terms of this chapter upon appeal in specific cases as will not be contrary to the public interest where, due to special conditions, a literal enforcement of the provisions of this chapter would result in practical difficulties. A variance from the terms of this chapter shall not be granted by the zoning board of appeals unless and until a public hearing shall be held with notice as provided in section 22-329.
- (c) *Interpretation of unspecified land uses; use variance.* It is recognized that it is neither possible nor practical to list all the potential land uses which may be compatible with those uses indicated and intended for the individual zoning districts. Therefore, any other use that is determined by the zoning board of appeals to be of the same general character, compatibility and similarity as the indicated uses by right, may be permitted as a use variance, upon approval and upon such conditions as may be imposed by the zoning board of appeals, provided the use is not mentioned or permitted within another zoning district of this chapter. A use variance from the terms of this chapter shall not be granted by the zoning board of appeals unless and until a public hearing shall be held with notice as provided in section 22-329.

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(Ord. No. 15-315, § 1, 4-27-15)

**Sec. 22-326. Required evidence.**

The zoning board of appeals shall require evidence on each of the following and, after hearing the evidence presented by all interested parties, shall make written findings as follows:

- (a) That special conditions or circumstances exist which are peculiar to the land, structure, or building involved and which do not apply to or affect other lands, structures, or buildings in the zoning district.
- (b) That the literal interpretation of the provisions of this chapter applied under these special circumstances have created or will create practical difficulties in the applicant's use of the land, building or structures.
- (c) That the special conditions and circumstances did not result from the actions of the applicant.
- (d) That the variance is the minimum variance necessary to alleviate the practical difficulties in the applicant's use of the land, building or structure.
- (e) That the granting of the variance will be in harmony with the general purposes and intent of this chapter, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare. This finding shall include, but not be limited to, findings that the proposed variance will not:
  - (1) Impair an adequate supply of light and air to adjacent properties.
  - (2) Unreasonably increase the congestion of traffic in the public streets.
  - (3) Increase the danger of fire or endanger the public safety.
  - (4) Unreasonably diminish or impair established property values within the surrounding area.

(Ord. No. 15-315, § 1, 4-27-15)

**Sec. 22-327. Variances, limitations of rights and powers.**

Notwithstanding anything contained herein to the contrary:

- (a) The existence of nonconforming use of neighboring lands, structures, or buildings in the same district, and permitted use of lands, structures or buildings in other districts shall not be considered grounds for the issuance of a variance.
- (b) The zoning board of appeals shall not grant a variance to allow a use not permissible under the terms of this chapter in the district involved, or any use expressly or by implication prohibited by the terms of this chapter in such district.
- (c) Hardships based solely on economic considerations are not grounds for a variance.
- (d) The zoning board of appeals shall interpret the provisions of this chapter in such a way as to carry out the intent and purpose of the plan, as shown upon the zoning map fixing the use districts, accompanying and made part of this chapter, where street layout actually on the ground varies from the street layout as shown on the map aforesaid.
- (e) The zoning board of appeals shall permit the erection and use of a building or use of premises for public utility purposes, upon recommendation of the planning commission.

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(Supp. No. 25)

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- (f) The zoning board of appeals shall permit the modification of the automobile parking space or loading space requirements where, in the particular instance, such modification will not be inconsistent with the purpose and intent of such requirements.
  - (g) The zoning board of appeals shall permit such modification of the height and area regulations as may be necessary to secure an appropriate improvement of a lot which is of such shape, or so located with relation to surrounding development or physical characteristics, that it cannot otherwise be appropriately improved without such modification.
  - (h) The zoning board of appeals shall permit temporary building in nonresidential districts for periods not to exceed six months.

(Ord. No. 15-315, § 1, 4-27-15)

### **Sec. 22-328. Orders.**

In exercising the powers confirmed herein, the zoning board of appeals may reverse or affirm wholly or partly, or may modify the order, requirement, decision, or determination appealed from and may make such order, requirement, decision or determination as ought to be made, and to that end, shall have all the powers of the zoning administrator from whom the appeal is taken.

- (a) An appeal may be taken by any person aggrieved or by any office, department, board, or bureau of the city, county, or state. The zoning board of appeals shall state the grounds of each determination.
- (b) The zoning board of appeals may pose reasonable conditions on an affirmative decision as deemed necessary, but also satisfying all the following requirements.
  - (1) Be designed to protect natural resources, the health, safety, and welfare and the social and economic well-being of those who will use the land or activity under consideration, residents and landowners immediately adjacent to the proposed land use or activity, and the community as a whole.
  - (2) Be related to the valid exercise of the police power, and purposes which are affected by the proposed use or activity.
  - (3) Be necessary to meet the intent and purposes of the zoning ordinance, be related to the standards established in the ordinance for the land use or activity under construction, and be necessary to insure compliance with those standards.

(Ord. No. 15-315, § 1, 4-27-15)

### **Sec. 22-329. Notice.**

Notice of the public hearing shall be required in accordance with the following:

- (a) All interested parties who, in the opinion of the board, may be affected by any matter brought before it, which shall in all cases include all persons to whom any real property within 300 feet of the premises in question shall be assessed and the occupants of all single- and two-family dwellings within 300 feet, shall be given notice of the public hearing. Such notice shall be either delivered personally or by first class mail addressed to the respective owners and tenants at the address given in the last assessment roll. If the tenant's name is not known, the term occupant may be used.
- (b) The notice shall be published once in a newspaper of general circulation in the city.

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- (c) The notice shall be published, and mailed or personally delivered in accordance with the requirements of this section not less than 15 days before the hearing date when the application will be considered.

(Ord. No. 15-315, § 1, 4-27-15)

**Sec. 22-330. Approval periods.**

- (a) No order of the zoning board of appeals permitting the erection or alteration of a building shall be valid for a period longer than six months, unless a zoning compliance permit for such erection or alteration is obtained within such period, and such erection or alteration is stated and proceeds to completion in accordance with the terms of such permit.
- (b) No order of the zoning board of appeals, permitting a use of a building or premises shall be valid for a period longer than six months unless such use is established within such period; provided, however, that such order shall continue in force and effect if a zoning compliance permit for such erection or alteration is started and proceeds to completion in accordance with such permit.

(Ord. No. 15-315, § 1, 4-27-15)

**Secs. 22-331—22-350. Reserved.**

***ARTICLE XIV. ZONING COMMISSION***

**Sec. 22-351. Commission designated.**

The city planning commission is hereby designated as the commission specified in section 4, of Act No. 207 of the Public Acts of Michigan of 1921 (MCL 125.584), and shall perform the zoning duties of such commission as provided in the statute in connection with the amendment of this chapter.

(Code 1963, § 5.100; Ord. of 4-14-80)

**Secs. 22-352—22-370. Reserved.**

***ARTICLE XV. PLANNING COMMISSION APPROVAL***

**Sec. 22-371. Powers.**

- (a) In cases where the city planning commission is empowered to approve certain use of premises under the provisions of this chapter, the applicant shall furnish such surveys, plans or other information as may be reasonably required by such commission for the proper consideration of the matter.
- (b) The planning commission shall investigate the circumstances of each such case and shall notify such parties, who may in its opinion be affected thereby, of the time and place of any hearing which may be held relative thereto as required under its rules of procedure.
- (c) The planning commission may impose such conditions or limitations in granting approval as may in its judgement be necessary to fulfill the spirit and purpose of this chapter. Any approval given by the planning commission, under which premises are not used or work is not started within six months or when such use or work has been abandoned for a period of six months, shall lapse and cease to be in effect.

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(Code 1963, § 5.1003; Ord. of 4-14-80)

**Secs. 22-372—22-390. Reserved.**

## ***ARTICLE XVI. CHANGES AND AMENDMENTS***

**Sec. 22-391. Amendments.**

The city council may from time to time, on its own motion, on recommendation for the planning commission or on petition, amend, supplement, or change the district boundaries or the regulations in this chapter, or subsequently established herein pursuant to the authority and procedure established in Act No. 207 of the Public Acts of Michigan of 1921 (MCL 125.581 et seq.), as amended.

(Code 1963, § 5.105; Ord. of 4-14-80)

**Secs. 22-392—22-410. Reserved.**

## ***ARTICLE XVII. REPEAL, INTERPRETATION, SEVERABILITY, PENALTIES, RIGHTS AND REMEDIES, GENERAL RESPONSIBILITY, AND ENACTMENT AND EFFECTIVE DATE***

**Sec. 22-411. Repeal of prior ordinances.**

The zoning ordinance previously adopted by the city, and all amendments thereto are, on the effective date of this chapter, hereby repealed. The repeal of the above ordinances and their amendments does not affect or impair any act done, offense committed or right accruing, or accrued, or acquired, or liability, penalty, forfeiture or punishment incurred prior to the time enforced, prosecuted or inflicted.

(Code 1963, § 5.107; Ord. of 4-14-80)

**Sec. 22-412. Interpretation.**

In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements adopted for the promotion of the public health, morals, safety, comfort, convenience or general welfare. It is not intended by this chapter to repeal, abrogate, annul or in any way to impair or interfere with any existing provision of law or ordinance other than the above described zoning ordinance, or with any rules, regulations or permits previously adopted or issued or which shall be adopted or issued pursuant to the law relating to the use of buildings or premises; provided, however, that where this chapter imposes a greater restriction than is required by existing ordinances or by rules, regulations or permits, the provisions of this chapter shall control. Nothing in this chapter should be interpreted or construed to give rise to any permanent vested rights in the continuation of any particular use, district, zoning classification or any permissible activities therein; and, they are hereby declared to be subject to subsequent amendment, change or modification as may be necessary to the preservation or protection of public health, safety and welfare.

(Code 1963, § 5.108; Ord. of 4-14-80)



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**Sec. 22-413. Severability.**

This chapter and the various parts, sections, subsections, phrases and clauses thereof are hereby declared to be severable. If any section, subsection, phrase or clause is adjudged unconstitutional or invalid, it is hereby provided that the remainder of this chapter shall not be affected thereby. The city council hereby declares that it would have passed this chapter, and each section, subsection, phrase, sentence and clause thereof, irrespective of the fact that any one or more sections, subsections, phrases, sentences or clauses be declared invalid.

(Code 1963, § 5.109; Ord. of 4-14-80)

**Sec. 22-414. Violation; penalty.**

- (a) Any person including, but not by way of limitation, builders and contractors, who shall violate, neglect or refuse to comply with or who resists the enforcement of any of the provisions of this chapter or conditions of the zoning board of appeals or city council adopted pursuant thereto, on conviction thereof, shall be punished by a fine as prescribed in section 1-13 of this Code. Each day that a violation is permitted to exist shall constitute a separate offense.
- (b) The imposition of any sentence shall not exempt the offender from compliance with the requirements of this chapter. Use of land, and dwellings, buildings or structures, including tents, trailer coaches and mobile homes, used erected, altered, razed or converted in violation of any provision of this chapter, are hereby declared to be a nuisance per se. The court may order such nuisance abated and the owner and/or agent in charge of such dwelling, building, structure, tent, trailer coach, mobile home or land may be adjudged guilty of maintaining a nuisance per se, and same may be abated by order of any court of competent jurisdiction.

(Code 1963, § 5.110; Ord. of 4-14-80)

**Sec. 22-415. Rights and remedies.**

The rights and remedies provided in this article are cumulative and in addition to any other remedies provided by law.

(Code 1963, § 5.111; Ord. of 4-14-80)

**Sec. 22-416. General responsibility.**

The city council or its duly authorized representative is hereby charged with the duty of enforcing the chapter, and the council is hereby empowered, in the name of the city to commence and pursue any and all necessary and appropriate actions and/or proceedings in the circuit court of the county, or any other court having jurisdiction, to restrain and/or prevent any noncompliance with or violation of any of the provisions of this chapter, and to correct, remedy and/or abate such noncompliance or violation. It is further provided that any person aggrieved or adversely affected by such a noncompliance or violation may institute suit and/or join the city council in such a suit to abate the same.

(Code 1963, § 5.112; Ord. of 4-14-80)

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**Sec. 22-417. Effective date.**

Public hearing having been held herein, the provisions of this chapter are hereby given immediate effect upon its publication pursuant to the provisions of section 4, Act No. 207 of the Public Acts of Michigan of 1921 (MCL 125.584), as amended. (Published April 30, 1980.)

(Code 1963, § 5.113; Ord. of 4-14-80)

## CHARTER COMPARATIVE TABLE

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

Date	Section	Section this Charter
7-16-34(Ord.)	1—59	1—59

## CODE COMPARATIVE TABLE

### 1963 CODE

This table gives the location within this Code of those sections of the 1963 Code, as updated through April 10, 1989, which are included herein. Sections of the 1963 Code, as supplemented, not listed herein have been omitted as repealed, superseded, obsolete or not of a general and permanent nature. For the location of ordinances adopted subsequent thereto, see the table immediately following this table.

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5.26—5.30	22-101—22-105
5.33—5.36	22-126—22-129
5.39—5.42	22-151—22-154
5.45—5.48	22-176—22-179
5.51—5.54	22-201—22-204
5.58	22-227
5.61—5.67	22-251—22-257
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5.92—5.98	22-321—22-327
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5.1003	22-371
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5.107—5.113	22-411—22-417
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## CODE COMPARATIVE TABLE ORDINANCES

This table gives the location within this Code of those ordinances adopted since the 1963 Code, as updated through April 10, 1989, which are included herein. Ordinances adopted prior to such date were incorporated into the 1963 Code, as supplemented. This table may contain some ordinances which precede April 10, 1989, but which were never included in the 1963 Code, as supplemented, for various reasons. Ordinances adopted since April 10, 1989, and not listed herein, have been omitted as repealed, superseded or not of a general and permanent nature.

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